

CALIFORNIA COASTAL COMMISSION

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TO: Coastal Commission and Interested Persons

FROM: John Ainsworth, Executive Director
Sarah Christie, Legislative Director
Sumi Selvaraj, NOAA Coastal Management Fellow

SUBJECT: **Coastal Commission Draft Environmental Justice Policy - Public Review Draft**

(NOTE: Discussion Item Only: Final action/adoption to be taken at a future hearing following Commission feedback and public input.)

The People of the State of California find and declare:

- “(a) That the California Coastal Zone is a distinct and valuable natural resource of vital and enduring interest to **all the people** and exists as a delicately balanced ecosystem.
- (b) That the permanent protection of the state’s natural and scenic resources is a paramount concern to present and future residents of the state and nation.
- (c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.”

--- Legislative findings, Proposition 20

--- Public Resources Code, Sec. 30001

(Emphasis added.)

I. Introduction

The California Coastal Act of 1976 is a statute inherently grounded in the principles of equity, public participation and environmental justice. The law was enacted in furtherance of Article X, Section 4 of the California Constitution which states:

“. . . no individual, partnership, or corporation claiming or possessing the frontage of tidal lands of a harbor, bay, inlet, estuary or other navigable water in this state shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, and

the Legislature shall enact such law as will give the most liberal construction to this provision so that access to the navigable waters of this state shall always be attainable to the people thereof”

“Such law” was the California Coastal Act of 1976, which was enacted in response to public outcry over pollution of coastal waters, industrialization and privatizations of coastal lands, loss of open space and public views, and the attendant loss of public access to the coast. Its “most liberal construction” has been largely responsible for the provision of over 1,000 public access ways and hundreds of miles of public trails and bike paths, as well as numerous state and local parks, thousands of acres of open space and protected habitats, lower-cost campgrounds, hostels, and affordable coastal recreation opportunities throughout the coastal zone.

The California Coastal Commission’s mission statement declares:

“The Commission is committed to protecting and enhancing California’s coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.”

Environmental justice is a concept with roots in the Civil Rights movement,¹ with the concepts of fairness and equal rights being applied in the environmental context, especially in regard to the siting of toxic waste and other hazardous facilities having a cumulative and discriminatory effect on poorer communities and communities of color. Residents of these communities bear a disproportionate burden of pollution, while suffering from a lack of environmental services, such as clean drinking water, clean air and access to parks and open space. The term encompasses “both substantive and procedural rights,”² meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process by which significant environmental and land use decisions are made.

Beginning in 1999, California enacted a series of bills that advanced the concepts of environmental justice in state law.³ [SB 115 \(Solis\)](#) defined in term in “environmental justice” in the Government Code, and the Governor’s Office of Planning and Research (OPR) was designated as the agency responsible for coordinating state efforts to integrate environmental justice principles into their specific missions.⁴

California Government Code Section 65040.12 (e) defines “environmental justice” as:

“The fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws, regulations, and policies.”

In 2016, the Legislature passed [AB 2616](#) (Chapter 578, Statutes of 2016) giving the Commission explicit authority to consider environmental justice in its permit decisions, as well as cross-

¹ *Environmental Justice for All: A Fifty State Survey of Legislation, Policy and Cases*, fourth edition (2010).

² *Ibid.*

³ *Opportunities for Environmental Justice, Agency by Agency* (2003) Auyong, et al., Public Law Research Institute, Hastings College of Law. Page 3.

⁴ [Environmental Justice in State Government](#) (2003) Office of Governor Gray Davis, Office of Planning and Research.

referencing 65040.12(e), and the state's non-discrimination law, Government Code Section 11135 (a) which states that:

“No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.”

The California Natural Resources Agency (CNRA) has adopted an [Environmental Justice Policy](#), and has encouraged Departments, Boards and Commissions to craft similar policies suited to their individual needs. Consistent with CNRA's request, and to guide future implementation measures associated with these policies, this report is intended to provide a draft Environmental Justice policy for the public and the Commission to discuss and consider. After taking public testimony and conducting additional outreach, a final draft of the policy will be submitted to the Commission for adoption.

II. Discussion

Following the grassroots campaign that created the Coastal Commission through the passage of Proposition 20 (The Coastal Initiative) in 1972, the Coastal Act itself was the product of unprecedented public participation that resulted in the publication of the California Coastal Plan in 1975. That same fundamental ethic is carried forward in Coastal Act Section 30006 which states:

“The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.”

