

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**RURAL ROOTS LOUISIANA,
MOUNT TRIUMPH BAPTIST CHURCH,
and HARRY JOSEPH, SR.,**

Plaintiffs,

v.

LT. GEN. WILLIAM H. GRAHAM, JR.,
in his official capacity as Commanding
General of the United States Army Corps
of Engineers, and **UNITED STATES
ARMY CORPS OF ENGINEERS**
441 G Street NW
Washington, DC 20314,

Defendants.

Civil Action: 1:26-cv-1141

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
AND PETITION FOR REVIEW OF AGENCY ACTION**

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Plaintiffs Rural Roots Louisiana, Mount Triumph Baptist Church, and Pastor Harry Joseph Sr. bring this action for Declaratory and Injunctive Relief to protect and honor the final resting places of people who were enslaved and buried on sugarcane plantations that operated on land that is now threatened by heavy industrial development.

In further support, Plaintiffs allege as follows:

PRELIMINARY STATEMENT

1. Pursuant to the Thirteenth Amendment, Section 106 of the National Historic Preservation Act, 54 U.S.C. §§ 300101-307108 (“NHPA”), and 5 U.S.C. §702 (Administrative Procedure Act), Plaintiffs seek an injunction against Defendant Lt. Gen. William Graham, Jr., Commanding General of the United States Army Corps of Engineers (“the Corps”) requiring that he: (i) issue a cease-and-desist order to a company currently engaged in ground-disturbing activities on land known to contain the graves of people who were enslaved on the plantations that once operated there; (ii) require the Corps to engage in meaningful consultation with Plaintiffs and other concerned members of the descendant community before allowing any further activities; and (iii) require the company to affirmatively and positively locate the graves and consult with Plaintiffs and other concerned members of the descendant community about their protection, preservation, and memorialization.

2. The land at issue has long been zoned as a conservation district because of its ecological sensitivity,¹ and was once home to several sugarcane plantations that operated during the period of slavery. It is located in the town of Modeste, a multi-racial community with families

¹Ascension Parish, La., Unified Land Development Code §17-2020 (2025); *Zoning 2025*, Ascension Parish Gov’t, <https://www.ascensionparish.net/zoning-2025/> (last visited Apr. 1, 2026).

who have lived there for generations, many of whom are descendants of people who were enslaved and are buried on the former plantation land in Modeste.

3. Modeste is surrounded by heavy industrial facilities to its south and just across the Mississippi River. It exists in the heart of a region long known as “the River Parishes,” and more recently as “Cancer Alley” for the proliferation of polluting facilities lining the river between Baton Rouge and New Orleans, placing those who live there among the highest risk categories in the country for cancer and other pollution-related illnesses.²

4. It is also a region where gravesites of people who were enslaved have already been damaged and destroyed by industrial development, as set forth below.

5. Now, two ammonia companies and a steel plant are seeking to construct facilities on the land in Modeste, referred to by state and local officials as the “Riverplex Megapark.” One ammonia plant, Ascension Clean Energy, has already received a permit from the Corps. CF Industries, the other ammonia-producing company, has submitted its application for a permit to the Corps. As of the date of this filing, available information indicates Hyundai, the steel company, has not yet submitted its application to the Corps.

6. Even though CF Industries has not yet received a permit from the Corps for the project overall, the company is currently engaged in extensive ground-disturbing activities on the sites with heavy machinery, including backhoes, heavy trucks, pavers, and graders. Area residents and Rural Roots members have witnessed digging and trenching at the site, as well as grading and

² Rachel Svensson, *Cancer Alley Statistics: Louisiana’s Cancer Alley has staggeringly high pollution levels causing severe health crises*, Gitnux Market Data Analysis (Feb. 13, 2026), <https://gitnux.org/cancer-alley-statistics/>; Josie Abugov, *Cancer risk in Louisiana’s industrial parishes is underestimated by EPA, study says*, NOLA.com (Oct. 8, 2025), https://www.nola.com/news/environment/cancer-chemicals-louisiana-industry-research/article_84f4dd30-bbb0-4248-be18-c842d223b778.html.

paving for road construction. They have also witnessed at least three accidents where heavy-haul trucks hauling gravel to the site have overturned on the nearby highway where they spilled large amounts of gravel and blocked traffic for hours while the wreckage was cleared.

7. The construction on CF Industries property is particularly alarming given that one cultural resources survey conducted in 2023 on the property concluded that “[e]nslaved peoples likely laid to rest their loved ones within the marginal lands” on the property. Yet there is no indication that any survey has properly examined the property using industry-standard ground penetrating radar, magnetometry, landscape modeling or oral histories to confirm where precisely on the property these gravesites are located. Instead, CF Industries has moved forward, with the Army Corps' approval, to engage in ground-disturbing activities, leaving the precise location of these gravesites up to accidental discovery, and potential destruction.

8. At the same time, extensive ground-disturbing activities are happening on the site adjacent to CF Industries where the Hyundai Steel Company seeks to construct a facility. Based on available information, Hyundai Steel has not yet applied to the Corps for its permit though it has undertaken a cultural resource survey of the property in anticipation of the Corps' required review of its eventual application under Section 106 of the NHPA.

9. Plaintiff Rural Roots Louisiana has staff and members who live in Modeste and the surrounding area who are descended from people enslaved on the plantations that operated nearby, and some who worked on the plantations long after Emancipation. Plaintiff Pastor Harry Joseph Sr.'s mother worked as a maid at the Mulberry Plantation in Modeste and gave birth to his brother

in a cabin that had once housed people enslaved there, and later sharecroppers. The cabin was recently torn down and destroyed in anticipation of a land sale to Hyundai Steel.³

10. Plaintiffs are deeply alarmed and distressed that the Corps is allowing these extensive ground-disturbing activities before the companies have received final permits and before the Corps has undertaken a full and meaningful Section 106 consultation with Plaintiffs and other concerned community members about the cemeteries known to exist on these properties.

11. In fact, the Corps has run roughshod of the NHPA's requirements of consultation and review under Section 106. This failure is even more alarming considering the risks posed to the particular kind of cultural resources at stake—gravesites where people enslaved on the plantations that once operated there are buried.

12. The Advisory Council on Historic Preservation (“ACHP”), the independent agency created by the NHPA with authority to issue binding regulations governing the implementation of Section 106 by federal agencies, recognizes that such sites are of profound cultural and religious significance to descendant communities, regardless of whether they are eligible for individual listing on the National Register of Historic Places (“NRHP”).⁴

13. The ACHP recognizes that as a result of the legacy of enslavement and its afterlife, the burial sites, human remains, and funerary objects of enslaved Africans and their descendants

³ Christopher Cartwright, *‘Extremely rare’ cabins torn down in area planned for Ascension Parish industrial plants*, The Advocate (Oct. 29, 2025), https://www.theadvocate.com/baton_rouge/news/environment/sharecropper-cabins-ascension-parish/article_4292a9f1-4906-43cc-b782-f64e447c2b3e.html.

