



Human Rights Advocacy Project  
Loyola College of Law  
Loyola University New Orleans  
526 Pine Street  
New Orleans, LA 70118

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Professor E. Tendayi Achiume  
United Nations Special Rapporteur on Contemporary Forms of  
Racism, Racial Discrimination, Xenophobia and Related Intolerance  
UCLA School of Law  
385 Charles E. Young Dr. East  
Los Angeles, CA 90095  
Via Email: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org); [achiume@law.ucla.edu](mailto:achiume@law.ucla.edu)

**Re: Request for Inquiry into Environmental Racism in Cancer Alley**

Dear Professor Achiume,

The Human Rights Advocacy Project (HRAP) of Loyola New Orleans College of Law, together with the undersigned individuals and groups, seek your intervention, in the form of a country visit and urgent appeal to our government. We write to alert you to an alarming and urgent case of environmental racism in Louisiana, specifically the escalating industrialization of an area known by its residents as “Cancer Alley.”

As you know, African Americans “live both in more polluted cities in the United States and in more polluted neighborhoods within cities,”<sup>1</sup> and studies show that “Locally Undesirable Land Uses” are disproportionately sited in low income and minority neighborhoods.<sup>2</sup> Your Mandate from the United Nations General Assembly and the Office of the High Commissioner for Human Rights charges you to examine incidents of contemporary forms of racism against African Americans.<sup>3</sup> In your report to the Human Rights Council dated May 14, 2019, you expressed concern about the relationship between global extractivism and racial inequality.<sup>4</sup> Your analysis underlines the racially discriminatory human rights violations experienced by communities living directly in or close to zones of extraction. Louisiana’s Cancer Alley is one of the most egregious examples of such human rights violations.

These violations contravene international legal obligations assumed by the United States, namely the International Convention on the Elimination of All Forms of Racial Discrimination,<sup>5</sup> the International Covenant on Civil and Political Rights,<sup>6</sup> and the American Declaration of the Rights and Duties of Man.<sup>7</sup> A U.N. investigation of Cancer Alley would support its residents’ ongoing struggle to end the contamination of their communities with known and suspected carcinogens and other toxic chemicals, which threatens displacement, catastrophic illness, and untimely death.

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1. Michael Ash & T. Robert Fetter, *Who Lives on the Wrong Side of the Environmental Tracks? Evidence from the EPA’s Risk-Screening Environmental Indicators Model*, 85 SOCIAL SCIENCE QUARTERLY, 441-462 (2004); Lesley Fleischman & Marcus Franklin, *The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities*, NAACP & CLEAN AIR TASK FORCE (Nov. 2017), available at [https://www.naacp.org/wp-content/uploads/2017/11/Fumes-Across-the-Fence-Line\\_NAACPand-CATF-Study.pdf](https://www.naacp.org/wp-content/uploads/2017/11/Fumes-Across-the-Fence-Line_NAACPand-CATF-Study.pdf).

2. Vicki Been, *Locally Undesirable Land Uses in Minority Neighborhoods: Disproportionate Siting or Market Dynamics?*, 103 YALE L.J. 1383, 1383-1422 (1994).

3. G.A. Res. 49/147, ¶4, Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance (Feb 7, 1995); U.N. Comm’n on Human Rights, Res. 1994/64, ¶4 Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance (March 9, 1994).

4. U.N. Human Rights Council, Res. 41/54, Natural resource extractivism and racial equality - Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, (May 14, 2019). (Hereinafter “Extractivism Report.”)

5. International Convention on the Elimination of All Forms of Racial Discrimination, art. 2(1), 5(b), 5(e)(iv), Dec. 21, 1965 S. Exec. Doc. C, 95-2 (1978); S. Treaty Doc. 95-18; 660 U.N.T.S. 195, 212. (Ratified by the U.S. in 1994.)

6. International Covenant on Civil and Political Rights, art. 2, 6(1), Dec. 16, 1966, S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20; 999 U.N.T.S. 171. (Ratified by the U.S. in 1992). See also Human Rights Committee, CCPR General Comment No. 23: Article 27 (Rights of Minorities), CCPR/C/21/Rev.1/Add.5 (April 26, 1994).

7. American Declaration on the Rights and Duties of Man, Res. XXX, Final Act of the Ninth International Conference of American States (Pan American Union), Bogota, Colombia, May 2, 1948 at 38, Basic Documents Pertaining to Human Rights in the Inter-American System, OAS/Ser.L/V/I.4 Rev. 9 (2003); and 43 Am. J. Int’l L. Supp. 133 (1949). This declaration is applicable through the Charter of the Organization of

## Louisiana's "Cancer Alley"

Louisiana's heavily industrialized Petrochemical Corridor, which emerged with the first plastics boom of the 1960s, encompasses parts or all of 13 parishes<sup>8</sup> straddling the lower Mississippi River from Baton Rouge<sup>9</sup> to the Gulf of Mexico. In the 1980s, local residents began to refer to the region as "Cancer Alley;" today, 7 of the 10 census tracts with the highest rates of cancer in the nation are situated here. Cancer Alley threatens to expand with the construction of three massive petrochemical complexes: FG LA LLC (Formosa), Yuhuang Chemical Industries Inc. Methanol (YCI), and South Louisiana Methanol.<sup>10</sup>

