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Via Fax to: (504) 589-8420

Marjorie McKeithen
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Jones Walker
201 St. Charles Ave.
New Orleans, LA 70170-5100

Re: Burial Sites on Formosa Property

Ms. McKeithen:

We represent Ms. Sharon Lavigne and RISE St. James on matters relating to the burial sites on property owned by your client, FG LA, LLC, or Formosa Plastics. I am writing in response to Ms. Janile Parks' letter of May 1, 2020, to Ms. Lavigne, in which she advised that Ms. Lavigne could not visit the Buena Vista Plantation cemetery due to safety concerns.

In her letter Ms. Parks advised Ms. Lavigne that the company's activities have been suspended and access was restricted, including for Ms. Lavigne. Ms. Parks' letter failed to indicate how Ms. Lavigne's safety would be impaired when nothing is even happening on the property, or how she might threaten others' safety by visiting the gravesite and singing, praying, or bringing flowers to honor those buried there in a socially distanced manner. Such mild activities like walking, singing, and praying, hardly compare to the heavy machinery and construction that is banned during high-water levels to protect the levees.

Louisiana law is clear that when cemeteries or burial grounds are discovered on private property, the landowner may not prevent access to those sites by descendants or friends. *In re St. James Methodist Church of Hahnville*, 95-410 (La. App. 5 Cir. 12/27/95) 666 So. 2d 1206 citing *Vidrine v. Vidrine*, 225 So.2d 691, 697-698 (La. App. 3rd Cir. 1969). The Louisiana Attorney General has referred to such sites as "isolated cemeteries," which that office defined as "cemeteries that have become separated from easy access due to property transfers and the like, typically causing them to lie wholly within the property of someone unrelated to the descendants of those interred in the cemetery." La. Attorney Gen. Op. 08-0186. A landowner may not place unreasonable limitations or categorically deny access to the descendant communities. *See id.*

In addition to the requirements of Louisiana's cemetery dedication laws, the Louisiana Constitution protects the right of the people to preserve, foster, and promote their respective cultural origins. La. Const. Art. XII, Sec. 4. For RISE, many of whom are themselves proud descendants of enslaved people, such unmarked burial grounds are central to the acknowledgement and preservation of their

cultural origins.¹ The Louisiana Attorney General has observed that cemeteries contain the “history of their respective communities” and “lead us to a better understanding of our own culture: who we are, where we have come from, and where we are going... We, the living, are custodians of the dead and the stories that they can tell, and we must strive to protect those stories.”²

That is true of any cemetery or burial ground. It has even deeper significance when it is a cemetery that is home to people who were supposed to be lost to history. Preservation, promotion, and fostering of these remnants of their cultural origins is critical for the African American community when such sites are discovered; they represent a vital, precious connection through time when there was little hope of ever finding these gravesites because their ancestors’ lives were so devalued that their burials did not merit formal recording by plantation owners or the society around them. The sad, awful fact of this systematic, enforced anonymity is what led Formosa’s own consultants to believe it “could have been a slave cemetery associated with the Buena Vista Plantation.” TerraX at p. 55.

Despite this finding, Formosa’s response, through Ms. Parks, has been to find ways to suggest that it is not people enslaved on those plantations who were buried there and to put the burden on African American members of the community to prove they are among the community of descendants. Ms. Parks also makes a factually inaccurate reference in her letter to a report by an archeological expert when she notes that the report stated, “Chinese immigrant workers were brought in to work on Buena Vista Plantation.” In fact, the report specifically stated, “it is not known if these Chinese laborers ever arrived at Buena Vista, or if they did, how long they stayed.” CEI report at p. 65. Based on the acknowledgement in their own consultant’s report, Ms. Parks and Formosa know full well, if they were not already aware, that the way slavery operated meant there were no burial records for enslaved people like there were for the plantation owners, which were easily located by Formosa’s consultants through “Find a Grave.” TerraX at p. 17-18, 55. People enslaved on plantations could not choose to be buried elsewhere.

Ms. Parks’ reference to the CEI report confirms that Formosa has received it from the Division of Archaeology. That report clearly describes, through a comprehensive analysis, how Formosa’s consultants looked in the wrong place twice for the Acadia Plantation Cemetery, and how there may still be intact burials under the field road. The report also identified four other sites on the project property that could be cemeteries. These findings were made by the same expert who first alerted the Division of Archaeology to the existence of the Buena Vista and Acadia Plantation cemeteries.

Records obtained from the Louisiana Division of Archaeology through a public records request indicate that Formosa plans heavy construction on the site of the Acadia Plantation Cemetery. RISE is concerned that burials may still exist under the field road and could be further destroyed if there is

¹ See Terry L. Jones, *Researcher maps hidden graveyards of slaves who once tilled Louisiana sugar cane fields*, The Advocate, Feb. 5, 2017, (“The state of the cemeteries further underscores how those buried in them over the years have been denied their dignity even in death.) available at https://www.theadvocate.com/baton_rouge/news/communities/westside/article_7f0fd2e8-e966-11e6-91bd-7b5708a1dc45.html; see also, Evan Nicole Brown, *The Hidden-History of African-American Burial Sites in the Antebellum South: Enslaved people used codes to mark graves on plantation grounds*, Atlas Obscura, Oct. 25, 2018, available at <https://www.atlasobscura.com/articles/africanamerican-grave-markers>.

² Attorney General Opinion No. 07-0183, available at <http://www.lcb.state.la.us/ago/ago07-0183.pdf>.

construction there. Similarly, the four new sites are of concern since there has been no confirmation as to whether they have been investigated for burials.

We ask that you please advise whether Formosa plans to search under the field road for burials at the Acadia Plantation Cemetery and investigate the four newly identified sites, or engage in any other archaeological or forensic work on these cemeteries and suspected cemeteries.

I have also been asked to advise you that RISE wishes to commemorate Juneteenth, or Freedom Day, on the burial grounds. I am sure you can appreciate the significance for this community of being able to commemorate the day when enslaved people were informed of their freedom, years after it was granted to them.

We ask that you advise whether Formosa will agree to this commemoration, undertaken with safe, social distancing, on the site.

Best regards,

A handwritten signature in black ink, appearing to read 'Pamela C. Spees', with a long horizontal flourish extending to the right.

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cc: Neil Gauthier, U.S. Army Corps of Engineers