⁴ Advisory Council on Historic Pres., *Policy Statement on Burial Sites, Human Remains, and Funerary Objects 1* (Mar. 1, 2023), [PolicyStatementonBurialSitesHumanRemainsandFuneraryObjects20230301_1.pdf](#) (hereinafter “ACHP Burial Sites Policy Statement”).

have a “higher probability of being unmarked and undocumented and thus more likely to be affected by development projects.”⁵

14. The ACHP further recognizes that descendant communities “continue to experience the impacts of intergenerational trauma resulting from the legacies of these federal policies” and that “[d]isturbing the burial areas or remains of ancestors or family members can have traumatic and compounding effects to the social and emotional welfare of associated individuals and communities”⁶

15. That is precisely what Plaintiffs are experiencing as they witness the extensive disruption of the grounds they know are home to the final resting places of enslaved ancestors of their descendant community as well as the landscape that contains other historic resources, and known cemeteries.

16. The ACHP’s guidance requires the Corps to incorporate the new policy as it carries out its responsibilities under Section 106 of the NHPA to consider the effect on historic properties of projects it evaluates for permits.

17. Federal regulations also require that the Corps “*shall* ensure that the section 106 process is initiated early in the undertaking's planning” and that it “must complete the section 106 process prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license.” 36 C.F.R. § 800.1(c). The regulations further require that the Corps not authorize activities before final permits are issued that are destructive or that could

⁵ *Id.*

⁶ Advisory Council on Historic Pres., *Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects: Explanations and Discussion* 12 (Feb. 4, 2025), <https://www.achp.gov/sites/default/files/2025-02/BurialPolicyExplanationandDiscussionGuidanceDocumentFeb2025.pdf> (hereinafter “ACHP Burial Sites Guidance”).

“restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking’s adverse effects on historic properties.” *Id.*

18. Here, the Corps is allowing extensive ground-disturbing activities on the site early in the permitting process, and before initiating a full and meaningful consultation pursuant to Section 106. It is allowing activities that could do damage to gravesites known to exist on these former plantations and that could restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the projects’ effects on the gravesites.

19. The Corps has failed to meet the requirements of federal regulations implementing Section 106 of the NHPA.

20. More, these gravesites are the lasting remnants of the slavery system, housing the remains of those who lived and died under a brutal form of chattel slavery. The Thirteenth Amendment, which was intended to abolish slavery and provide the means for abolishing all of its “badges and incidents,” *Civil Rights Cases*, 109 U.S. 3, 20 (1883), requires that the Corps do more to ensure that these graves are located and protected before any activities are undertaken that could disturb them in any way—not simply wait for inadvertent discovery through construction activities that would disturb and damage the graves.

21. These gravesites represent the “burdens and incapacities [that] were inseparable incidents of the institution” of slavery. *Civil Rights Cases*, 109 U.S. at 22. There could hardly be a clearer badge or incident of slavery than the ongoing disregard for and destruction of the graves of the people enslaved in that system and the inability of their descendants to have a meaningful voice in the protection of those sites.

22. These gravesites and their treatment historically represent some of the critical unfinished business of Emancipation from slavery. With the knowledge of the existence of these

gravesites and the modern technologies available for identifying their location, neither the Corps, nor any other federal permitting agency, can be allowed to leave the location and identification of these cemeteries to chance or inadvertent discovery through violent, ground-disturbing construction activities. They must be required to affirmatively locate their exact location and consult with concerned members of the descendant community about their protection and preservation.

23. The Thirteenth Amendment requires no less.

JURISDICTION AND VENUE

24. This Court has jurisdiction pursuant to 28 § U.S.C. 1331 (federal question), 28 § U.S.C. 1346 (United States as defendant), the Thirteenth Amendment, 54 U.S.C. §§ 300101-307108 (National Historic Preservation Act) and 5 U.S.C. §§ 701-706 (Administrative Procedure Act). This Court may award declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

25. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e)(1) as the defendants' agency resides in this district.

PARTIES

26. Plaintiff Rural Roots Louisiana ("Rural Roots") was founded in 2023, in Donaldsonville, Louisiana. Its mission is to introduce children to environmental justice, provide literacy programs, promote community stewardship and earth care, help make communities aware and educate kids on social justice by teaching art and gardening. Rural Roots' officers and members live in Ascension Parish and are descendants of people who were enslaved on the plantations in Modeste and surrounding areas. Some members live in and near the area targeted for heavy industrial development where the Corps is allowing two companies to undertake ground-disturbing, pre-construction activities.

27. Plaintiff Mount Triumph Baptist Church was formally founded in St. James Parish, just south of Ascension Parish, in 1904 by people who had been emancipated from slavery. Known as “the little church with a big heart,” under its current pastor, Harry Joseph Sr., Mount Triumph strives to be a space for community support and gathering. The church has also brought cases to challenge environmental injustice and to protect the cemeteries of people enslaved on the plantations that once operated in St. James. Pastor Joseph ministers to people in both St. James and Ascension Parishes.

28. Plaintiff Pastor Harry Joseph Sr. is a resident of Ascension Parish and lives just a few miles from Modeste and the land targeted for heavy industrial development. He is vice president of Rural Roots Louisiana and pastor of Mount Triumph Baptist Church. He is descended from people who were enslaved in Ascension Parish, and who worked on the plantations long after Emancipation. His mother worked and lived in Modeste on one of the plantations that operated on land now targeted for heavy industrial development.

29. Defendant Lt. Gen. William H Graham, Jr, is Commanding General of the United States Army Corps of Engineers. He is sued in his official capacity. He has ultimate authority for actions of the Army Corps, including for the actions challenged in this matter.

30. Defendant United States Army Corps of Engineers is a federal agency which has responsibility for, *inter alia*, the issuance, modification, and revocation of permits for activities taken or proposed to be taken on waters of the United States, its wetlands, and tributaries under section 404 of the federal Clean Water Act. 33 U.S.C. § 1344. As a federal agency, the Corps must comply with federal laws including the Thirteenth Amendment, NHPA, and the APA. The Corps is overseeing the permitting process for the companies that are engaged in ground-disturbing activities on the land in Modeste.

FACTUAL ALLEGATIONS

I. All Burial Grounds Are Sacred and the Graves of Enslaved People in the United States Are Associated with Intergenerational Trauma.