Yet before it became the Petrochemical Corridor, this region was known as "Plantation Country," and hosted plantations that extracted the labor of enslaved Africans. More than 150 petrochemical facilities now sit on land that historically was dominated by sugar plantations.<sup>11</sup> The African American descendants of the enslaved people who once worked the land are today the primary victims of the deadly environmental pollution caused by these plants, highlighting your conclusion that "colonialism and the slave trade have entrenched racial discrimination and continue to be a root cause of contemporary manifestations of racism and racially discriminatory violations of human rights."<sup>12</sup> Moreover, the colonial legacy of Cancer Alley is starkly illustrated by the presence of cemeteries of historically enslaved Africans on new petrochemical construction sites.

Louisiana's overall cancer risk is well above the national average of 31 per million, evaluated at 51.6 per million according to recent EPA data.<sup>13</sup> However, the cancer risk rises into the hundreds per million in Cancer Alley due to the toxic chemicals in the air and water. Neighborhoods that are in proximity to petrochemical plants can be up to 800 times riskier for cancer exposure over a lifetime. Additionally, the EPA's Wastewater Discharge indicator puts all of Cancer Alley in the 70-80 to 95-100 national percentile range for water pollution.<sup>14</sup>

St. John the Baptist Parish holds the record for the highest cancer risk nationwide,<sup>15</sup> presenting an average of 465 cases per million. The Union Carbide and Denka plants in St. John and St. Charles parishes have caused air toxicity at levels that have resulted in plants being shut down in other states.<sup>16</sup> According to the EPA's National Air Toxics Assessment (NATA) map,<sup>17</sup> areas neighboring chloroprene plants such as the DuPont plant in St. John the Baptist have a cancer risk of almost 600 cancer cases per million.<sup>18</sup> The cancer risk in historically Black neighborhoods in St. John and surrounding parishes goes up to 1,505 cases of cancer per million.<sup>19</sup>

Federal air and water quality regulations such as the Clean Water Act and the Clean Air Act have failed to protect the

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American States, 1948. See Articles I, II, & XI.

8. A parish is a county in Louisiana. The region includes parts of Point Coupee, West and East Baton Rouge, Iberville, Assumption, St. James, Ascension, St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines Parishes. See Tegan Wendland, *Louisiana's Chemical Corridor Is Expanding. So Are Efforts To Stop It*, NPR (March 20, 2020), <https://www.npr.org/2020/03/20/814882296/louisianas-chemical-corridor-is-expanding-so-are-efforts-to-stop-it>.

9. Called Istrouma by the Houma Nation indigenous to the area.

10. Wendland *supra* note 8.

11. Andrew J. Yawn, *5 things to know about Formosa, a new petrochemical plant in Cancer Alley*, THE TENNESSEAN (March 19, 2020), <https://www.tennessean.com/story/news/american-south/2020/03/19/5-things-formosa-new-petrochemical-plant-cancer-alley-louisiana/4930430002/>.

12. See Extractivism Report, *supra* note 4 ¶21. See also Maurice Glele-Ahanhanzo (Special Rapporteur on Contemporary Forms of Racism), U.N.E.C., *Report on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to the United States of America from 9-22 October 1994*, ¶21-36, U.N. Doc. E/CN.4/1995/78/Add.1, (Jan. 16, 1995); *Rep. of the Working Group of Experts on People of African Descent*, ¶68 & 91, U.N. Doc. A/71/297 ¶17 (Aug. 5, 2016).

13. 2014 NATA All Hazards Index chart, EPA, <https://www.epa.gov/national-air-toxics-assessment/2014-nata-assessment-results#state>. (Documenting National Air Toxics 2014 assessment results).

14. ERMA (Environmental Response Management Application) Wastewater Discharge Indicator, EPA, <https://erma.noaa.gov/gulfofmexico#/layer=s=3+16973+13763+491+37897&x=-90.76372&y=30.16551&z=7.3&panel=legend>.

15. This is also due to the high presence of petrochemical plants in St. John the Baptist Parish. See Delia Hasselle & Nick Reimann, *Elected officials in Louisiana drag feet on new EPA report as news of chemical exposure trickles out to residents*, THE ADVOCATE/NOLA.COM (Oct. 14, 2018), [https://www.nola.com/news/environment/article\\_2c7d5f45-4d52-56f9-8e66-0eac33d51369.html](https://www.nola.com/news/environment/article_2c7d5f45-4d52-56f9-8e66-0eac33d51369.html).

16. Lylla Younes, et al., *In a Notoriously Polluted Area of the Country, Massive New Chemical Plants Are Still Moving In*, PROPUBLICA (Oct. 13, 2019), <https://projects.propublica.org/louisiana-toxic-air/>.

