

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



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ENVIRONMENTAL JUSTICE POLICY FINAL PUBLIC REVIEW DRAFT

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ATTACHMENT 1

**COASTAL COMMISSION
ENVIRONMENTAL JUSTICE POLICY
FINAL PUBLIC REVIEW DRAFT**

Environmental Justice Policy

FINAL PUBLIC REVIEW DRAFT – FEBRUARY 2019

California Coastal Commission

Introduction

The goal of the Commission’s Environmental Justice Policy (the “Policy”) is to provide guidance and clarity for Commissioners, staff, and the public on how the Commission will implement its recently enacted environmental justice authority¹ including how it will consider environmental justice in coastal development permits. The adoption and implementation of this Policy is intended to integrate the principles of environmental justice, equality, and social equity into all aspects of the Commission’s program and operations, and to ensure public confidence in the Commission’s mission, process, and commitment to coastal equity.

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.

Section 30006 of the Coastal Act also states 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.”*

Since 1977, the Commission has worked to uphold the Coastal Act, a statute grounded in the principles of public inclusion and equity. However, despite numerous victories, the statute’s vision of coastal protection and access for all people is not fully realized. Concern remains that historically, much of the Commission’s work has been largely shaped by coastal residential, commercial and industrial landowners, without adequate consideration of those whose lives and livelihoods are connected to our coast through their labor, recreation, and cultural practices but who cannot afford to live on the coast.²

Generations of injustices towards California’s Native American communities, people of color, and other marginalized populations through forms of discriminatory land use policies, desecration of sacred lands and cultural resources, and concentration of environmental pollution has resulted in inequitable distribution of environmental benefits and burdens that still disproportionately burden these communities today. The concept of environmental justice emerged out of the civil rights movement to describe the application

¹ AB 2616 (Burke) (Ch. 578, Stats. 2016) amended the Coastal Act to give the Commission authority to specifically consider environmental justice when making permit decisions. This legislation also cross-references existing non-discrimination and civil rights law in the Government Code and requires the Governor to appoint an environmental justice Commissioner.

² Morales, M. Central Coast Alliance United for a Sustainable Economy (CAUSE). July 12, 2018 comment letter re: proposed environmental justice policy.

of civil rights and social justice to environmental contexts.³ The term “environmental justice” is currently understood to include both substantive and procedural rights⁴, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Taking an environmental justice approach to coastal policy requires a fundamental rethinking of who is connected to the coast, and how. For instance, tribal and indigenous communities with cultural ties to the coast depend on access to ancestral lands and sacred sites to maintain traditional practices, yet their unique perspectives are frequently overlooked or undervalued. Environmental justice stakeholders across the country who have been working in this policy arena for decades have noted that wherever low income communities and communities of color are predominantly concentrated in coastal regions, they are frequently disconnected from the coast itself, by both social and physical barriers. Countless people commute to the coast for work every day, to labor in homes, businesses, ports and fields. Others come to the coast for free outdoor recreation and fresh air. For them, the coast is an accessible refuge from neighborhoods, many of which are lacking parks and greenspace. Statistics show a startling lack of diversity among those who live on the California coast, and yet millions of inland residents visit and work there every day, without the means to access affordable accommodations.

Historic inequalities, as well as California’s growing population, changing demographics, socio-economic forces, judicial decisions, and policy choices have and continue to shape development patterns and population shifts that widen the disparity gap. Not only is equitable access to the coast for all Californians essential, so is protecting coastal natural resources for future generations.⁵ To fulfill the agency’s mission of protecting and preserving coastal resources for all people, the Commission adopts the following Environmental Justice Policy to inform its decisions, policies, and programs to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone.



³ Environmental Justice for All: A Fifty State Survey of Legislation, Policy and Cases, fourth edition (2010).

⁴ Ibid.

⁵ Government Code 11135, the state analog to the federal Civil Rights Act of 1964.

