

February 25, 2021

Via electronic mail

Stephen F. Murphy, Colonel, District Commander
c/o Martin S. Mayer, Chief, Regulatory Branch
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Dear Colonel Murphy:

RISE St. James, Inclusive Louisiana, Louisiana Bucket Brigade, Healthy Gulf, and the Center for Biological Diversity respectfully request that the U.S. Army Corps of Engineers (“Corps”) protect identified and potential burial sites on FG LA LLC’s St. James Parish property (Parcel Numbers 0500034900 and 0500085350). Protection of these sites should include prohibiting new roads and rerouting existing roads and fencing off all such sites while the Corps reevaluates the now-suspended permit for FG LA’s proposed plastics petrochemical complex under the National Environmental Quality Act, Clean Water Act, and National Historic Preservation Act (NHPA). The Corps must comply with the NHPA and protect the known and potential burial grounds of the ancestors of St James residents. These lands are our Louisiana heritage, but also the heritage of every U.S. citizen.

Based on the information presented by archaeologists in the Coastal Environments, Inc report (“CEI Report”),¹ we request a reevaluation of the site under the NHPA, as all of the investigations to date have looked in the incorrect locations or have been incomplete. We request that at a minimum RISE St. James and Inclusive Louisiana are included as consulting parties under the NHPA (36 CFR 800.2(c)(5)), as they have a substantial interest in the undertaking’s effects on these historic properties.

During pre-construction activities in 2020 for the proposed Formosa Plastics petrochemical complex, FG LA failed to comply with provisions of the stipulation filed on July 23, 2020 in Center for Biological Diversity, et al. v. Army Corps of Engineers, et al., Case No. 1:20-cv-103-RDM (ECF No. 41 at 2):

i. FG LA LLC will not conduct activities (including access to and from activity sites) within the Acadia site or the Buena Vista burial site, and will not conduct activities that will impact the three anomaly sites on the Sunshine property that Plaintiffs have identified.

¹**Cartographic Regression Analysis of Certain Tracts of Land Located in T. 11 S. and 12 S., R. 15 E. (Southeastern Land District West of the Mississippi River), St. James Parish Louisiana**, Acadia Plantation Cemetery Elina and Lauderdale Plantation Cemeteries Buena Vista Plantation Cemetery Other Possible Cemeteries Coastal Environments, Inc. 1260 Main Street Baton Rouge, Louisiana 70802, Submitted to: The Center for Constitutional Rights 666 Broadway, 7th. Floor New York, New York 10012. February 19, 2020.

ii. For those items described... FG LA LLC will flag or otherwise mark the boundaries to the extent that FG LA LLC has not already done so.

Except for the Buena Vista site, which is already fenced, FG LA LLC also will place a second set of flagging or cautionary marking 50' from the marked boundaries, so that workers may be further alerted to the proximity of these items.

These "items" or burial sites are of great importance to the community and require protection under the NHPA. Because of their significance, the community engaged volunteer pilots and a professional drone operator to monitor the sites from time to time during FG LA's pre-construction activities.

Four drone flights and two aerial overflights conducted between July 17 and November 14, 2020 documented noncompliance with the agreed to provisions.

As an initial matter, FG LA failed to flag and mark 50-foot boundaries around the perimeter of the Acadia cemetery and anomalies.

Each site has undergone different forms of noncompliant activity. These are documented below along with recommendations for the four individual sites at issue. With Permit MVN-2018-00159-CM under reevaluation by the Corps, it is your responsibility to ensure that these sites (along with wetlands and waters) are better protected than they have been. It is our recommendation that the perimeters of the Acadia Cemetery, Anomaly D, Anomaly H, and Anomaly L be fenced and that a 50-foot buffer be demarcated around each site's perimeters within which no activity is allowed unless and until a legally adequate permit is issued.

1. Acadia Cemetery

The Acadia Cemetery is not protected from heavy construction activity. The Acadia Cemetery is merely roped off with red tape and with no flagging of 20- and 50-foot buffers. Construction vehicles have created a new path within feet from the perimeter, which could cause significant soil compression and damage to the cemetery. These observations were documented on flights 8-12-2020, 8-16-2020, and 11-14-2020.

Because the Acadia Cemetery has undergone inadequate testing, the lack of protection of the site from ground-disturbance is of great concern to the community and potential descendants of those buried there. The CEI Report demonstrates that neither set of trenches excavated by FG LA's consulting archaeologists at TerraXplorations fell within the limits of the Acadia Cemetery location. Furthermore, only mechanical trenching was conducted in this incorrect location.

We recommend that the Acadia Cemetery be fenced with a 50-foot buffer around the perimeter, within which no activity is allowed, and that a full evaluation of the cemetery take place following the location and recommendations included in the CEI Report. This assessment should be done by individuals with demonstrated and extensive experience in evaluating similar sites in Lower Mississippi River alluvial settings and who employ all of the techniques and procedures outlined on page 34 of CEI's report, including the use of cadaver dogs.

- a. Photo of Acadia Cemetery - 30.054730°, -90.921379° at altitude 30M.



2. Anomaly D

FG LA's map of Anomaly D, a potential cemetery, shows a different location than where the CEI Report places it using its cartographic regression analysis. Regardless of which location you use, both FG LA's Anomaly D location (-30.060847°, -90.917605°) and the CEI location (-30.059932°, -90.917901°) appear to have been run over by heavy machinery, observed on flights 7-17-2020, 7-22-2020, 8-12-2020, 8-16-2020, and 11-14-2020. Anomaly D is not marked in any fashion, and certainly no flagging or markings have been made 20 feet and 50 feet from it. It is our recommendation that FG LA fence the site, and flag a 50-foot buffer around the site in which no activity is allowed.

