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Center for Biological Diversity * The City Project * Climate Resolve * Conservation Lands Foundation
Council of Mexican Federations (COFEM) * Earthwise Productions, Inc. * Friends of the River
Human Synergy Works * Jack Shu, California State Parks Park Superintendent (Ret.)
Jean-Michel Cousteau's Ocean Futures Society * Jesus People Against Pollution * Los Angeles Wilderness Training
Marc Brenman, IDARE LLC * National Hispanic Medical Association (NHMA)
National Parks Conservation Association (NPCA) * Natural Resources Defense Council (NRDC)
Nina S. Roberts, Ph.D., San Francisco State University * Poverty & Race Research Action Council (PRRAC)
Voces Verdes * WE ACT for Environmental Justice * The Wilderness Society

May 27, 2016

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Re: Draft U.S. DOI Environmental Justice Strategic Plan 2016-2020

Dear Secretary Jewell and Director Jarvis:

Overview

We submit these public comments regarding the Department of the Interior (DOI) draft Environmental Justice Strategic Plan 2016-2020 (Plan) on behalf of diverse allies committed to equal justice, public health, and environmental quality. We appreciate the magnitude of work that has gone into crafting this important Plan and are pleased to provide a variety of feedback to support the creation of the final Plan. These comments are focused on the role of the National Park Service (NPS) in particular, but apply generally to all of the work of the DOI and its agencies, policies, practices, programs and activities.

We agree in principle with the five major goals of the Plan, and commend DOI for updating the Plan to include the impact of climate change on environmental justice communities. We also applaud DOI for including a detailed Action Plan with specific objectives and target dates. Our comments are intended to support and strengthen the Plan to achieve these goals and objectives.

Our 2011 comments on DOI's 2012-2017 Environmental Justice Strategic Plan highlighted the need to emphasize that environmental justice addresses the fair distribution of both the burdens *and benefits* of programs, policies and activities. We are pleased to see DOI recognizes this on page 8 of the 2016-2020 draft Plan. Environmental justice refers to "meeting the needs of . . . underserved communities (hereinafter 'environmental justice communities') by reducing disparate environmental burdens, removing barriers to participation in decision making, and

increasing access to environmental benefits [emphasis added] that help make all communities safe, vibrant, and healthy places to live and work.” We recommend the latter part of this statement be revised to read “. . . healthy places to live, work, learn, play and pray.”

Equal Access to Park and Health Resources

The Plan cites NPS’s *Healthy Parks Healthy People US* program, which addresses equal access to park and health resources for people of color and low-income populations, as an example of a program to support Goal 3 of the Plan. Goal 3 states: “The Department will, on its own or in collaboration with partners, identify and address environmental impacts that may result in disproportionately high and adverse human health or environmental effects on minority, low-income, or tribal populations.” (*DOI Plan, page 19.*)

We agree. Subsequently, we urge DOI and NPS to build on the strengths of its *Healthy Parks Healthy People* program to explicitly document and address agency-wide the disparities in access to parks and open space for low-income communities and communities of color across the U.S., and the important role that green access plays in improving the health and quality of life for all people. While *Healthy Parks Healthy People* program materials acknowledge such disparities, DOI’s Strategic Plan, NPS’s Call to Action, and other documents do not show evidence of this.

Best practice examples to address environmental justice, green access, and health include the following work by NPS and others. According to the NPS final study for the San Gabriel Mountains,¹ the NPS final study to expand the Santa Monica Mountains National Recreation Area (“Rim of the Valley”),² and the U.S. Army Corps of Engineers (USACE) final study to revitalize the Los Angeles River:³

- (1) There are disparities in green access based on race, color, or national origin;
- (2) This contributes to health disparities based on those factors; and
- (3) Environmental justice and civil rights laws and principles require agencies to address these disparities. This includes, for example, the President’s Executive Order 12898 on environmental justice and health.

Such park and health disparities are true in communities throughout the nation.⁴ Pope Francis writes about green space as a moral and environmental issue in his encyclical on climate,

¹ National Park Service, *San Gabriel Watershed and Mountains Special Resource Study* (April 2013). See San Gabriel Mountains Best Practice Environmental Justice Framework for Parks, Health, and Conservation Values (The City Project Blog 2014), www.cityprojectca.org/blog/archives/32899.

² National Park Service, *Rim of the Valley Corridor: Special Resource Study and Environmental Assessment* (February 2016). See National Park Service Rim of the Valley Final Study Best Practice Environmental Justice (The City Project Blog 2016), www.cityprojectca.org/blog/archives/41777.