Environmental Justice Policy

The California Coastal Commission's commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to empower the public's full participation in the land-use decision-making process that protects California's coast and ocean commons for the benefit of all the people. In keeping with that visionary mandate, but recognizing that the agency has not always achieved this mission with respect to many marginalized communities throughout California's history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone. The agency is committed to ensuring that those opportunities not be denied on the basis of background, culture, race, color, religion, national origin, income, ethnic group, age, disability status, sexual orientation, or gender identity.

The Commission will use its legal authority to ensure equitable access to clean, healthy, and accessible coastal environments for communities that have been disproportionately overburdened by pollution or with natural resources that have been subjected to permanent damage for the benefit of wealthier communities. Coastal development should be inclusive for all who work, live, and recreate on California's coast and provide equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, income levels disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with Public Resources Code Section 30013⁶ and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations."

This policy uses the terms "disadvantaged" and "marginalized" interchangeably; it intends to encompass not only the definitions contemplated by SB 1000,⁷ but also to include other low-income communities and communities of color that are disproportionately burdened by or less able to prevent, respond, and recover from adverse environmental impacts. The Commission recognizes that all of these communities have assets and are valuable stakeholders, and the purpose of this policy is to empower these communities that have been historically excluded from accessing the benefits of coastal development and resources due to discriminatory implementation of local, state, and federal policies and lack of access to the process and decision makers. This policy uses the term "equity" as defined in the context of social and racial equity,⁸ where "equity" refers to the fairness of achieving outcomes for all groups and no one factor, such as race, can be used to predict outcomes.

⁶ AB 2616 (Ch. 578, Stats.2016) added Coastal Act Section 30013 findings to advance the principles of environmental justice and civil rights as part of the Coastal Act.

⁷ SB 1000 (Leyva) (Ch. 587, Stats. 2016) added Government Code Section 65302(h)(4)(A), expanding the definition of "disadvantaged communities" for the purpose of General Plans to mean "an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation."

⁸ The Local & Regional Government Alliance on Race and Equity. Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action. (2015)



Statement of Environmental Justice Principles

This policy is designed to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone. It incorporates and is further implemented by the following Statement of Principles.

Respecting Tribal Concerns

The Commission respectfully acknowledges the painful history of genocide against Native American Tribes and honors the efforts of California's coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. The Commission commits to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California's coast. In addition to the requirements of the Commission's formal [Tribal Notification and Consultation Policy](#), the Commission will work collaboratively with tribes to better understand the significance of local and regional cultural concerns. This includes the application of traditional ecological knowledge, as well as access to and protection of areas of cultural significance ethnobotanical resources, traditional fishing and gathering areas, and sacred sites.

Meaningful Engagement

The Commission acknowledges the critical need to communicate consistently, clearly, and appropriately with environmental justice groups and underserved communities. Because of their historic under-representation in coastal land use planning and permitting decisions, it is important to make additional efforts to inform these communities about projects with environmental justice findings implications for their neighborhoods and families. Commission staff will work to obtain and dedicate meaningful resources to reach out early and often to these communities, in language that is understandable and accessible to local communities that face limited English proficiency, lack access to formal education, and experience other obstacles to engagement. They will also augment outreach with non-traditional communication methods, for example, the use of social media, flyers, community meetings, town halls, surveys, language translation services and focus groups targeted at populations who face barriers to participation. To ensure that specific outreach efforts are effective, staff will ask community groups and organizations for their suggestions and preferences for adjusting these techniques for any given matter.





Coastal Access

Article X of the California Constitution guarantees the right of access to navigable waters for all people. The Commission also recognizes that equitable coastal access is encompassed in and protected by the public access policies in Chapter 3 of the Coastal Act. The Coastal Act's mandates to provide maximum access and recreational opportunities for all, and to protect, encourage, and provide lower-cost visitor and recreational opportunities embody fundamental principles of environmental justice. The Commission reaffirms its long-standing commitment to identifying and eliminating barriers, including those that unlawfully privatize public spaces, in order to provide for those who may be otherwise deterred from going to the beach or coastal zone. The coast belongs to everyone, and access cannot be denied or diminished on the basis of race, ethnicity, income socio-economic status, or place of residence or other factors listed in the Policy Statement.