31. Burial grounds and cemeteries are places of profound spiritual, cultural, and religious meaning. The ACHP issued a policy statement in 2023 which emphasized that burial sites, human remains, and funerary objects are of “significant social and moral consequence in the United States” regardless of whether they are deemed eligible for individual listing on the National Register of Historic Places.⁷

32. As such, the ACHP instructs that disturbance “should not be pursued unless there are *no other alternatives available and only after consultation with descendants or ... [associated communities]* and fully considered avoidance of impact and preservation in place.”⁸

33. While any burial site is considered sacred ground, the ACHP has emphasized that burial sites of enslaved Africans and those of African descent have added layers of risk, trauma, and significance associated with them given the legacy of slavery and the barriers to access and recognition that followed. The ACHP policy recognizes that as a result of this legacy of disenfranchisement, such burial sites have a “higher probability of being unmarked and undocumented and thus more likely to be affected by development projects.”⁹

34. The ACHP further recognizes that descendant communities “continue to experience the impacts of intergenerational trauma resulting from the legacies of these federal policies” and that “[d]isturbing the burial areas or remains of ancestors or family members can have traumatic

⁷ ACHP Burial Sites Policy Statement, *supra* note 4, at 2.

⁸ *Id.* (emphasis added).

⁹ *Id.* at 1.

and compounding effects to the social and emotional welfare of associated individuals and communities”¹⁰

35. These cemeteries hold historic significance as markers of the first century of life for enslaved Africans and those of African descent in the United States and enormous cultural significance for their descendants who seek to honor these ancestors. These are sacred sites. Yet descendants of the enslaved have continued to face impediments to locating, accessing, and caring for them.

36. Among the criteria for inclusion on the National Register of Historic Places—the federal government’s official list of sites deemed worthy of preservation—are sites “associated with events that have made a significant contribution to the broad patterns of our history; or that are associated with the lives of persons significant in our past;” or “that have yielded or may be likely to yield, information important in prehistory or history.”¹¹

37. The sites of former plantations and the graves of people enslaved on them meet each of these criteria: They are associated with events that have made a significant contribution to the broad patterns of our history—hundreds of years of slavery and the foundation of the country; they are the burial places of people significant in our past, though too often not regarded as such by federal, state, and local authorities; and they are likely to yield important information about our history.

38. Federal permitting agencies have an obligation under the Thirteenth Amendment to affirmatively address this lasting vestige of the slavery system in consultation with descendant communities.

¹⁰ ACHP Burial Sites Guidance, *supra* note 6.

¹¹ *Criteria for Evaluation*, Nat’l Register of Historic Places, <https://nationalregisterofhistoricplaces.com/faq.html> (last visited Apr. 1, 2026).

39. Federal agencies, like the Corps, must be required to affirmatively locate such sites in the Areas of Potential Effects under their permitting authority and ensure their protection and preservation in consultation with descendant communities. They can no longer be allowed to wait for accidental or inadvertent discovery of unmarked graves, which inherently comes with disturbance, in addition to the possibility of damage or destruction.

II. Given the History of Slavery in Modeste, Cemeteries Where Enslaved People Were Buried Exist on the Land Targeted for Heavy Industrial Development.

40. The area targeted for construction of the CF Industries facility was once home to a sugarcane plantation that relied on the forced labor of enslaved people.

41. On the eve of the Civil War, the total of Louisiana's enslaved population was 331,726, which accounted for 46.9% of its total population.¹² According to a cultural resources survey of the area, Ascension Parish was the fourth largest sugar producing parish in Louisiana in 1860.¹³ That year, the total population was approximately 11,424, and more than half of that population—7,376, or 65%—was enslaved.¹⁴

42. Those enslaved had no freedom of movement, or freedom of any kind. They lived, worked, and died on the plantations to which they were tied. They could not choose where they

¹² Steve A. Hawks, *State and Territory Populations in 1860 in the United States, The Civil War in the East*, <https://civilwarintheeast.com/things/state-populations-in-1860/> (last visited Apr. 1, 2026).

¹³ Brandy Kerr, Jennie Garcia & Malcolm Shuman, *Phase 1 Cultural Resources Survey of 944 Acres (382 Hectares) near Donaldsonville, Ascension Parish, Louisiana: Final Report*, 17 Surveys Unlimited Research Associates, Inc. (SURA) (Nov. 2018) (hereinafter "SURA Report") (on file with Plaintiffs).

¹⁴ U.S. Census Office, *Population of the United States in 1860; Compiled from the Original Returns of the Eighth Census* 191 (table titled "Population by Age and Sex, Louisiana") (Joseph C.G. Kennedy ed., Gov't Printing Office 1864), <https://www2.census.gov/library/publications/decennial/1860/population/1860a-16.pdf>.

would be buried, nor how.¹⁵ They were generally buried on the plantation in an area that was not viable for farming. This practice continued through French and Spanish rule, and after the transfer of the territory to the United States.¹⁶

43. Historic mortality records reveal that slavery on these sugarcane farms was a brutal and deadly enterprise. Historians have noted that many Louisiana slaveholders especially “made it their policy to work the slaves to death and buy new ones instead of taking care of the old and sick.”¹⁷ For example, the average age of death for enslaved people in St. James Parish, just south of Ascension Parish, was 21.4 years old between 1850 and 1860.¹⁸

44. Thus, burials of enslaved people on the River Parish plantations were common. Louisiana’s former chief archaeologist, Dr. Chip McGimsey, has stated “with almost 100% certainty” that there is “going to be a slave cemetery” on “every plantation that existed.”¹⁹

¹⁵ ACHP Burial Sites Guidance, *supra* note 6, at 11 (“[T]he location of burial areas and the method of burial were often controlled by external parties, were confined to remote areas, and/or were rarely documented.”) (citing African American Burial Grounds Preservation Program); S. Rep. No. 117-244, at 1 (2022), <https://www.congress.gov/117/crpt/srpt244/CRPT-117srpt244.pdf> (“African-American cemetery sites were often confined to remote areas or marginal property and they frequently were not provided the same sort of state or local maintenance support or assistance as predominantly white cemeteries.”).

¹⁶ The 1685 Code Noir, first decreed for the Caribbean and then applied to Louisiana, forced Catholic, Apostolic, or Roman religion on enslaved people. 1685 Code Noir, Art. XIV, <https://www.nps.gov/articles/000/transcription-of-the-code-noir-the-black-code.htm>. The 1724 Code Noir, which remained largely in effect under subsequent Spanish rule, added to this requirement that “[m]asters shall have their Christian slaves buried in consecrated ground.” 1724 Code Noir, Arts. I, II, V, XI, <https://www.loc.gov/item/2021667007> (translation available at <https://www.nps.gov/articles/000/transcription-of-the-code-noir-the-black-code.htm>).

¹⁷ See W.E.B. Du Bois, *Black Reconstruction in America, 1860-1880* 453 (Free Press 1935).

¹⁸ Don Hunter & Joanne Ryan, *Who’s Buried at Buena Vista? An Unmarked Plantation Cemetery in St. James Parish, Louisiana: History, Genealogy, and Mortality Demographics* 109 (2022).