17. Available at: <https://gispub.epa.gov/NATA/>.

18. Rebecca Hersher, *After Decades Of Air Pollution, A Louisiana Town Rebels Against A Chemical Giant*, NPR (March 6, 2018), <https://www.npr.org/sections/health-shots/2018/03/06/583973428/after-decades-of-air-pollution-a-louisiana-town-rebels-against-a-chemical-giant>.

19. EPA Air Hazards *supra* note 13.

people of Cancer Alley.<sup>20</sup> A March 2002 report by the Louisiana Legislative Auditor shows that the Louisiana Department of Environmental Quality's permitting activities, self-monitoring, and enforcement routinely fail to:

- compare annual emissions inventory statements with permitted limits in order to determine whether facilities have excess air emissions;
- issue enforcement actions for 25% of air monitoring violations;
- escalate 76% of enforcement actions where repeat violations occurred; and
- locate 22% of self-monitoring reports for air.<sup>21</sup>

### Environmental Racism in Cancer Alley: Targeted Demographic

Environmental racism has been highlighted by the United Nations Human Rights Council's Working Group of Experts on People of African Descent. In its August 5, 2016 Report to the General Assembly, the Working Group called on the United States to "increase its efforts to address environmental threats to human rights, amid the recent outrage over lead-contaminated water in the town of Flint, Michigan."<sup>22</sup> In its 2019 Report to the Council, the Working Group noted that in the United States, "[t]he ability to exercise and enjoy key human rights [including environmental rights] is dramatically curtailed by racial bias in decision-making. . . ."<sup>23</sup>

Such bias is clearly evidenced in Cancer Alley. In 2014, despite the already intense concentration of industry in St. James, the Parish Council changed the land use plan for the overwhelmingly African American 5th District (86.3% Black) from "residential" to "residential/future industrial," with no notice to the residents, who fear that they are being driven out of their homes.<sup>24</sup> Presently, 13 of the 24 plants operating in St. James Parish are concentrated in the 5th District. This is in stark contrast to the complete absence of plants in the predominantly white 3rd District (78.4% white). In fact, in 2014, the Parish Council expressly barred two chemical companies, Wolverine and Petroplex, from constructing new facilities in the 3rd District.<sup>25</sup>

These decisions highlight the racial bias implicit in the Parish Council's approval in December 2018 of Formosa's "Sunshine Project," which would be one of the world's largest plastic-producing petrochemical facilities;<sup>26</sup> their approval of SLM's plans to build a new methanol complex in St. James Parish in April 2018;<sup>27</sup> and their approval of YCI's proposal to build a 1,200-acre methanol complex along River Road on the former site of St. James High School. All three plants are to be located in the predominately African American 5th district.

### The Presence of Ancestral Gravesites

The July 2017 Report of the Working Group of Experts on People of African Descent and your recent report to the United Nations General Assembly<sup>28</sup> both emphasize that "[t]he lack of recognition of and reparations for the centuries of harm to

20. Courtney J. Keehan, *Lessons from Cancer Alley: How the Clean Air Act Has Failed to Protect Public Health in Southern Louisiana*, 29 COLO. NAT. RESOURCES ENERGY & ENVTL. L. REV. 341 (2018).

21. Daniel G. Kyle, *Louisiana Department of Environmental Quality Performance Audit Report—Audit Control #02300457*, LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY (LDEQ), (March 2002), [https://app.lld.state.la.us/PublicReports.nsf/86256F9C007A906786256FB-7005D7979/\\$FILE/41d2e8ac.pdf](https://app.lld.state.la.us/PublicReports.nsf/86256F9C007A906786256FB-7005D7979/$FILE/41d2e8ac.pdf).

22. *Rep. of the Working Group of Experts on People of African Descent*, U.N. Doc. A/71/297 ¶17 (Aug. 5, 2016).

23. Human Rights Council, *Report of the Working Group of Experts on People of African Descent on its twenty-third and twenty-fourth sessions*, U.N. Doc. A/HRC/42/59, at ¶52 (Aug. 17, 2019).

24. See Louisiana Bucket Brigade, *A Plan Without People: Why The St. James Parish 2014 Land Use Plan Must Be Changed*, (June 13, 2019), available at [https://labucketbrigade.org/wp-content/uploads/2020/08/A-Plan-Without-People-6.2019\\_0.pdf](https://labucketbrigade.org/wp-content/uploads/2020/08/A-Plan-Without-People-6.2019_0.pdf). This is similar to what happened in Mossville, Louisiana. See Joe Mathews, *Paying neighbors to move Mossville: Residents of this Louisiana town, like those in Wagner's Point here, faced a showdown with Condea Vista. Their experience is instructive*, THE BALTIMORE SUN (Dec. 6, 1998), <https://www.baltimoresun.com/news/bs-xpm-1998-12-06-1998340009-story.html>.