³ US Army Corps of Engineers, *Los Angeles River Ecosystem Restoration Integrated Feasibility Report* (September 2015). See US Army Corps of Engineers Best Practice for Revitalizing L.A. River for All (The City Project Blog 2016), www.cityprojectca.org/blog/archives/41580.

⁴ See, e.g., Robert Garcia, *The George Butler Lecture: Social Justice and Leisure*, 45 J. Leisure Research 7 (2013); Robert Garcia and Erica Flores Baltodano, *Free the Beach! Public Access, Equal Justice, and the California Coast*, 2 Stanford Journal of

creation, and the poor and underprivileged: “Frequently, we find beautiful and carefully manicured green spaces in so-called ‘safer’ areas of cities, but not in the more hidden areas where the disposable of society live.”⁵

Transit to Trails

NPS recognizes in its studies for the San Gabriel Mountains and Santa Monica Mountains that transportation is a significant barrier for many low-income communities and communities of color to access existing parks and open space. Many families often do not have cars and do not live near efficient and reliable public transit that provides access to regional parks. For example, public transit options to the Santa Monica Mountains National Recreation Area and the Angeles National Forest/San Gabriel Mountains National Monument are sparse and/or non-existent, according to NPS. (*NPS 2016 Rim of the Valley study, page 193.*)

NPS and others highlight the need for Transit to Trails – dedicated public transit to parks and open space. “Transit to Trails provides more opportunities for area youth and their families to learn about water, land, wildlife, cultural history, and engage in physical activity through recreational opportunities. It also helps reduce traffic congestion and parking problems, improve air quality, and reduce run-off of polluted water into rivers and the ocean by providing a more accessible, public transportation.” (*NPS 2013 San Gabriel Mountains study, page 179.*)

We urge DOI and NPS to work with existing partners and transit agencies to institutionalize Transit to Trails in the Los Angeles region, and improve connections to parks and open space for all in other urban regions. Free or low cost efficient public transit should be the primary mode share rather than other methods that place the burden on users. Every agency or group that has spoken on the issue has highlighted the need for such transit programs, including NPS, USACE, President Barack Obama through the Every Kid in a Park initiative, California Parks Forward Commission, and the Southern California Association of Governments (SCAG).⁶

Civil Rights and Civil Liberties 143 (2005); Robert García and Seth Strongin, *Healthy Parks, Schools and Communities: Mapping Green Access and Equity for Southern California*, Policy Report (The City Project 2011), goo.gl/pAi7v; Penny Gordon-Larsen et al., *Inequality in the Built Environment Underlies Key Health Disparities in Physical Activity and Obesity*, 117 *Pediatrics* 417 (2006); Lisa M. Powell et al., *Availability of Physical Activity-Related Facilities and Neighborhood Demographic and Socioeconomic Characteristics: A National Study*, 96 *Am. J. Pub. Health* 1676 (2006); Lisa M. Powell et al., *The Relationship Between Community Physical Activity Settings and Race, Ethnicity, and Socioeconomic Status*, 1 *Evidence-Based Preventive Medicine* 135 (2004); Chona Sister et al., *Got Green? Addressing Environmental Justice in Park Provision*, 75 *GeoJournal* 229 (2010); Jennifer Wolch et al., *Parks and Park Funding in Los Angeles: An Equity-based Analysis*, 26 *Urban Geography* 4 (2005); Ming Wen et al., *Spacial Disparities in the Distribution of Parks and Green Spaces in the USA*, 45 *Annals Behav. Med* 18 (2013); Dustin T. Duncan et al., *The Geography of Recreational Open Space: Influence of Neighborhood Racial Composition and Neighborhood Poverty*, 90 *J. Urb. Health* 618 (2012).

⁵ See Pope Francis Parks make us feel at home, bring us together, and are needed where the disposable of society live (The City Project Blog 2015), www.cityprojectca.org/blog/archives/38366.

⁶ See National Park Service, *San Gabriel Watershed and Mountains Special Resource Study* (April 2013), at 179; NPS, *Rim of the Valley Corridor: Special Resource Study and Environmental Assessment* (February 2016), at 130, 193, 250; NPS, *Healthy Parks Healthy People Community Engagement eGuide* at 17; US Army Corps of Engineers, *Los Angeles River Ecosystem Restoration Integrated Feasibility Report* (September 2015), at 3-62; California Parks Forward Commission, *A New Vision for California State Parks: Recommendations of the Parks Forward Initiative* (February 2015), at 32-34; Southern California Association of Governments 2016-2040 RTP/SCS Environmental Justice Appendix (April 2016), at 106. See also Every Kid in a Park (<https://www.everykidinapark.gov>).