¹⁹ Charisse Gibson, *Who Benefits from the petrochemical industry in St. James Parish?*, WWL TV CBS (Feb. 14, 2020), <https://www.wwltv.com/article/news/local/who-benefitsfrom-the-petrochemical-industry-instjames-parish/289-e41c3adb-0a11-47c4-b28e-dcfc2bc230e6>.

45. According to Dr. McGimsey, this was particularly so because “child mortality rates in those days was very high” and as a result he would “expect that most plantations are going to have [sic] cemetery of some size, somewhere on their property.”²⁰

46. Adding to the indignity and dehumanization of slavery in the River Parishes, the deaths and burials of the enslaved were not routinely recorded in public records, nor marked physically through headstones or obvious grave markers, or otherwise venerated.

47. Descendants were forbidden by law and custom, both during and after slavery, from gathering to engage in religious and spiritual practices at these burial sites to honor, pray, and pay their respects to their ancestors.²¹

48. Slavery and later Jim Crow both “limited the cultural continuation of death rites and burial practices”²² for the enslaved and their descendants.

49. While enslaved people were prevented from leaving plantations to bury the dead where they chose, their descendants, after gaining freedom from slavery, were conversely prevented from entering the land where their enslaved ancestors were buried to honor them and protect their final resting places. The Black Codes established in 1865 outlawed trespassing on

²⁰ Testimony of Dr. Charles McGimsey in *The Descendants Project v. St. John the Baptist Parish*, 40th Judicial District Court, Case No. C-77305, p. 59:1-5.

²¹ 1724 Code Noir, Art. XVI, <https://www.loc.gov/item/2021667007> (translation available: <https://www.nps.gov/articles/000/transcription-of-the-code-noir-the-black-code.htm>) (Prohibiting the “gather[ing] in crowds either by day or by night, under the pretext of a wedding, or for any other cause” of “slaves belonging to different masters.”); 1806 Black Code of Louisiana, § 12 (June 7, 1806) <https://www.accessible-archives.com/2011/08/the-black-code-of-louisiana-1806> (Prohibiting any slaveowner from “suffer[ing] [on his plantation] other assemblies than that of his own slaves...”).

²² ACHP Burial Sites Guidance, *supra* note 6, at 3 (principle 2 urges consideration of events including “warfare, slavery, disease, and other circumstances that inadvertently or intentionally limited the cultural continuation of death rites and burial practices” when assessing adverse impacts (emphasis added)).

plantations, which was “intended to prevent freedmen from leaving the plantations on which they are employed, and from visiting each other....”²³

50. The inability to freely access the former plantation land continues to this day and has prevented descendants from being able to locate and freely access the burial grounds of enslaved ancestors.

51. Despite this, many descendants cultivated “cultur[al] lifeways,”²⁴ including through oral history traditions and by placing funerary objects at, and when possible, long after the time of death.²⁵

III. Cemeteries of Enslaved People Have Already Been Damaged and Destroyed through Industrial Development.

52. The neglect, lack of regard, and denial of dignity typically accorded to the burials of the enslaved has been exacerbated by the destruction and desecration of some plantation cemeteries as a result of industrial development in the River Parishes.

²³ Letter from Michael Hahn to Hon. T. O. Howe, *Ex-governor Hahn on Louisiana Legislation Relating to Freedmen* 2, Libr. of Cong. (Apr. 12, 1866), <https://archive.org/details/exgovernorhahnnon00hahn/page/2/mode/2up?q=intended+>; see also, Du Bois, *supra* note 17, at 168.

²⁴ ACHP Burial Sites Guidance, *supra* note 6, at 3 (principle 2 of ACHP’s Burial Policy urges consideration of how burial sites are part of an ongoing culture’s lifeways when assessing adverse impacts).

²⁵ In February 2025, members of the descendant community placed flowers at the Buena Vista Plantation Cemetery in Welcome, LA. They also commissioned headstones to place for five people who were enslaved and died on the plantation. However, the current property owner, Formosa Plastics, has refused them permission to do so. See Barbara Washington & Gail LeBoeuf, *In this ground, our ancestors were buried*, The Lens (Mar. 11, 2025), <https://thelensnola.org/2025/03/11/in-this-ground-our-ancestors-were-buried/>.

A. Sports Place Plantation Cemetery is now the site of a storage yard and waste pond.

53. The Sports Place Plantation was a sugarcane plantation owned by the Duplantier family, which enslaved people from at least 1830 until the end of the Civil War.²⁶

54. An 1876-1877 map depicts a cemetery on the Sports Place Plantation. It was located near the front of the plantation, along the property line that separated it from another plantation. Field notes from 1890 written by a surveyor on the property also describe the cemetery. Subsequent aerial imagery showed the cemetery as an uncultivated plot of land surrounded by ploughed fields.

55. In March 2021, through an archaeological cartographic regression analysis, it was learned that by 1975, a coke storage yard associated with a calcined coke plant had been built on top of the cemetery where enslaved and formerly enslaved people were buried on the plantation during slavery and after Emancipation.

56. The plantation is now the site of operations of Rain CII, which has operated a calcined coke plant there since 1988 and stores coke on top of graves of the enslaved.

57. By 1998, a pond had also been dug on the western part of the cemetery.

B. A levee has been constructed on top of the Lauderdale Plantation Cemetery.

58. Robert C. Nicholas owned the Lauderdale Plantation for nearly two decades, using it to produce sugarcane as early as 1828. In 1850, he enslaved 236 people on the plantation.²⁷

²⁶ Don Hunter & Joanne Ryan, *Golden Grove and Sports Place Plantations: Two Unmarked Plantation Cemeteries in St. James Parish, Louisiana: Land-Use History and Cartography* 11-15 (2021).

²⁷ Coastal Environments, Inc., *Cartographic Regression Analysis of Certain Tracts of Land Located in T. 11 S. and T. 12 S., R. 15 E. (Southeastern Land District West of Mississippi River), St. James Parish, Louisiana* 39 (Feb. 19, 2020), <https://ccrjustice.org/sites/default/files/attach/2020/03/St.%20James%20Cemeteries%20%28Reduced%29%20%281%29.pdf>.

59. In the early 1850s, he sold the plantation to E.B. Donelson. The plantation continued to produce an amount of sugarcane that “would have entailed a large slave labor force.”²⁸ Shortly before the Civil War, in 1857, the plantation was sold to brothers-in-law Mathew Watson and Bergondy LaPice. In 1860, they enslaved 245 people on the plantation.²⁹

60. The cemetery is now part of the Mosaic Faustina plant, which has been in operation since 1968.³⁰

61. Records from the Louisiana Division of Archaeology indicate that no cultural resource survey of the Lauderdale Plantation Cemetery was done prior to 2019.³¹

62. In or about February 2020, through a cartographic regression analysis of the Lauderdale Plantation, it was discovered that by 1998, a retention pond had been built on what is now the Mosaic Faustina Works fertilizer plant, and the levee of the pond had been built on top of the cemetery.