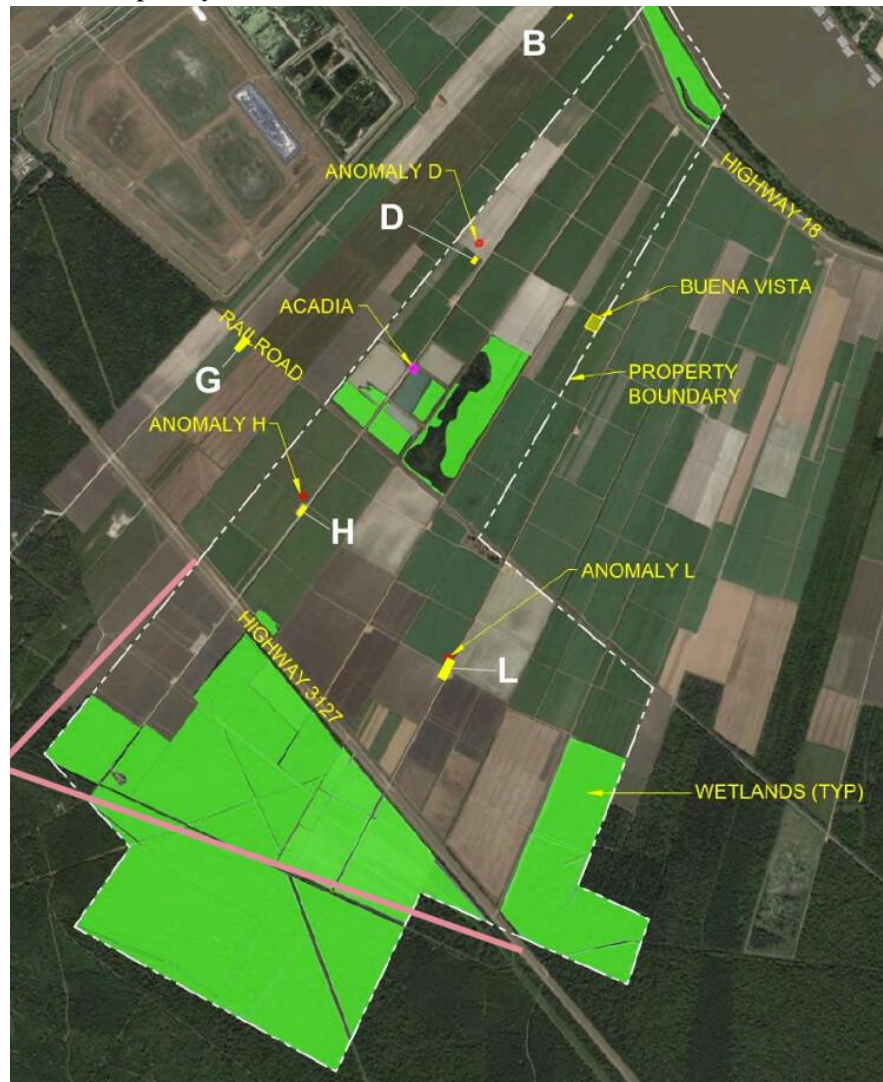
a. Photo taken near CEI Anomaly D - 30.059932° , -90.917901° at altitude 30M.



b. Picture taken near FG LA Anomaly D - 30.060847° , -90.917605° at altitude 30M.



- c. Map courtesy of Healthy Gulf showing location discrepancies between Formosa (red) and CEI report (yellow).



3. Anomaly H

Anomaly H appears to have been paved over with compressed stones, and the site perimeter shows no signs of marking or flagging; 20- and 50-foot buffers cannot be identified. These observations were made on flights 7-17-2020, 7-22-2020, 8-12-2020, 8-16-2020, and 11-14-2020. It is our recommendation that FG LA de-pave the road, fence the site, and flag a 50-foot buffer around the site in which no activity is allowed.

- a. Picture taken near Anomaly H - 30.048230°, -90.927753° at altitude 30M.



4. Anomaly L

Like the Acadia Cemetery and other anomalies, Anomaly L appears to be unmarked and unflagged since the last drone flight conducted on 11-14-2020. Anomaly L like the other anomalies is a potential burial site as documented in the CEI Report. These anomalies should be examined archeologically and afforded protection under NHPA before any construction activity recommences on the site.

In addition to these issues, we have observed several other areas of concern, including:

- Several occasions when workers on the site were not properly following COVID-19 safety protocols.
- On 8-16-2020, the St. James Canal was discolored from the lack of sediment control on the construction site.
- FG LA failed to make its agreed upon monthly disclosures to report on construction activities for the months of November and December.

In summary, we urge the Corps to follow the requirements detailed in the Clean Water Act, NHPA, and the National Environmental Policy Act and ensure proper site protection pending the Corps' reevaluation of its permit decision. Thank you for your consideration.

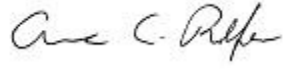
Sincerely,

A handwritten signature in cursive script that reads "Sharon Lavigne".

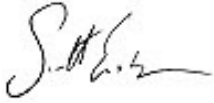
Sharon Lavigne, Executive Director, RISE St. James

A handwritten signature in cursive script that reads "Gail T. Leboeuf".

Gail T. Leboeuf, Inclusive Louisiana



Anne Rolfes, Executive Director, Louisiana Bucket Brigade



Scott Eustis, Community Science Director, Healthy Gulf



Julie Teel Simmonds, Senior Attorney, Center for Biological Diversity