

TULANE ENVIRONMENTAL LAW CLINIC
November 23, 2004

Ref.: 107-014

Via Certified Mail, Return Receipt Requested #

To: FTM and Associates, Inc.
16232 Indian Point Drive
Madisonville, LA 70447

Through: Delmar Caldwell
Registered Agent
16232 Indian Point Drive
Madisonville, LA 70447

Re: Notice of Intent to File Citizen Suit under the Louisiana Environmental Quality Act, La. R.S. 30:2026.

Dear Mr. Caldwell:

On behalf of St. James Citizens for Jobs and the Environment (“St. James”), Louisiana Environmental Action Network (“LEAN”) and of Ms. Gloria Braxton, this letter provides FTM and Associates, Inc., with notice of violations and prior notice of a potential citizen suit under Section 2026 of the Louisiana Environmental Quality Act (LEQA), La. R.S. 30:2026, for violations of the LEQA and the Louisiana Administrative Code.

Section 2026 of the LEQA states that “any person having an interest, which is or may be adversely affected, may commence a civil action on his own behalf against any person whom he alleges to be in violation of this Subtitle or of the regulations promulgated hereunder.” La. R.S. 30:2026. St. James Citizens, LEAN and Ms. Braxton allege that FTM and Associates, Inc.’s disposal of sewage sludge without a beneficial-use permit violates the LEQA. Specifically, LAC 33:VII.1103 requires that “Solid waste shall not be discharged, applied, incorporated, injected, or deposited onto or into the land for the purpose of beneficial use unless a beneficial-use permit is first obtained from the administrative authority.”

Despite the fact that FTM and Associates, Inc., does not have a sewage sludge beneficial-use permit, the company is spraying sewage sludge onto its sugar cane crops and into the air, water and land of St. James Parish, including, without limitation, its property located off of Louisiana Highway 3125, 3.2 miles east of Louisiana Highway 70. This violation has been ongoing since September of 2001.

Tulane Environmental Law Clinic

6329 Freret St., Ste. 130, New Orleans, LA 70118-6231 tel 504.865.5789 fax 504.862.8721 www.tulane.edu/~telc

Delmar Caldwell, FTM ice

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The LEQA requires that St. James Citizens, LEAN and Ms. Braxton wait at least thirty days after giving this “notice of the violation to the secretary and to any alleged violator” before bringing an action in state court. LEQA, La. R.S. 30:2026. This waiting period gives the parties a reasonable time to resolve the matter cooperatively, without litigation.

Relief Requested

St. James Citizens, LEAN, and Ms. Braxton may seek civil penalties and declaratory and injunctive relief under the LEQA. La. R.S. 30:2026. Be aware that under the LEQA, FTM and Associates, Inc., may be fined up to ten thousand dollars for each day of the continued noncompliance and may also be ordered to pay plaintiff’s attorney fees. *Id.*

During the thirty-day waiting period prescribed by the LEQA, we would be happy to discuss this matter further. If you have any questions about the issues raised in this letter, please contact counsel at the telephone number and address provided below.

The Persons Giving Notice

Gloria Braxton
10217 Legion Lane
Convent, LA 70723

St. James Citizens for Jobs and the Environment
Pat Melancon
5008 Trudeau Street
Convent, LA 70723

Louisiana Environmental Action Network
Marylee Orr
P.O. Box 66323
Baton Rouge, LA 70896

Identification of Counsel

Please direct all correspondence to counsel:

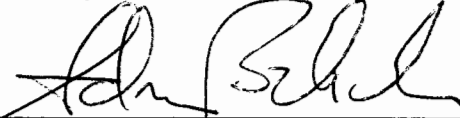
Adam Babich, Director
Tulane Environmental Law Clinic
6329 Freret Street
New Orleans, LA 70118
Phone: (504) 865-5789
Fax: (504) 862-8721

Prepared by:



Katherine Jensen, Student Attorney

Respectfully submitted by:



Adam Babich, SBN: 27177

On behalf of St. James Citizens for Jobs and the Environment, the Louisiana Environmental Action Network, and Gloria Braxton and Supervising Attorney for Katherine Jensen

cc:

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Secretary Mike McDaniel

Louisiana Department of Environmental Quality

Office of the Secretary

P. O. Box 4301

Baton Rouge, LA 70821-4301

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1. Article Addressed to:

FTM & Associates, Inc.
 16232 Indian Point Dr.
 Madisonville, LA 70447
 Attn:
 D. Caldwell

2. Article Number
 (Transfer from service) 7001 2510 0003 7546 0786

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

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1. Article Addressed to:

Secretary Mike McDaniel
 Louisiana Dep't of
 Environmental Quality
 PO Box 4301
 Baton Rouge, LA
 70821-4301


2. Article Number
 (Transfer from servi) 7001 2510 0003 7546 0779

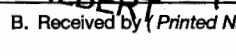
PS Form 3811, August 2001

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