63. By 2005, another set of retention ponds were excavated in the area.

64. While it is believed that some of the cemetery has been destroyed as a result, descendants hope that there are still intact human remains under the levee or retention ponds.

C. The Acadia Plantation Cemetery was dug up for a borrow pit and a pipeline was constructed through the Buena Vista Plantation Cemetery.

65. On September 4, 2019, the Corps issued a permit for FG LA, also known as Formosa Plastics, to build a plastics plant on land that includes the former Acadia and Buena Vista

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 7.

³¹ *Id.*

Plantations. In its statement supporting the permit, the Corps concluded that it had “fulfilled its responsibilities under Section 106 of the NHPA.”³²

66. However, two months after the permit had been issued, local descendants learned that the company had discovered a cemetery on the property and neither the company nor the Corps had reached out to local descendants with that information, or otherwise made it public before the Corps issued its permit.

67. In November 2019, local descendants learned of the two cemeteries on the land in Welcome through a public records request to the Louisiana Division of Archaeology.

68. The records revealed that the cemetery that had existed on the Acadia Plantation had been mostly destroyed when the land was previously used as a “borrow pit”³³ and the dirt was dug out and transported elsewhere.

69. Archaeologists who undertook the study of the site on behalf of descendants believe there could still be some human remains on the site.³⁴

70. Additionally, it was confirmed through the public records that a cemetery that exists on the Buena Vista Plantation had been compromised and desecrated when a pipeline was constructed through the gravesite several years before.

71. The company that undertook the surveys of the property for Formosa initially concluded that no burial sites could be located. It was only after an independent third party called the gravesites to the attention of the Division of Archaeology that the company was required to

³² Section 10.3.3, Memorandum of Record: Department of the Army Environmental Assessment and Statement of Findings for the Above-Referenced Standard Individual Permit Application,” File Number MVN-2018-00159-CM, United States Army Corps of Engineers, September 4, 2019.

³³ An excavated area where material has been dug for use as fill at another location, *borrow pit*, <https://www.merriam-webster.com/dictionary/borrow%20pit> (2026).

³⁴ Coastal Environments, *supra* note 27, at 16, 34.

return to the property for further investigation to positively identify the location of the Buena Vista Cemetery.

72. Formosa Plastics did not inform St. James Parish officials nor community members about the confirmation of the cemetery while its land use application was pending with the Parish.

73. The company responsible for the surveys of the Formosa property is also the same company responsible for an October 2023 survey of the Elise Plantation conducted for CF Industries.

74. As can be seen from these examples, the gravesites were not discovered, or if they were, they were not reported, prior to or during construction of these projects, but long after the fact and by independent researchers.

IV. The Ground-Disturbing and Pre-Construction Activity on the Site in Modeste Risks Damaging or Destroying Cemeteries Where Enslaved People Are Buried.

75. The destruction of cemeteries of people enslaved on the former plantations elsewhere in the River Parishes demonstrates the real risks to these sites posed by industrial development.

76. It is why Plaintiffs are so concerned and bring this action to halt the activities on the Modeste site and require the Corps to immediately commence a full Section 106 consultation to locate the graves and address descendants' concerns about their preservation and protection.

77. In this matter, a 17,000-acre area of land in Modeste, Louisiana, on the West Bank of the Mississippi River, has been targeted for heavy industrial development. Two ammonia companies and one steel company are seeking to construct facilities on the site.

78. The companies must apply to the Corps for permits because the sites are in close proximity to the Mississippi River and jurisdictional wetlands.

79. Pursuant to Section 106 of the National Historic Preservation Act (NHPA), any federal agency that must license a project, like those at issue here, must take into account the effect such projects may have on historic properties. 54 U.S.C. § 306108.

80. Federal regulations require that the Section 106 review be “initiated early in the undertaking’s planning,” 36 C.F.R. § 800.1(c), and that the federal agency make a “reasonable and good faith effort” to identify historic properties within the Area of Potential Effects (APE). 36 C.F.R. § 800.4(b)(1).

81. Federal regulations also prohibit the Corps from allowing pre-permitted activities that are destructive or that could “restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking’s adverse effects on historic properties.” 36 C.F.R. § 800.1(c).

82. The Corps has failed to make a reasonable and good faith effort to consult with community stakeholders and members of the descendant community early in the review process.

83. On February 23, 2026, the Corps granted Ascension Clean Energy, an ammonia company, a permit to construct a facility on the site. However, on September 23, 2025, months before the Corps issued the permit for the project, Rural Roots requested to be a consulting party in the Corps’ mandatory Section 106 review. Rural Roots specifically noted the concerns about unmarked cemeteries in the targeted area. The Corps did not respond to Rural Roots’ request.

84. The Corps violated the federal regulations implementing Section 106 of the NHPA by failing to meaningfully consult with the descendant community early, or at all, with regard to the permit sought by Ascension Clean Energy.

85. Now, CF Industries, the other ammonia company seeking to build on the site, has applied to the Corps for a permit to construct a facility on the site of the former Elise Plantation.

86. In this instance, while the Corps granted Rural Roots' request for consulting party status for its Section 106 review of CF's application on December 16, 2025, it has not since made reasonable and good faith efforts to consult with Rural Roots prior to authorizing these ground-disturbing activities on the site.

87. When the Corps responded to Rural Roots' request to be a consulting party, the Corps advised Rural Roots that "the Section 106 consultation has not been initiated yet."³⁵ The Corps further advised Ms. Ashley Gagnard, founder of Rural Roots, that she would be receiving an invitation to participate once the consultation was initiated.

88. On March 24, 2026, Ms. Gagnard received an email again acknowledging that the Corps was inviting her/Rural Roots to be a Consulting Party to its Section 106 review of the permit application of CF Industries, with an attached letter.

89. However, the letter attached to the email informed Ms. Gagnard that the Corps had made a "Final Effect Determination" of "No Adverse Effect to Historic Properties with Condition of Avoidance" for the permit sought by CF Industries.³⁶

90. The email to which the final determination letter was attached, indicated again that the Corps invited Ms. Gagnard/Rural Roots "to participate as a Consulting Party member" for the Corps' Section 106 review of CF Industries' permit application.³⁷ It advised Ms. Gagnard that she had 30 days to provide comments on the documents forwarded to her by the Corps.

³⁵ Email from Army Corps of Engineers to A. Gagnard (Dec. 16, 2025) (annexed hereto as Exhibit A).

³⁶ Letter from Army Corps of Engineers to A. Gagnard (Mar. 24, 2026) (annexed hereto as Exhibit B)

³⁷ Email from Army Corps of Engineers to A. Gagnard (Mar. 24, 2026) (annexed hereto as Exhibit C)

91. This correspondence confirms that the Corps failed to meaningfully consult with Plaintiff Rural Roots Louisiana - despite having granted it consulting party status. The Corps made a final “no effects” determination without consulting in any way with a party it acknowledged had an interest in the historic and cultural resources on the property.