25. Lylla Younes, *St. James residents' opposition is unlikely to derail planned Formosa plant*, THE ADVOCATE/NOLA.COM (Nov. 18, 2019), [https://www.nola.com/news/environment/article\\_70830ffe-0a1c-11ea-b387-b768e1c2ecc8.html](https://www.nola.com/news/environment/article_70830ffe-0a1c-11ea-b387-b768e1c2ecc8.html).

26. Bruce Einhorn & Joe Carroll, *A Plastics Giant That Pollutes Too Much for Taiwan Is Turning To America*, BLOOMBERG QUINT (Dec 13, 2019), <https://www.bloombergquint.com/businessweek/asian-company-that-pollutes-too-much-at-home-expands-in-america>.

27. *South Louisiana Methanol to Invest \$2.2B In Louisiana Project*, BUSINESS FACILITIES (Jan. 7, 2019), <https://businessfacilities.com/2019/01/south-louisiana-methanol-invest-st-james-parish/>.

28. U.N. General Assembly, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and racial*

people of African descent rooted in slavery and colonialism must be addressed as a human rights imperative”<sup>29</sup> by Member States. The preservation and protection of the ancestral burial grounds of enslaved Black people in Cancer Alley is central to this urgent human rights concern.

In December 2019, community activist group RISE St. James and their legal counsel the Center for Constitutional Rights, revealed that the site on which Formosa Plastics plans to build its “Sunshine Project”—an assemblage of several former sugarcane plantations—contains at least four historic cemeteries.<sup>30</sup> Residents believe these burial grounds may hold the remains of their enslaved ancestors. Formosa had known of the existence of the cemeteries since July 2018, when it conducted cultural resource surveys on the land, but failed to disclose this information to either the residents or to the St. James Parish Council while the Council deliberated their land use application.<sup>31</sup> As such, permits were granted without consideration for these sacred sites.

The state’s division of archaeology clearly indicates the presence of two cemeteries. One of these sites, the Buena Vista Cemetery, is still intact.<sup>32</sup> Excavations of the area led to findings of “human remains and evidence of grave shafts” at the site.<sup>33</sup> The cemetery measures nearly one acre.<sup>34</sup>

The area is now surrounded by a fence and major construction has been placed on temporary hold. However, despite the revelation of the cemeteries, the permits accorded to Formosa Plastics have not been reconsidered by the Parish Council. These burial sites are sacred grounds for Louisiana’s African American communities, but their cultural significance has gone unacknowledged. Some have already been impacted and potentially destroyed by field road, pipeline, borrow pit, waste retention pond, and canal construction, maintenance, and use.

The African American residents of the parish are actively struggling for recognition of the historic significance of these sites. In June 2020, Formosa vigorously opposed a memorial ceremony on Juneteenth,<sup>35</sup> when residents sought to honor their ancestors at the burial location. Community members were forced to go to court to get a ruling compelling Formosa Plastics to allow them access.<sup>36</sup>

### Short-term and Long-term Health Effects of Formosa on Residents of St. James Parish

Under current proposals, Formosa Plastics will vastly expand the petrochemical footprint in Cancer Alley,<sup>37</sup> constructing not one, but fourteen plants located across 2,300 acres (approximately 3.5 sq. miles) of land. These facilities will be dangerously near St. Louis Academy, a local elementary school, which would expose vulnerable children to harmful pollution,<sup>38</sup> and less than a few hundred feet away from residential homes.

The average cancer risk in St. James Parish is currently 85.4 cancer cases per million according to EPA data.<sup>39</sup> Predominantly white districts in St. James Parish have a cancer risk ranging from 60 to 75 per million. In predominantly African

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*intolerance*, Note by the Secretary-General, A/74/321, prepared pursuant to A/RES/73/262. (Aug. 21, 2019);

See also *Report on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to the United States of America from 9-22 October 1994*, U.N. Doc. E/CN.4/1995/78/Add.1, *supra* note 13, ¶21-36.

29. *Report of the Working Group of Experts on People of African Descent on its nineteenth and twentieth sessions*, U.N. Doc. A/71/297 *supra* note 13, ¶ 47.

30. Letter from Pamela Spees & Bill Quigley to St. James Parish Council, Center for Constitutional Rights (Dec. 23, 2019), available at <https://earthjustice.org/sites/default/files/files/St-James-Parish-Council-Burial-Sites.pdf>.

31. Oliver Laughland & Lauren Zanolli, *Huge toxic site to be built on grounds where slaves are likely buried files find*, THE GUARDIAN (Dec. 18 2019), <https://www.theguardian.com/us-news/2019/dec/18/louisiana-pollution-petrochemical-site-sunshine-project>.

32. TerraXplorations, Inc., “Archaeological Monitoring and Mechanical Stripping of the Acadia and Buena Vista Cemeteries St. James Parish, Louisiana,” *Final Report*, June 2019, p. 55, available at: <https://assets.documentcloud.org/documents/6582008/22-6279-1.pdf>.