Understanding that even nominal costs can be barriers to access preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas. The conversion of lower-cost visitor-serving facilities to high-cost facilities is also a barrier to access for those with limited income, and contributes to increased coastal inequality. The Commission will strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer-term strategy to increase the number and variety of new lower-cost opportunities.

Where a local government fails to consider environmental justice when evaluating a proposed development that has the potential to adversely or disproportionately affect a historically disadvantaged group's ability to reach and enjoy the coast, that failure may be the basis for an appeal to the Coastal Commission. Similarly, where a local coastal program includes policies that implement environmental justice principles, a local government's failure to consider those principles may also be the basis of an appeal to the Coastal Commission.

Housing

The Commission acknowledges the historical use of discriminatory housing policies in California and their impact on present day demographics in the coastal zone. Home deeds often included restrictive covenants, preventing homeowners from selling or renting to certain classes of buyers, most often members of specified racial or other minority groups⁹. For example, a 1920's-era subdivision in Palos Verdes Estates in Los Angeles County included thirty pages of restrictions, protecting against "encroachment by any possible developments of an adverse sort," and prohibiting rent or sale to African- or Asian-American families¹⁰. By the late 1970s neighborhoods that had benefited from decades of discrimination against racial minorities translated that benefit into higher property values, despite the end of widespread public and official housing discrimination¹¹.

The Commission recognizes that the elimination of affordable residential neighborhoods has pushed low-income Californians and communities of color further from the coast, limiting access for communities already facing disparities with respect to coastal access and may contribute to an increase in individuals experiencing homelessness.

Although the Legislature removed the Coastal Act mandate to protect and provide for affordable housing in 1981, the Commission retained the authority to encourage affordable housing. The Commission will increase these efforts with project applicants, appellants and local governments, by analyzing the cumulative impacts of incremental housing stock loss, and by working with local government to adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types. The Commission will continue to seek legislative action to regain its previous authority with respect to affordable housing.

The Commission recognizes the myriad laws and regulations that regulate housing, including those that dictate the kinds and amounts of housing that local governments must provide in their communities. Implementation of these housing laws must be undertaken in a manner fully consistent with the Coastal Act. The Commission will work with local governments to adopt local coastal program policies that allow for a broad range of housing types including affordable housing, ADUs, transitional/supportive housing, homeless shelters, residential density bonuses, farmworker housing, and workforce/employee housing, in a manner that protects coastal resources consistent with Chapter 3 of the Coastal Act.

The Commission will also support measures that protect existing affordable housing. If the Commission staff determines that existing, affordable housing would be eliminated as part of a proposed project in violation of another state or federal law, the Commission staff will use its discretion to contact the appropriate agency to attempt to resolve the issue.

⁹ Bono, Marisa. "Don't You Be My Neighbor: Restrictive Housing Ordinances as the New Jim Crow." *The Modern American* 3.2 (Summer-Fall, 2007): 29-38.

¹⁰ Fogelson, *Bourgeois Nightmares*, pp.5-19

¹¹ George Sanchez, *The History of Segregation in Los Angeles: A report on Racial Discrimination and Its Legacy*, University of Southern California

Local Government

Local governments implement Coastal Act policies at the local level through planning documents certified by the Commission. The Commission will strongly encourage local governments to amend their local coastal programs, port master plans, public works plans and long range development plans to address environmental justice issues. Staff will develop a list of best practices to help local government develop policies that reduce impacts on disadvantaged communities resulting from new development.

The Commission also recognizes the harm in communities that engage in exclusionary and discriminatory practices such as hiring security guards who have been known to enlist law enforcement to exclude communities of color from certain coastal recreation areas. The Commission will consider the historic role of such exclusionary measures when reviewing proposed local coastal policies that may have discriminatory intent or impact.