DOI cites NPS's cooperative agreement with Tuskegee University on page 22 of the Plan as another example of a partnership/program to support Goal 3. "The project objective is to identify and address disproportionately high and adverse human health impacts of limited public transportation and its connection to the NPS unit serving these communities. The project will study means of providing interpretive and educational opportunities to connect the community to the NPS historical and educational stories in their backyard . . ." We strongly support such partnerships, and highlight the need for interpretive and educational plans, programs and materials to address environmental justice and have an inclusive approach. Interpretation and education programs similar to Transit to Trails that specifically engage people of color and low-income people are vital to diversify access to and support for national parks, national monuments, and national recreation areas. Our comments on access, education, and public transportation in the Los Angeles region echo the need for such partnerships with federal agencies, universities, and local governments across the U.S.

Ensuring Title VI and Environmental Justice Compliance

Federal agencies, recipients of federal financial assistance (including state and local agencies and mainstream environmental organizations), and funding beneficiaries often do not know what environmental justice and Title VI compliance mean. Given the mandates and leadership therein, DOI and NPS must lead the way.

Parks, beaches, pools, and recreation have been core civil rights issues since the beginning of the civil rights movement.⁷ U.S. Environmental Protection Agency (EPA) has agreed to include park access as an environmental justice issue in the updated 2016 edition of EJSCREEN, EPA's new environmental justice mapping and screening tool. Disparities in access to parks and open space based on race, color, or national origin throughout California and across the U.S. are indisputable, as are related health disparities based on those same factors. Yet state and local agencies commonly do not recognize their obligations to comply with civil rights and environmental justice laws and principles to alleviate such disparities.

As discussed above, DOI and NPS recognize that Executive Order 12898 requires federal agencies to address the effects of its programs, policies, and activities on minority and low-income populations. For the same reasons, DOI and NPS should ensure recipients of its financial assistance comply with Title VI of the Civil Rights Act and its regulations.⁸ DOI should send, for

⁷ In *Watson v. City of Memphis*, 373 U.S. 526 (1963), for example, the U.S. Supreme Court upheld equal access to public parks and recreation programs as an equal justice matter under *Brown v. Board of Education*, 347 U.S. 483 (1954) (separate schools are inherently unequal and violate the Equal Protection Clause).

⁸ In a Presidential memorandum accompanying Executive Order 12898, President Clinton identified Title VI as one of several Federal laws already in existence that can help "to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects." President's Memorandum for the Heads of All Departments and Agencies, 30 Weekly Comp. Pres. Doc. 279, 280, February 11, 1994. EO 12898 amplifies Title VI by providing that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on environmental justice communities. *See also* U.S. Department of Justice Civil Rights Division, Title VI Legal Manual (Jan. 11, 2001), available at <https://www.justice.gov/sites/default/files/crt/legacy/2011/06/23/vimanual.pdf>.

example, a Dear Colleague letter to state and local agencies and other recipients of federal funding regarding compliance with Title VI.⁹

We recommend the Plan include guidance for DOI and NPS to require all recipients of their federal financial assistance to prepare a civil rights and environmental justice compliance plan that includes the five elements listed below. The Federal Transit Administration (FTA) for many years has successfully required such an equity analysis by recipients of its financial assistance.¹⁰ Requiring a compliance plan proactively as part of a funding application is preferable to responding to administrative complaints.¹¹ The compliance plan should take place early enough in the process in order to meaningfully guide the decision making process. The NPS and USACE studies above are best practices for such a plan.¹²

1. Describe what is planned.
2. Analyze the benefits and burdens on all people, including people of color and low-income people. This analysis can include numerical disparities, empirical studies, anecdotal evidence, demographics and GIS mapping. Follow the money: who benefits and who gets left behind. Define standards to measure progress and hold officials accountable.
3. Analyze the alternatives.
4. Include people of color and low-income people in the decision making process.
5. Develop an implementation plan to distribute the benefits and burdens fairly, and avoid intentional discrimination and unjustified discriminatory impacts.¹³

It is imperative for DOI's Environmental Justice Strategic Plan to develop and track measurable objectives identified by underserved communities. It is necessary to define standards in advance to measure progress and hold public officials accountable. California law for example prioritized

⁹ See generally U.S. Department of Education Office of Civil Rights Dear Colleague Letter that addresses the resource equity obligations of school districts under Title VI of the Civil Rights Act, (Oct. 1, 2014). The DOE determined the Dear Colleague Letter is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507_good_guidance.pdf. This and other policy guidance is issued to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that the Department enforces. The Department's legal authority is based on those laws. This guidance does not add requirements to applicable law, but provides information and examples to inform recipients about how the Department evaluates whether covered entities are complying with their legal obligations.