33. Sharon Lerner, *New chemical complex would displace suspected slave burial ground in Louisiana’s “Cancer Alley,”* THE INTERCEPT (Dec. 18, 2019), <https://theintercept.com/2019/12/18/formosa-plastics-louisiana-slave-burial-ground/>.

34. TerraXplorations notes that a second grave site, the Acadia cemetery, has been so damaged by past development that no cultural materials or remains were easily locatable. See TerraXplorations, Inc. *supra* note 32.

35. June 19th, the oldest known celebration of the ending of slavery in the U.S.

36. Julie Dermansky, *After a Legal Battle, Juneteenth Ceremony Honors Enslaved Ancestors at Gravesite on Formosa Plastics Land*, DESMOG (June 19, 2020), <https://www.desmogblog.com/2020/06/19/juneteenth-st-james-louisiana-enslaved-graves-formosa-plastics>.

37. Younes, *supra* note 17.

38. Public Health Factsheet available at: *Stop Formosa Plastics*, <https://www.stopformosa.org/>.

39. EPA Air Hazards *supra* note 14.



American districts 4 and 5, the cancer risks are 104 and 105 cancer cases per million.<sup>40</sup> Formosa will more than double these cancer risks.

Formosa Plastics' planned petrochemical complex would be permitted to release 1.6 million pounds of toxic air pollutants in a parish where the existing plants currently produce 1.4 million pounds of toxic air pollutants annually. To put this figure into context, in 2018, 581 million pounds of toxic air pollutants were emitted in the entire country.<sup>41</sup>

Formosa would release 7.7 tons (15,400 pounds) of ethylene oxide, a highly carcinogenic toxin linked to breast and lymphatic cancer, each year. That would constitute the fourth largest amount in the U.S., and the second largest in Cancer Alley.<sup>42</sup> According to a study performed by the EPA in 2016, the acute (short-term) effects of ethylene oxide in humans include central nervous system depression and irritation of the eyes and mucous membranes. There is strong evidence that chronic (long-term) exposure to ethylene oxide leads to an increased risk of leukemia, breast cancer, and cancer of the lymphoid tissue.<sup>43</sup>

Formosa would also emit 189,700 pounds per year of other known carcinogens—benzene, 1,3-butadiene, acetaldehyde, and formaldehyde—as well as massive quantities of other harmful pollutants and chemicals regulated at the federal and state levels because of their myriad adverse health impacts.<sup>44</sup> These emissions include nitrogen oxides, which may cause or worsen respiratory diseases, such as emphysema and bronchitis, and can aggravate existing heart disease, thus leading to hospitalization and/or premature death. Emissions of particulate matter, specifically PM<sub>2.5</sub>, ozone, and sulfur dioxide, have similar adverse health impacts and may decrease lung function and increase respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing. The respiratory effects of these toxic emissions would further exacerbate vulnerability to COVID-19, which disproportionately affects African American populations in Louisiana.<sup>45</sup> Carbon monoxide may exacerbate heart conditions and even cause death.<sup>46</sup>

The community has consistently fought against the petrochemical industry's attacks on their rights to life and health. In 2018, an air permit issued by LDEQ allowed NuStar Logistics, L.P., to expand its oil and gas storage and increase emissions in the town of St. James. The facility is immediately adjacent to a heavily industrialized African American neighborhood. LDEQ issued the permit without complying with its public trustee duty to conduct a cost-benefit analysis and consider the effect of the expansion and increased emissions on the adjacent neighborhood. This permit was later vacated by Louisiana's 19th Judicial District Court on May 10, 2018.<sup>47</sup> This was a rare victory for citizen action in Cancer Alley.

### Impact on Global Climate and Fragile Ecosystems

Formosa Plastics' proposed facility would emit over 13.5 million tons of carbon dioxide equivalent (CO<sub>2</sub>e) per year.<sup>48</sup> South Louisiana Methanol's facility would emit over 2 million tons of carbon dioxide equivalent (CO<sub>2</sub>e) per year.<sup>49</sup> YCI's facility would emit 184 thousand tons of carbon dioxide equivalent (CO<sub>2</sub>e) per year.<sup>50</sup> The combined total

40. *Id.*

41. EPA, *TRI National Analysis Total Disposal or Other Releases Chart*, <https://www.epa.gov/trinationalanalysis/releases-chemicals>.

42. According to EPA data, St. Charles Parish's Union Carbide plant emits 15 tons of ethylene oxide a year. See EPA Toxics Release Inventory (TRI) Program, *TRI Basic Data Files: Calendar Years 1987-2018*, <https://www.epa.gov/toxics-release-inventory-tri-program/tri-basic-data-files-calendar-years-1987-2018>.

43. EPA, *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide*, EPA/635/R-16/350Fa (Dec. 2016), available at [https://cfpub.epa.gov/ncea/iris/iris\\_documents/documents/toxreviews/1025tr.pdf](https://cfpub.epa.gov/ncea/iris/iris_documents/documents/toxreviews/1025tr.pdf).