The Commission understands that regional transportation policies can discourage inland communities from visiting the coast, burdening both workers and families. The Commission will work with local governments and regional transit agencies on local coastal program policies to decrease vehicle miles travelled and increase public transportation from inland areas to the coast.



Participation in the Process

Achieving the Coastal Act's mandate for coastal protection depends on full public participation that reflects California's diversity. The Commission is committed to identifying and eliminating barriers to its public process in order to provide a more welcoming, understandable and respectful atmosphere for those who may be otherwise intimidated or deterred from taking part in government proceedings. This includes making an effort to schedule items with significant environmental justice implications in close proximity to affected underserved communities, at locations and times accessible to those

who work during the day or lack access to private vehicles, when legal deadlines allow, and providing language translation services as needed and time extensions for translators. The Commission will not engage the services of private security or law enforcement unless a credible threat to public safety has been clearly demonstrated.

The Commission will make an effort to schedule time for public comment at the beginning and end of meetings to maximize opportunity for interested parties to provide public comment and to minimize the burden of interested parties from having to take time off of work to participate at Commission meetings. The Commission will also continue to accept public comment by letter and email, including on weekends. Staff will also explore alternative manners to solicit public comment and participation, such as accepting video-taped comments. This effort and intention will need to be balanced by the practical realities of Commission member schedules, meeting duration and costs and facility availability.

The Commission will conduct a review of equitable access to and utilization of its existing programs and funding sources to ensure that disadvantaged populations are included in its efforts. The agency will also acknowledge and include environmental justice and equity principles in its educational programs, job announcements and other communication materials whenever possible.

Accountability and Transparency

Creating a measure of accountability is critical to building and maintaining trust and respect with communities who have become skeptical of government's motives or relevance to their lives. When evaluating projects, programs and activities, Commission staff shall consider, when applicable, whether and how proposed development will positively or negatively affect marginalized communities, and will be fully transparent in that analysis in staff reports and presentations. The Commission will make use of CalEnviroScreen, U.S. EPA EJSCREEN, U.S. Census data and/or similar tools and data to identify disadvantaged communities. Where project impacts to disadvantaged or overburdened communities are identified, and where otherwise consistent under the Coastal Act, civil rights and environmental justice laws, the Commission staff shall propose permit conditions to avoid or mitigate those impacts to underserved communities to the maximum extent feasible while protecting coastal resources. Analysis of mitigation measures will include consideration of the technical knowledge and lived experiences of affected communities.

Any third party studies, reports or analyses will be evaluated to ensure they have been conducted by reputable, independent parties, using the best available science. When warranted by applicable Coastal Act or LCP policies, analysis will assess meaningful alternatives beyond mitigation measures to re-siting projects with negative environmental health impacts in disadvantaged communities, to minimize or avoid adverse impacts to those communities. If viable alternatives are available, consider those in permitting decisions.

The Commission will use the powers within its authority to examine the level of inclusive access to public recreation, affordable housing and clean water in any proposed coastal

development, as well as be a voice for maximizing these benefits for disadvantaged communities during review of projects.

Climate Change

Climate change and sea level rise hazards will have disproportionate impacts on communities with the least capacity to adapt and may exacerbate existing environmental injustices and cumulative impacts from other environmental hazards. For example, underserved communities that may rely on public access for indigenous gathering activities, subsistence fishing, recreational opportunities, jobs and other economic benefits of the coastal economy will face greater impacts.

Access to cooler coastal temperatures will increasingly become a public health imperative for inland residents as the climate warms. Some sea level rise, coastal erosion and climate adaptation measures, such as sea walls, may further reduce access to public trust resources and coastal recreation areas for all residents, particularly lower income residents living inland.

Lower-income residents and those who live in rental units are also more likely to be displaced by flooding or related impacts as compared to property owners because they lack the funds and/or abilities to rebuild, have less control over their safety, and often have limited access to insurance. The expense of sea level rise adaptation measures for coastal communities could also heighten displacement of disadvantaged populations by increasing living expenses for sewer and water services.