92. The documents sent along with the “no effect” letter included two cultural resource surveys—one from 2018 and one from 2023—and what appeared to be a set of instructions for avoiding historic properties, dated March 18, 2026.³⁸

93. The document instructed CF Industries to protect one known archaeological site on the property: the Elise Reuss Schoolhouse. However, with regard to unmarked graves, the letter instructed “the permittee” that if any “abandoned cemeteries, unmarked graves, or human remains are discovered during the permitted activity,” the permittee is to “stop work immediately and comply with the Louisiana Unmarked Human Burial Sites Preservation” and notify the relevant authorities.

94. Plaintiffs are alarmed that the Corps issued a final decision that the permitted project would have no effects on historic properties with only one condition of avoidance for the area that used to be home to a schoolhouse. And that the Corps did so without consulting with Plaintiff Rural Roots beforehand, even though it had acknowledged its consulting party status.

95. With regard to the conditions set in the avoidance instructions, Plaintiffs are concerned that if graves are discovered, it would be as a result of intrusive, heavy ground-disturbing activities that would disturb and do harm to the graves, at which point damage will have

³⁸ Avoidance Instructions, Army Corps of Engineers, sent to A. Gaignard (Mar. 24, 2026) (annexed hereto as Exhibit D)

already been done. These same instructions and applicable laws have not prevented the destruction of other graves of enslaved people elsewhere in the River Parishes, as set out above.

96. The land where CF Industries intends to build an ammonia facility is the site of the former Elise Plantation, which appears in an 1829 plat survey map as the property of Louis Landry.³⁹ Sometime before 1858, Landry likely sold the property to W.C.S. Ventress, and sometime after Emancipation, the plantation became the property of the Reuss family, which also owned the Germania, Mulberry Grove, and Cuba Plantations.⁴⁰

97. A cultural resources survey of the land was done by Surveys Unlimited Research Associates (SURA)⁴¹ in 2018 as part of the Louisiana Economic Development Site Certification Program, which “assist[s] communities throughout Louisiana to identify and certify industrial sites as development-ready.”⁴² The SURA survey confirmed the location of the Elise Schoolhouse. A later survey conducted by TerraXplorations, Inc., (“TerraX”) noted that in 1904 the “Elise School was one of only eight plantation schools for Black children in Ascension Parish, compared to the ten active, and fourteen proposed White-only Schools.”⁴³

98. Although the property owner denied SURA access to the part of the Elise Plantation project area that included the historic Elise Schoolhouse, the SURA report authors believed the schoolhouse “meets the National Register’s criteria for evaluation under Criterion A and Criterion

³⁹ Steven J. Filoromo, Margaret Schultz & Cristyn Maxey, *A Phase I Cultural Resources Survey of the Elise Schoolhouse in Ascension Parish, Louisiana* 9 TerraXplorations, Inc. (Oct. 2023) (hereinafter “TerraX Report”) (on file with Plaintiffs).

⁴⁰ *Id.*

⁴¹ SURA Report, *supra* note 13, at i.

⁴² *Certified Industrial Sites*, Louisiana Economic Development, <https://www.opportunitylouisiana.gov/why-louisiana/certified-sites/certified-industrial-sites> (last visited Apr. 1, 2026).

⁴³ TerraX Report, *supra* note 39, at 13.

C.”⁴⁴ The authors went on to “recommend further evaluation of the historic properties associated with the Elise Schoolhouse prior to ground disturbing activities to determine eligibility for inclusion to the NRHP.”⁴⁵

99. When TerraX published its cultural resources study in 2023 for CF Industries, it reported that “the schoolhouse was still standing until early 2023. The former landowner or relative (a Hayward) destroyed the schoolhouse in hopes to sale [sic] the property with greater ease. CF Industries purchased the property in 2023.”⁴⁶

100. As a result of its demolition, the schoolhouse was investigated as an archeological site, and TerraX recommended it “as potentially eligible for inclusion in the National Register under Criterion D”⁴⁷

101. In 2023, the TerraX investigators acknowledged the history of slavery on the site and even opined that “[e]nslaved peoples likely laid to rest their loved ones within the marginal lands” on the property.⁴⁸ However, they limited their search for burial sites to a review of “historic aerial imagery and maps of the project area and batture.”⁴⁹

102. Although the report concluded “there are no locations that might potentially indicate the presence of an unmarked cemetery,”⁵⁰ there is no indication that this survey, which relied on locating anomalies and absences in maps and imagery, was followed up with industry-accepted standards for locating burial sites such as ground penetrating radar, magnetometry, landscape modeling or oral histories.

⁴⁴ SURA Report, *supra* note 13 at i.

⁴⁵ *Id.*

⁴⁶ TerraX Report, *supra* note 39, at 14.

⁴⁷ *Id.* at Abstract.

⁴⁸ *Id.* at 9.

⁴⁹ *Id.*

⁵⁰ *Id.*

103. Considering the sensitivity and cultural and religious significance of the burial sites known to exist on these properties, this methodology falls far short of the “reasonable and good faith effort” the ACHP says is required by Section 106.

104. This is especially so when considering the ACHP’s policy guidance on burial sites, human remains, and funerary objects, which requires that they be “treated with dignity and respect in all circumstances ... [at] all times prior to and during consultation.”⁵¹ The ACHP policy also requires that burial sites, human remains, or funerary objects not be disturbed “unless there are no other alternatives available and only after consultation with descendants or associated communities and fully considered avoidance of impact and preservation in place.”⁵²

105. Despite this policy guidance and the cultural, historic, and religious significance of the burial sites, before permitting the Project and without having initiated meaningful consultation with descendants, the Corps has made a premature final “no effects” determination and is allowing CF Industries to undertake extensive ground-disturbing on the site, such as those shown in these photos:⁵³

Photo 1

⁵¹ ACHP Burial Sites Policy Statement, *supra* note 4, at 2.

⁵² *Id.*

⁵³ Photographs 1-4 showing activity on CF Industries site taken by C. Gibb (Mar. 18, 2026). Photographs 5-7 taken by T. Collins on March 4, 20, and 31, 2026, respectively.



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



106. As can be seen in these photos, the activity on the site is not minor. It is extensive, invasive, disruptive, and ground-disturbing. It poses a severe and imminent risk of disturbing burial sites known to exist on the property.

CONSTITUTIONAL AND STATUTORY REQUIREMENTS

The Thirteenth Amendment

107. The Thirteenth Amendment, ratified in 1865, abolished slavery and provided the means for abolishing all of its “badges and incidents,” *Civil Rights Cases*, 109 U.S. 3, 20 (1883). Its obligations apply to both state and private actors.