44. StopFormosa Fact Sheet *supra* note 42.

45. Kimberly Terrell & Wesley James, *Air Pollution and Covid-19: A Double Whammy for African American and Impoverished Communities in Cancer Alley* (May 14, 2020), available at <https://law.tulane.edu/sites/law.tulane.edu/files/Files/Terrell%20-%20COVID-19%20-%20PM%202.5%20Louisiana%202020-5-14%20WEB%20VERSION.pdf>.

46. *Id.*

47. *Louisiana Environmental Action Network, Humanitarian Enterprise of Loving People ("H.E.L.P."), Harry Joseph, and Genevieve Butler v. Louisiana Department of Environmental Quality*, No. 662204 (19th Jud. Dist. Ct., Oct. 5, 2017). (Appealing Louisiana Department of Environmental Quality's decision to issue a modified air permit to NuStar Logistics, L.P. for its petroleum storage and terminal facility in St. James, Louisiana, alleging that the agency violated the Louisiana Constitution by failing to conduct its public trustee analysis or provide any basis for its decision to allow the increase of emissions directly next to a minority residential neighborhood).

48. Section 12 PSD Air Permit (Dec. 13, 2018), via LDEQ EDMS [Document 11454855](#), at 2.

49. Section 12 PSD Air Permit (June 20, 2018), via LDEQ EDMS [Document 11181908](#), at 25.

50. Section 12 PSD Air Permit (January 10, 2018), via LDEQ EDMS [Document 11477615](#), at 11.

emissions proposed by these three facilities, in one parish of Louisiana, exceed the emissions of 113 different nations of the world.<sup>51</sup> The U.S. has not reviewed the impacts of these facilities, and particularly of Formosa Plastics, on the world's climate.

Your May 2019 Report sheds a specific light on the effects of environmentally unsustainable corporate projects that disproportionately and deliberately affect indigenous and other racially oppressed communities, describing such projects as a “fundamental and urgent human rights concern.”<sup>52</sup> In fact, you noted “the reality that without fundamental reform, the global extractivism economy will one day make our planet unlivable for humans.”<sup>53</sup>

Cancer Alley's petrochemical facilities are a major factor in the unsustainability of the environment of the Gulf Coast and beyond. The wetlands of South Louisiana are the genesis for nearly 2,000 barrels of oil a day.<sup>54</sup> The extraction of oil and gas from these vital ecosystems comes with many ecological harms that extend beyond plastics production<sup>55</sup> and air pollution. Prolonged and rapid extraction of oil and gas from wetlands causes land-surface subsidence, submerging wetlands and reducing them to open water.<sup>56</sup> The network of 10,000 oil and gas access canals dredged by oil and gas companies since the 1930s has caused widespread land-to-water turnover, leading to the erosion of over 2,000 square miles of coastal wetlands in less than a century. These wetlands serve as a critical buffer between coastal communities and the rising seas and increasingly frequent hurricanes. The consequences for the people of the Gulf are dire as we face season after season of record-breaking hurricanes that cause disproportionate devastation to minorities and the poor.

### Looming Threats

The petrochemical giants immersing themselves in Louisiana are notoriously bad corporate actors. Formosa has been declared a “serial offender” by a federal judge in Texas for water pollution.<sup>57</sup> Its plant in Baton Rouge has violated the Clean Air Act every quarter since 2009, the Resource Conservation and Recovery Act every quarter since 2004, and the Clean Water Act in December 2018.<sup>58</sup> YCI only recently began construction, but has already faced backlash from Louisiana residents for its plans to dump treated process water into the Mississippi River, which would threaten the drinking water for nearly 24,000 people.<sup>59</sup> Further, YCI is already seeking approval to expand waste disposal into the wetlands.<sup>60</sup>

Residents of St. James rightly fear that they will become the next Mossville.<sup>61</sup> Mossville was once a vibrant, independent

51. European Commission, *EDGAR Methodology*, <https://edgar.jrc.ec.europa.eu/> (last updated October 30, 2017).

52. See Special Rapporteur, Visit to Morocco, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance*, ¶20, U.N. Doc. A/HRC/41/54 (May 28, 2019).

53. *Id.*

54. U.S. Energy Information Administration, *Oil and Petroleum Products Explained* (June 26, 2020), <https://www.eia.gov/energyexplained/oil-and-petroleum-products/where-our-oil-comes-from.php>.

55. For a study on the human rights violations inherent in plastics production, see, CIEL, Earthworks, GAIA, Healthy Babies Bright Futures, IPEN, Texas Environmental Justice Advocacy Services (t.e.j.a.s.), University of Exeter, and UPSTREAM, *Plastic & Health: The Hidden Costs of a Plastic Planet* (Feb 2019), available at <https://www.ciel.org/wp-content/uploads/2019/02/Plastic-and-Health-The-Hidden-Costs-of-a-Plastic-Planet-February-2019.pdf>.