Low-income communities are more vulnerable to climate-driven water quality and supply issues that can result from seawater intrusion, contamination from extreme storm events, and drought. The Commission will take this reality into consideration when analyzing the effectiveness and the impacts of sea level rise adaptation and mitigation measures as well as implementation of these measures. The Commission will also continue to recommend considering environmental justice when analyzing sea level rise impacts in planning and permitting decisions as stated in its adopted Sea Level Rise Policy Guidance.

Within its existing authority, the Commission will avoid the siting of hazardous facilities in flood-prone areas or areas vulnerable to seawater intrusion, prioritize the cleanup or relocation of existing hazardous facilities, and work to advance buffering measures like wetlands restoration that prevent seawater intrusion into groundwater supplies.

Habitat and Public Health

Understanding that public health and the health of natural ecosystems are inextricably intertwined, ecological impacts are felt first by disadvantaged and at-risk communities, and that there is no environmental justice without a healthy environment, the Commission will continue to prioritize the protection of coastal resources. This includes sensitive habitats, watersheds, water quality, marine biodiversity, and biological productivity. Heavy industrialization and environmental contamination of some portions of California's coast has effectively eliminated much of the public coastal use in these industrialized and contaminated areas. The Commission will also work with the relevant public agencies to

consider project impacts to air quality and soil health in disadvantaged communities which reduce the positive health and recreational benefits associated with coastal access and coastal resources for pollution-burdened communities.

The Commission's environmental justice policy shall be implemented in a manner that is fully consistent with the standards in, and furthers the goals of, Chapter 3 of the Coastal Act (the agency's legal standard of review), and certified local coastal programs. The intent will be to ensure that low-income communities and communities of color, and other disadvantaged communities are not disproportionately affected by water contamination or overuse, or diminished environmental services such as those provided by healthy ecosystems, fully-functioning wetlands, and clean waters and lands in the coastal zone.





Implementation

In order to implement the environmental justice policy, including the statement of principles, the Coastal Commission commits to the following actions, which will be largely accomplished over the course of the next five years. The Commission commits to adding a permanent section on Environmental Justice and Equity to all future Strategic Plan updates for the agency. Thus, the actions outlined in this implementation section will be included in the 2019 update of the agency's Strategic Plan, which establishes the agency's top priorities for the near-term.

Putting environmental justice and equity goals into the agency's Strategic Plan will provide the public with ongoing accountability and transparency of the Commission's efforts to incorporate environmental justice into its program. Stakeholders will have the opportunity to participate in regular reviews and updates on Strategic Plan progress at both the state and federal level to ensure the policy remains relevant, accessible and an active component of the statewide coastal program.

The following actions are not meant to be an exhaustive list but are examples of how the Commission will advance its policy goals during the initial implementation. These themes will be further explored with ample opportunities for public review during multiple hearings on the Strategic Plan Update in 2019.

Engagement with Affected Communities

1. To better balance the historic inequities surrounding disadvantaged communities' access to the planning process, the Executive Director shall host a quarterly teleconference between the Executive director and environmental justice leaders and stakeholders.
2. Partner with environmental justice leaders and groups to educate their communities about coastal issues that intersect with environmental justice. Use listservs, social media, the Commission's website and other technology to communicate with environmental justice communities. Create and maintain an environmental justice listserv of groups and individuals who have expressed an interest in getting more involved. Continuously update and enhance contacts and relationships with local, regional and statewide environmental justice advocates.
3. Establish a protocol for disseminating and receiving informational material that can be easily understood by disadvantaged communities identifying projects with environmental justice concerns.
4. Expand the Commission's communication methods to include flyers, community meetings, town halls, webinars and surveys and partner with community groups to reach out early and often.
5. Develop educational materials explaining the Coastal Act and the Commission through an environmental justice lens that can be easily adapted by staff or Commissioners for community meetings and other public speaking events.
6. Conduct outreach and develop relationships with community-based organizations and seek their input on identifying marginalized and disadvantaged communities that live, work and recreate near a proposed project.
7. As spelled out in the Tribal Consultation Policy, the Commission will work collaboratively with California Native American Tribes to better understand the

significance of local and regional cultural concerns. The Commission will seek out and learn from indigenous peoples' unique historical, cultural and ecological knowledge of California's land and resources.