The Commission's Public Education program continues to provide dozens of annual grants that support coastal education, marine research projects, and programs designed to increase coastal awareness, such as beach field trips for underserved, rural and diverse inland communities. The Commission's Sea Level Rise Policy Guidance document, adopted in 2015, addresses the disproportionate impact of sea level rise on underserved communities, as does the Commission's Strategic Plan. These decisions about development along the shoreline affect not only those that live there, but inland residents who count on the beach and the public commons for respite and recreation. And the Commission has been responsible for countless decisions protecting habitat, water quality and biodiversity that have contributed to the overall environmental welfare of not just the coastal zone but the entire state.

And yet the Coastal Act's vision of coastal protection and access for *all the people* has not been fully realized. In addition to the enforceable policies of Chapter 3 protecting water quality, open space, public access, and lower-cost visitor serving and recreational opportunities, the Coastal Act's original construction included policies protecting affordable housing, which were later amended out of the Act. California's population has doubled since the Coastal Act was written,

and changing demographics, socio-economic forces, judicial decisions and policy choices far outside the Commission's purview are shaping development patterns and population shifts that create both intentional and unintentional barriers to public access not only to the beach, but to the broader benefits of coastal protection, and the Commission's public process itself. Not only is access to the coast for all Californians essential, equally so is protecting coastal resources so that future generations of all Californians can enjoy the beauty and opportunities the coast provides to those lucky enough to live directly along the coast.

According to data provided by the 2010 Decennial Census, 80% of California's population lives within 100 km (62 miles) from the coast. As documented in the Stanford Law Review Journal, populations within 1 km (0.62 miles) from the coast are disproportionately more white, affluent and older than populations further inland, when compared predictive models.⁵ Not surprisingly, Stanford's modeling demonstrates a direct correlation between proximity to the coast and income, age and ethnicity, with annual household income, age, and percentage of white residents decreasing steadily with distance from the coast.⁶

The disparity is so severe in more urbanized and underserved rural areas that many California children living within a few miles of the coast have never seen the ocean. The Commission has seen repeated evidence of such discrepancy in the numerous Whale Tail grant applications received annually from groups who are working to connect these children to the coast and ocean environment through science-based learning, recreation, exploration, and stewardship activities.

In order to fulfill the Coastal Act's mission of access for all the people and ensure full participation by all potentially affected communities in the coastal management and land use process, the Coastal Commission has articulated the value of understanding and responding to coastal issues through an environmental justice lens. Additionally, although environmental justice objectives have long been a critical component underlying the coastal management program, the recent enactment of AB 2616 gave the Commission additional, *explicit* authority to consider environmental justice in its permit decisions.

Adopting an Environmental Justice policy to affirm the agency's core principles and guide future implementation of these new Coastal Act provisions is responsive to public and legislative priorities, and also fully consistent with the spirit, intent and mission of the Coastal Act.

⁵ [Coastal Access Equity and the Implementation of the California Coastal Act](#) (2016) Reineman, et al., Stanford Environmental Law Review Journal, v. 36. Pages 96-98.

⁶ *Ibid.*

The following statement is intended to articulate the Coastal Commission's commitment to environmental justice, as expressed through the unique lens of the Coastal Act.

DRAFT COASTAL COMMISSION ENVIRONMENTAL JUSTICE POLICY

The California Coastal Commission's commitment to diversity and environmental justice recognizes that the Coastal Act is an inherently equitable law, designed to protect California's coast and ocean commons for the benefit of all the people. In keeping with that aspirational vision, the Commission as an agency is committed to protecting coastal resources and providing public coastal access and lower-cost recreation for everyone, regardless of race, ethnicity, socio-economic status or place of residence. The Commission recognizes that our conservation mission is best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origins, ethnic groups, ages, disability status, sexual orientation, and gender identity. The Commission is committed to full consideration of environmental justice principles as defined in Government Code 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of all Commission actions, programs, policies and activities. It is also the California Coastal Commission's goal, consistent with Government Code 11135, to recruit, build and maintain a highly qualified, professional staff that reflects our state's diversity.

III. Next Steps

The Commission's final, adopted policy statement will inform future actions. Next steps to be taken in the coming months include:

- Commission staff will compile, and review public feedback on this draft policy statement, conduct additional outreach to stakeholder groups and affected communities, and revise the above statement accordingly for final consideration and adoption at a subsequent public hearing.
- The Commission's executive management team is developing a staff working group to gather ideas and identify opportunities for the agency to implement environmental justice issues principles on an ongoing basis across the agency and throughout the districts.
- These efforts will inform a follow up report that will be scheduled later in the year, considering specific opportunities and recommending implementation measures.
- Staff will continue to work collaboratively with sister agencies, the public, and commissioners to ensure that coastal management decisions at all levels appropriately consider environmental justice concepts and values.