56. Jae-Young Ko, et al., *Impacts of Oil and Gas Activities on Coastal Wetland Loss in the Mississippi Delta*, 47 OCEAN & COASTAL MANAGEMENT 597, 597-623 (2004).

57. *San Antonio Bay Estuarine Waterkeeper v. Formosa Plastics*, No. 6:17-CV-0047, 2019 WL 2716544 (S.D. Tex. Jun. 27, 2019) (Formosa Plastics liable for spilling thousands of pounds of plastic pellets and powders into Texas Gulf Coast waters). See also Stacy Fernández, *Plastic company set to pay \$50 million settlement in water pollution suit brought on by Texas residents*, THE TEXAS TRIBUNE (Oct. 15, 2019), <https://www.texastribune.org/2019/10/15/formosa-plastics-pay-50-million-texas-clean-water-act-lawsuit/#:~:text=Petrochemical%20manufacturer%20Formosa%20Plastics%20has,waterways%2C%20according%20to%20the%20settlement;Formosa%20protesters%20defy%20police%20threats>; *Formosa protesters defy police threats*, THE 88 PROJECT FOR FREE SPEECH IN VIETNAM (March 6, 2017), <https://the88project.org/formosa-protesters-defy-police-threats/>; *Formosa Plastics Corporation, U.S.A. Announces Settlement Arising from Pellet Discharge Lawsuit* (Oct. 15, 2019), <https://www.fpcusa.com/company/news/releases/FPC%20USA%20Settlement%20News%20Release%20-%20FINAL%20v2.pdf>.

58. *Enforcement and Compliance History Online, Detailed Facility Report*, EPA, <https://echo.epa.gov/detailed-facility-report?fid=110000597444>.

59. David J. Mitchell, *Closing in on startup, YCI plant faces pushback over proposed water discharges in river, canal*, THE ADVOCATE/NOLA.COM (Sep. 13, 2020), [https://www.theadvocate.com/baton\\_rouge/news/environment/article\\_8425b79e-f46f-11ea-b0d0-cf1f53f2d32b.html](https://www.theadvocate.com/baton_rouge/news/environment/article_8425b79e-f46f-11ea-b0d0-cf1f53f2d32b.html).

60. A public hearing and public comment are currently scheduled for November 19, 2020.

61. Revathi I. Hines, *The Price of Pollution: The Struggle for Environmental Justice in Mossville, Louisiana*, 39 WESTERN JOURNAL OF BLACK STUDIES, 198, 198-208, (2015); Rebecca Hersher, *After Decades Of Air Pollution, A Louisiana Town Rebels Against A Chemical Giant*, NPR (March 6, 2018), <https://www.npr.org/sections/health-shots/2018/03/06/583973428/after-decades-of-air-pollution-a-louisiana-town-rebels-against-a-chemical-giant>; and Oliver Laughland, *Louisiana's 'Cancer Alley' residents launch march against pollution*, THE GUARDIAN (Oct 16, 2019), <https://www.theguardian.com/us-news/2019/oct/16/louisiana-cancer-alley-residents-march-pollution>.

community rich in natural resources and history, founded by formerly enslaved and free people of color.<sup>62</sup> Mossville is no more—rather, the once-vibrant community was transformed into a 14-facility petrochemical complex owned by the “apartheid-born South African-based chemical company” Sasol.<sup>63</sup> Indeed, St. James Parish’s demographics are reminiscent of apartheid.

In South Africa, Sasol is under investigation by environmental activists for the contamination of water from waste dumped into the Vaal River and air pollution in the Mpumalanga region, Sasolburg, and other areas of the country in historically apartheid-segregated Black regions.<sup>64</sup> The environmental offenses include landfills, toxic waste, uncontrolled dump sites, groundwater contamination, and other forms of pollution known to cause severe health risks and even death. Like Sasol, Formosa Plastics has produced environmental disasters worldwide, including the pollution of 125 miles of the Vietnamese coastline. In 2016, the toxic waste emitted by the company caused an enormous fish-kill, destroying the economies of four coastal provinces.<sup>65</sup>

## Conclusion

We urge you to use your mandate to address these ongoing human rights violations in Cancer Alley. The environmental racism so prevalent here affects not only Louisiana, but the entire planet.

The St. James Parish Council has the complete authority to control industrialization in the Parish. It is our hope that your visit, communications with government officials, and advocacy will clarify the duties owed by the United States federal and state governments and the businesses operating in Cancer Alley. Your visit, communications with government officials and advocacy in order to protect the rights of the African American community.

We thank you for your consideration of and attention to this letter. Please respond to the Loyola Human Rights Advocacy Project (HRAP), c/o Professor Jeanne M. Woods, Loyola New Orleans College of Law. Email: [woods@loyno.edu](mailto:woods@loyno.edu).