8. Tribal representatives will receive acknowledgement equal to that of elected officials during general public comment and public comment on specific hearing items.
9. Staff will regularly analyze barriers to implementation to environmental justice policies in conjunction with local partners and community based organizations for the purpose of compiling a report on how best to support implementation of this policy.

Environmental Justice Staff Training and Support

1. Develop a team of environmental justice and equity champions across the Coastal Commission in every major department including management. Integrate environmental justice and equity considerations throughout the agency.
2. Submit formal budget requests to add environmental justice staff positions that will focus on policy implementation, community outreach and issue identification. This will include at least one senior level staff position.
3. Designate staff in every district office of the Coastal Commission who can be the point of local contact for environmental justice groups and stakeholders. These staff members will provide more effective and personalized responses to issues and facilitate ongoing communication among staff and environmental justice communities.
4. Provide a base level of training on equity and environmental justice issues for the entire staff, which can include inviting environmental justice experts as speakers, language sensitivity training and other strategies. Video tape the training for future staff.
5. Work with experts to develop an internal, required training program for all staff and Commissioners to address unconscious bias and related issues.
6. Provide training and financial support for staff members who are willing to serve as interpreters at community meetings and local events. Include such work in the description of the employee's job duties.
7. Include environmental justice concepts and issues in the agency's relevant planning and guidance documents, including the Commission's Public Education curricula.

Coastal Development and Environmental Justice

1. Encourage and teach staff to incorporate environmental justice issue identification, research and analysis into their work. Develop internal criteria and guidance for early identification of project proposals that could raise environmental justice issues
2. Develop an internal checklist for staff to help analyze the existence of potential environmental justice impacts associated with a proposed project. Have staff identify environmental justice communities in the area and potential impacts of the project on those communities
3. Include an analysis of environmental justice issues in applicable staff reports, and, when appropriate, propose mitigation measures to avoid or fully mitigate identified impacts, in a manner that is fully consistent with Chapter 3 or local coastal program policies.
4. Strongly encourage local governments to amend their local coastal programs to address environmental justice issues. Develop a guidance memo for local governments to assist with the incorporation of environmental justice policies and develop a list of best practices to help reduce disparate impacts on vulnerable communities resulting from new development.
5. Seek additional local assistance grant funding from the Legislature to encourage local government partners to include environmental justice policies in local coastal programs.
6. Seek legislation to restore Coastal Act policies regarding affordable housing.
7. Staff will continue to work collaboratively with partner agencies, the public, and commissioners to ensure that coastal management decisions at all levels appropriately consider environmental justice concepts and values.
8. Explore ways to mitigate for historical forces that excluded low-income people from the coast, by undertaking new measures to encourage coastal access.

Public Participation

1. Make Commission meetings more geographically accessible, affordable and inviting to underserved communities by adopting an annual meeting calendar that includes at least three Commission meetings per year in more inland areas accessible by public transit. Explore ways to increase meeting accessibility through technology.
2. Whenever possible, agendaize hearings that are relevant to disadvantaged communities at times and locations that are convenient for working families.

Explore ways to expand public comment opportunities for these communities to encourage input.

3. Provide language-appropriate training materials describing available online resources, how Commission meetings work, how to fill out comment cards, how to report violations and file appeals, and how to apply for Whale Tail grants.
4. Encourage broader participation by creating materials and supporting community workshops to show residents how to participate at Commission meetings.
5. Host a public workshop with the Commission and Environmental Justice leaders to discuss coastal justice concepts, priorities and challenges within two years of adopting the policy.
6. To track and measure success, the Commission shall conduct a bi-annual public review on the effectiveness and progress of this policy, and amend the policy as appropriate.