The National Historic Preservation Act

108. With regard to historic preservation law, Congress enacted the NHPA in 1966, with the express intent that “the historical and cultural foundations of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American People.” Pub. L. No. 89-665, 80 Stat. 915 (1966).

109. Congress intended that the NHPA will “insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation,” particularly in response to proposals to expand “industrial developments” in historically and culturally valuable areas. *Id.*

110. Section 106 of the NHPA requires that federal agencies, “prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property.” 54 U.S.C. § 306108. The term “undertaking” is broadly defined to mean “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency,” and relevant here, expressly includes activities “requiring a federal permit, license, or approval.” *Id.* § 300320; accord 36 C.F.R. § 800.16(y).

111. “Historic property” is defined to include “any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object.” 54 U.S.C. § 300308. The goal of the Section 106 consultation process is “to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.” 36 C.F.R. § 800.1(a).

112. The ACHP was established under the NHPA with the authority to promulgate binding regulations to implement Section 106. See 54 U.S.C §§ 304101-304102, 304108. Relevant here, those regulations provide that agencies “must complete the Section 106 process *prior to* the

approval of . . . the undertaking or prior to the issuance of any license.” 36 C.F.R. § 800.1(c) (emphases added).

113. Although agencies may authorize “nondestructive project planning activities before completing compliance with section 106,” they may do so only where “such actions do not restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking’s adverse effects on historic properties.” *Id.*

114. Agencies must also “ensure that the section 106 process is initiated early in the undertaking’s planning, so that a broad range of alternatives may be considered during the planning process for the undertaking.” *Id.*

115. “Consultation is the hallmark of the Section 106 process and is foundational to inform the broader decision-making efforts by federal agencies and state and local governments,” according to the ACHP.⁵⁴ Consultation in this context is “the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process.” 36 C.F.R. § 800.16(f).

116. The responsible agency official must ensure that the process provides stakeholders—including the State Historic Preservation Officer (“SHPO”), local governments, Tribes, and other interested parties (referred to as “consulting parties”)—a reasonable opportunity to identify concerns about historic properties, advise on their identification and evaluation, articulate views on the undertaking’s effects, and participate in resolving adverse effects. *Id.* § 800.2(a), (c).

117. Agencies are also directed to “seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private

⁵⁴ ACHP Burial Sites Guidance, *supra* note 6, at 4.

individuals and businesses, and the relationship of the Federal involvement to the undertaking.”
Id. § 800.2

118. When an agency determines that a project “has the potential to cause effects on historic properties,” it must initiate the Section 106 process, *id.* § 800.3, which is the first step of the process. At that stage, the agency must “[d]etermine and document the area of potential effects” (“APE”) of the project. *Id.* § 800.4(a)(1). The APE is defined by regulation to include the area “within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties.” *Id.* § 800.16(d).

119. The size and scope of the APE “is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.” *Id.* The agency must determine the APE in consultation with the SHPO, and must seek information about such sites from consulting parties, individuals, or organizations “likely to have knowledge of . . . historic properties in the area” *Id.* § 800.4.

120. Once the APE is delineated, the agency moves to Step 2 in the Section 106 process—identifying historic properties in the APE. There, the agency must “make a reasonable and good faith effort” to identify all historic properties within that area, in consultation with the SHPO and “any Indian tribe . . . that might attach religious and cultural significance to properties within the area of potential effects” 36 C.F.R. § 800.4(b). The agency must also identify properties within the APE that have not been previously evaluated for eligibility for inclusion on the NRHP, but nevertheless meet the criteria for inclusion. *Id.* § 800.4(a)(4), (c).

121. The NHPA authorizes the Secretary of the Interior to maintain the NRHP as a list of “districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering and culture.” 36 C.F.R. § 60.1(a). “Site” is defined by regulation to

broadly include “the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.” *Id.* § 60.3(l). “Thus, a property may be defined as a ‘site’ as long as it was the location of a significant event or activity, regardless of whether the event or activity left any evidence of its occurrence.”⁵⁵ Moreover, “[a] culturally significant natural landscape may be classified as a site, as may the specific location where significant traditional events, activities, or cultural observances have taken place.”⁵⁶

122. A traditional cultural property (TCP) is “defined generally as one that is eligible for inclusion in the [NRHP] because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community’s history, and (b) are important in maintaining the continuing cultural identity of the community.”⁵⁷

123. Once historic properties within the APE are identified, the agency must evaluate the historic significance of such sites and determine whether they are potentially eligible for listing under the NRHP, before an agency can complete Step 2 of the Section 106 process. 36 C.F.R. § 800.4(c). In Step 3 of the NHPA Section 106 process, the agency analyzes the effects to historic properties identified during Step 2. Thus, once the agency identifies historic properties that may be affected by the undertaking, the agency must “notify all consulting parties ... [and] invite their views on the effects and assess adverse effects” of the project on those properties. 36 C.F.R. § 800.4(d)(2).

⁵⁵ Patricia L. Parker & Thomas F. King, U.S. Dep’t of the Interior Nat’l Park Serv., Nat’l Reg. Bulletin No. 38: *Guidelines for Evaluating and Documenting Traditional Cultural Properties* 9 (1992), <https://www.nps.gov/subjects/nationalregister/upload/NRB38-Compleweb.pdf>.

⁵⁶ *Id.*

⁵⁷ *Id.*

124. An adverse effect is defined by regulation to include situations “when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the [NRHP] in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.” 36 C.F.R. § 800.5(a)(1) In making its determination, the agency must consider “all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property’s eligibility for the [NRHP].” *Id.* “Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.” *Id.*

125. If there is a determination of adverse effects, Step 4 of the Section 106 process requires the agency to “consult with the SHPO/THPO and other consulting parties . . . to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties.” 36 C.F.R. § 800.6(a).

The Administrative Procedure Act

126. Under Section 702 of the APA, a “person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.” 5 U.S.C. § 702.

127. Under the APA, a reviewing court shall “compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).

128. In addition, a reviewing court “shall hold unlawful and set aside agency actions, findings, and conclusions” when they are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;” when they are “contrary to constitutional right, power, privilege, or immunity;” when they are issued in excess of statutory authority; or when they are adopted “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

129. An agency action is arbitrary and capricious if the agency “relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency,” or if the agency’s decision “is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfr. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

* * *

130. The Corps has run roughshod over the constitutional rights of the descendants of those enslaved on the land to be free of this badge or incidents of slavery, and circumvented the requirements under the NHPA of meaningful consultation and review of the projects for potential effects on historic properties.

CLAIMS FOR RELIEF

First Claim for Relief **(Thirteenth Amendment)**

131. Plaintiffs reallege and incorporate by reference each and every allegation contained in the foregoing paragraphs of this Complaint.

132. The Thirteenth Amendment, ratified in 1865, abolished slavery and provided the means for abolishing all of its “badges and incidents,” *Civil Rights Cases*, 109 U.S. 3, 20 (1883).