¹⁰ See *Federal Transit Administration, Environmental justice policy guidance for Federal Transit Administration recipients, Circular (FTA C 4703.1)* (Washington, DC: Department of Transportation, Aug. 15, 2012); *FTA, Title VI Requirements and Guidelines for Federal Transit Administration Recipients, Circular (FTA C4702.1B)* (Washington, DC: Oct. 1, 2012); Letters from FTA to Metropolitan Transportation Commission and San Francisco Bay Area Rapid Transit District (Jan. 15, 2010 and Feb. 12, 2010). FTA Circulars and Letters available at www.cityprojectca.org/blog/archives/38688.

¹¹ DOI resolved The City Project's successful administrative complaint to keep state parks open for all through a letter DOI sent to California Governor Arnold Schwarzenegger in 2010. The letter is on file with The City Project.

¹² See also Best Practice HUD Los Angeles State Historic Park Healthy Green Land Use for All (The City Project Blog 2014), www.cityprojectca.org/blog/archives/32984.

¹³ The disparate impact standard of discrimination plays an important role in moving the nation toward equal opportunity for all: it allows people to counteract disguised animus, unconscious prejudices, and implicit bias that might escape easy classification as intentional discrimination. See *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*, 576 U.S. (2015) (upholding discriminatory impact standard under the Fair Housing Act of 1968).

the investment of bond funds in “park poor” and “income poor” areas, as defined by guidelines under AB 31. It worked. Fully 88% of those funds were invested in communities that are disproportionately of color, low-income, and park poor. The race neutral solution addressed a race based problem. In contrast, vague terms like “equity” or “urban communities” do not work and exacerbate rather than alleviate disparities, according to a recent UCLA study.¹⁴

Lastly, we recommend revising the language on page 38 under the section “Title VI of the Civil Rights Act” of the Action Plan as follows:

“Provide technical assistance and training on environmental justice **and Title VI** to recipients of federal financial assistance

Develop materials to be provided to grant recipients at the time of award regarding environmental justice **and Title VI** requirements

Identify training opportunities for grant recipients to learn about Executive Order 12898 and environmental justice, **and Title VI.**”¹⁵

Values at Stake

We believe that engaging stakeholders by promoting the diverse values at stake will enhance green access and health for all. NPS’s *Healthy Parks Healthy People Community Engagement eGuide* summarizes these values as follows.¹⁶

- *Fun, health, and human development:* Children who are physically fit tend to do better academically, and parks can create community and drive out vandalism and crime.
- *Conservation values:* This includes climate justice; clean air, water, and land; complete green streets with transit, biking, hiking, and safe routes to schools; and saving habitat.
- *Economic values:* This includes jobs and apprenticeships for youth, diversification of government contracts to include small-, minority-, women-, and veteran-owned enterprises, addressing potential gentrification and displacement of lower income residents and businesses as greening improves their communities, and increasing home ownership and support for small and diverse businesses.
- *Art, culture, and spiritual values:* Monuments like those that celebrate Martin Luther King, Jr., Cesar Chavez, Manzanar, and Mesa Verde connect people to these places on a cultural level.

¹⁴ See Jon Christensen, UCLA Inst. of the Env’t & Sustainability, *Environmental Bonds Should Equitably Benefit All Communities: Looking Forward Based on an Analysis of Prop 84* (2016), <http://environment.ucla.edu/perch/resources/images/report-on-prop-84-from-ucla-ioes-1.pdf>. See also Park funds for park poor and income poor communities – Prop 84 and AB 31 standards are working! (The City Project Blog 2014), www.cityprojectca.org/blog/archives/32075.

¹⁵ See footnote 8.

¹⁶ National Park Service, *Healthy Parks Healthy People Community Engagement eGuide* at 15. The complete eGuide is available at www.nps.gov/public_health/hp/hphp/press/HealthyParksHealthyPeople_eGuide.pdf.

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- *Equal justice, democracy, and livability for all.* Ultimately, we can appeal to the values that we strive to achieve as a community and democracy and emphasize the inherent democratic nature of public spaces.

Thank you for your consideration of our comments during the final completion of the Strategic Plan. We ask for the opportunity to meet with you to discuss these recommendations and concerns at your earliest convenience.

Sincerely,

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