Sincerely,

Robert Banks, HRAP, Loyola University New Orleans College of Law (LL.M. expected 2021)  
 Coburn Burroughs, HRAP, Loyola University New Orleans College of Law (J.D. expected 2021)  
 Cristine Farah, LL.B., HRAP, Loyola University New Orleans College of Law (LL.M. expected 2021)  
 Jillian Morrison, HRAP (Research Assistant), Loyola University New Orleans College of Law (J.D. expected 2021)  
 Professor Jeanne M. Woods, Ted and Louana Frois Distinguished Professor of International Law; founder, HRAP, Loyola New Orleans College of Law  
 Sharon Lavigne, Founder, RISE St. James  
 Imani Jacqueline Brown, Researcher, Forensic Architecture, Goldsmiths, University of London  
 Jane Patton, Senior Campaigner, Environmental Health Program, Center for International Environmental Law  
 Scott Eustis, Community Science Director, Healthy Gulf

Bob Bingaman, National Organizing Director, Sierra Club  
 Melia Cerrato, law student, Loyola University New Orleans College of Law  
 Hannah Chalew, artist  
 Omar Ewert, activist, Sunrise Movement New Orleans  
 Brittany Grimes, law student, Loyola University New Orleans College of Law  
 Happy Johnson, award-winning author and humanitarian

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62. *Mossville: When Great Trees Fall Premieres on PBS Reel South*, CISION PR NEWswire (May 27, 2020), <https://www.prnewswire.com/news-releases/mossville-when-great-trees-fall-premieres-on-pbs-reel-south---intimate-documentary-exposes-link-between-race-and-environmental-injustice-301066367.html>.

63. *Id.*

64. *Sasol pollutes Sasolburg, Mpumalanga, the Vaal River and other areas, South Africa*, ENVIRONMENTAL JUSTICE ATLAS (June 22, 2020), <https://ejatlas.org/conflict/sasol-and-others-heavily-pollute-the-vaal-river-and-the-air-across-mpumalanga-south-africa>.

65. Jess Macy Yu & Faith Hung, *Exclusive: Broken Rules at \$11 Billion Formosa Mill Triggered Vietnam Spill*, REUTERS (Nov. 13, 2016), <https://fr.reuters.com/article/us-vietnam-environment-formosa-plastics-idUSKBN1380WH>.

Clement John Koefel, Holy Cross Advocate  
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 Laurel Taylor, Law Student, Loyola University New Orleans College of Law  
 Melia Cerrato, Law Student, Loyola University New Orleans College of Law  
 Hannah Chalew, artist  
 Omar Ewert, activist, Sunrise Movement New Orleans  
 Brittany Grimes, Law Student, Loyola University New Orleans College of Law  
 Paul Jobin, Institute of Sociology, Academia Sinica (Taiwan)  
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350 New Orleans  
 Adrian Dominican Sisters, Portfolio Advisory Board  
 Algalita Marine Research & Education  
 Alliance for Affordable Energy  
 Atchafalaya Basinkeeper  
 BLSA (Loyola New Orleans College of Law Black Law Students Association)  
 Center for Biological Diversity  
 Center for International Environmental Law (CIEL)  
 Climate Reality Project NOLA  
 Coalition Against Death Alley  
 Committee on Mission Responsibility Through Investment of the Presbyterian Church U.S.A.  
 Concerned Citizens of St. John  
 Congregation of St. Joseph  
 Daughters of Charity, Province of St. Louise  
 Emily Posner, Attorney at Law, LLC

Extinction Rebellion New Orleans  
 Forensic Architecture  
 FracTracker Alliance  
 Gerald Poje  
 Greenpeace USA  
 Healthy Gulf  
 Heirs To Our Oceans  
 Inland Ocean Coalition  
 Intercommunity Peace & Justice Center  
 Investor Advocates for Social Justice  
 Jesuit Committee on Investment Responsibility  
 Jesuit Social Research Institute  
 Jesuits of Canada  
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 Justice & Beyond  
 Latinx Law Student Association  
 Lonely Whale  
 Los Jardines Institute  
 Louisiana Bucket Brigade  
 Loyola University School of Law Center for Human Rights of Children  
 Loyola University School of Law National Lawyers Guild  
 Forensic Architecture, University of London  
 Mercy Investment Services, Inc.  
 Moore Institute for Plastic Pollution Research  
 New Hope Collaborative  
 No Waste Louisiana  
 Northwest Coalition for Responsible Investment  
 Peak Plastic Foundation  
 Plastic Pollution Coalition  
 Project South  
 Public Advocate  
 RISE St. James  
 San Antonio Bay Estuarine Waterkeeper  
 Seventh Generation Interfaith Coalition for Responsible Investment  
 Sierra Club  
 Sunrise New Orleans  
 Taiwan Zero Waste Alliance  
 The Body (TheBody.com)  
 The Surfrider Foundation  
 The Story of Stuff Project  
 Trillium Asset Management  
 Trinity Health  
 Upstream  
 USA-East Province of the Society of Jesus  
 USA-Midwest Province Jesuits  
 USA-West Province of the Society of Jesus