133. The gravesites containing the graves of people enslaved in the slavery system are inseparable badges and incidents of that system. They are real, tangible, and direct vestiges of slavery.

134. Their treatment historically has led to desecration and destruction of some of these gravesites through industrial development in the region of the River Parishes, and to the inability

of Plaintiffs and other descendants to locate, recover, access, commemorate and care for the cemeteries known to exist.

135. Plaintiff Harry Joseph Sr. and the members and staff of Plaintiffs Rural Roots and Mount Triumph Baptist Church and are descendants of people enslaved in the River Parishes, who desire to preserve and protect gravesites of enslaved ancestors.

136. The Thirteenth Amendment requires, at a minimum, that federal agencies affirmatively require that such sites be located and protected in consultation with affected descendant communities prior to allowing any ground-disturbing activities on the sites when considering licensing development projects.

137. The Corps' failure to do so in this instance violates the Thirteenth Amendment.

138. The Corps' failures to adhere to the requirements of the NHPA and implementing regulations may also be addressed through Section 706(2)(B) of the Administrative Procedure Act as it is "contrary to a constitutional right, power, privilege, or immunity."

139. The Corps' failure to meaningfully consult with Plaintiffs and others in the descendant community prior to allowing destructive activities on the site violates the Thirteenth Amendment as continuing a "badge or incident" of slavery, and is redressable by this Court pursuant to Section 706(2)(B) of the APA.

140. The Corps' failure to consult with Plaintiff Rural Roots Louisiana and other concerned members of the descendant community prior to making a final determination of no adverse effects violates the Thirteenth Amendment as a continuing "badge or incident" of slavery, and is redressable through Section 706(2)(B) of the APA.

141. The Corps' failure to consult with Plaintiffs and to require the location of the gravesites was intentional as it has long been on notice that such gravesites exist on these properties

along the Mississippi River and that members of the descendant community were concerned and desired to participate in the 106 review.

142. The Corps' decision to allow the ground-disturbing activities violates the Thirteenth Amendment in that the failure to prioritize locating these unmarked graves known to exist on these properties, leaving them unmapped and vulnerable to damage and disturbance through accidental or inadvertent discovery, constitutes an ongoing badge or incident of slavery—as a continuation of the degrading treatment afforded to those buried there, and to their living descendants.

Second Claim for Relief
(National Historic Preservation Act)

143. Plaintiffs reallege and incorporate by reference each and every allegation contained in the foregoing paragraphs of this Complaint.

144. The Army Corps has failed to conduct a meaningful consultation with the descendant community, and in particular Plaintiff Rural Roots Louisiana, before allowing construction activities on the site.

145. This extensive ground-disturbing road construction, trenching, digging, paving, and grading pose a risk of harm and disturbance to the graves of people once enslaved on the property that are known to exist everywhere a plantation operated in the region.

146. The NHPA regulations require that “the Section 106 process is initiated early in the undertaking’s planning... .” 36 C.F.R. § 800.1(c). The Corps failed to do so in this instance.

147. The NHPA granted Plaintiff Rural Roots Louisiana’s request to be a consulting party in the Section 106 review of the permit application of CF Industries on December 16, 2025, but has not since initiated the review process.

148. According to the ACHP, “consultation is the hallmark of the Section 106 process and is foundational to inform the broader decision-making efforts by federal agencies and state and

local governments.”⁵⁸ That consultation should include the associated communities as early as practicable.

149. The ACHP Burial Sites Guidance directs the Army Corps to consider the “impacts of intergenerational trauma resulting from [the history of slavery, forced assimilation, and relocation], including impacts on their social, cultural, spiritual, mental, and physical wellbeing.”⁵⁹

150. The ACHP policy recognizes that disturbing plantation cemeteries, including through inadvertent discovery, “can have traumatic and compounding effects.”

151. The ground-disturbing activities also violate the regulation requiring that the Corps not authorize activities before final permits are issued that are destructive or that could “restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking’s adverse effects on historic properties.” 36 C.F.R. § 800.1(c).

152. The Corps’ failures to undertake meaningful consultation with Plaintiffs and others in the descendant community prior to authorizing ground-disturbing activities on the site constitute a violation of the NHPA as an action “unlawfully withheld or unreasonably delayed,” pursuant to Section 706(1) of the Administrative Procedure Act. 5 U.S.C. § 706(1).

153. Plaintiffs ask that the Court “compel agency action unlawfully withheld or unreasonably delayed.”

154. In addition, the Corps’ decision to allow the ground-disturbing activities undertaken by CF Industries is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “contrary to constitutional right,” and Plaintiffs request this Court set aside the Corps’ decision pursuant to Section 706(2)(A) and (D).

⁵⁸ ACHP Burial Sites Guidance, *supra* note 6, at 4.

⁵⁹ *Id.* at 12.

155. The Corps decision of March 24, 2026, to render a final determination of no adverse effects with condition of avoidance is also “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “contrary to constitutional right,” and Plaintiffs request this Court set aside the Corps decision pursuant to Section 706(2)(A) and (D).

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor as follows:

1. That the Court enter a declaratory judgment that Defendant violated the Thirteenth Amendment by (i) failing to meaningfully consult with Plaintiff Rural Roots Louisiana and others in the descendant community prior to authorizing extensive, ground-disturbing activities on the site that could pose a threat to unmarked gravesites known to exist on the property; (ii) failing to require the permit applicants to affirmatively and positively locate the gravesites known to exist on the property prior to undertaking any construction-related activities; (iii) and issuing a final determination of no adverse effects on historic properties prior to consulting with Plaintiff Rural Roots Louisiana and other concerned members of the descendant community.

2. That the Court enter a declaratory judgment that the Defendant violated the NHPA and its implementing regulations, and the APA’s requirement that agency actions not be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, by (i) failing to make a reasonable and good faith effort to consult with Plaintiff Rural Roots and others in the descendant community prior to authorizing ground-disturbing activities on the site and prior to issuing a final determination of no adverse effects on historic properties; and (ii) by authorizing activities that could damage and disturb the gravesites and restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking’s adverse effects on historic properties.

3. That the Court order Defendant to revoke the authorization to CF Industries for the ground-disturbing activities on the site and immediately initiate a 106 consultation with Plaintiff Rural Roots Louisiana and other concerned members of the descendant community, and taking full account of the Policy Statement of the Advisory Council on Historic Preservation concerning Burial Sites, Human Remains, and Funerary Objects, dated March 1, 2023;

4. That the Court enjoin Defendant from making and/or implementing any further decisions to authorize further pre-permitted activities and construction on the site, and from making and/or implementing a final decision on the permit application of CF Industries until such time as a meaningful and legally adequate Section 106 consultation can be completed.

Dated: April 2, 2026

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**pro hac vice application forthcoming*