Immediate Next Steps

1. Following the policy's adoption, Commission staff will begin the implementation phase of the Environmental Justice Policy. The implementation phase will include specific program objectives, implementing actions and goals, as identified above. These will be included as a new section in the Commission's Five-Year Strategic Plan Update, which will begin in 2019. Stakeholders and environmental justice groups will have multiple opportunities over the course of the year to provide additional input on these actions at public hearings, in letters and emails or through meetings with staff. All future updates to the Strategic Plan will include an update to the Environmental Justice section.
2. Commission staff will release a public engagement plan outlining the timeline, outreach tools and other details related to gathering feedback on the Strategic Plan Update and the implementation phase of the Policy
3. The Commission's Environmental Justice Team will continue to gather ideas and identify opportunities for the agency to implement environmental justice issues on an ongoing basis across the agency and throughout the districts.
4. The Commission's GARE (Government Alliance on Race and Equity) Team, in collaboration with the Environmental Justice Team and senior staff, will complete an Agency Racial Equity Action Plan in 2019 to inform and inspire greater inclusivity and diversity in all of the Commission's internal processes and functions.

Glossary of Terms

The following terms were collected from the Coastal Commission’s Sea Level Rise Guidance document, the [California Coastal Act](#) and other agency sources unless otherwise noted.

Adaptation

Climate change adaptation helps individuals, communities, organizations and natural systems deal with consequences of climate change that cannot be avoided. It involves taking practical actions to manage risks from climate impacts and protect communities.

Coastal Development Permit

Generally, anything broadly considered to be “development” (defined below) in the coastal zone according to the Coastal Act requires a coastal development permit (CDP) from the Commission or local government with a certified local coastal program. The width of the coastal zone varies, but it can extend up to five miles inland from the shore, including private and public property, and three miles out to sea.

Coastal Zone

The California Coastal Act regulates development within the coastal zone. This is an area along the California coast of variable width, in some cases extending up to five miles inland and including coastal mountains.

Development

The term “development” is defined very broadly in the Coastal Act. It covers many activities, including, but not limited to, the construction, demolition, or alteration of the size of homes or other structures; the grading of earth, extraction of materials, and removal of major vegetation; the disposal of liquid or solid waste; the subdivision of land or changing of lot lines; changes in the intensity of use of water; and actions that change access to the coast, such as the placement of fencing, gates, or no parking/trespassing signs.

Disadvantaged, Marginalized

SB 1000 (Leyva) (Ch. 587, Stats. 2016) added Government Code Section 65302(h)(4)(A), expanding the definition of “disadvantaged communities” for the purpose of general plans to mean “an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.”

This policy uses the terms “disadvantaged” and “marginalized” interchangeably; it intends to encompass not only the definitions contemplated by SB 1000, but also to include other low-income and minority populations that are disproportionately burdened by or less able to prevent, respond, and recover from adverse environmental impacts.

Environmental Justice

“Environmental justice” means 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.

The United States has a history of racial discrimination that has persisted in multiple forms. During the 20th century, the civil rights movement sought to secure legal rights that were held but not fully realized by African Americans and other marginalized populations. The concept of environmental justice emerged out of this movement to describe the application of civil rights and social justice to environmental contexts. For example, the cumulative effect of siting a disproportionate number of toxic waste and other hazardous facilities in disadvantaged, urban communities of color has led to disproportionate impacts from pollution and lack of environmental services, such as clean drinking water, clean air, and access to parks and open space

Equity

This policy uses the term “equity” as defined in the context of social and racial equity,¹² where “equity” refers to the fairness of achieving outcomes for all groups and no one factor, such as race, can be used to predict outcomes.

Erosion

“Erosion” is the wearing away of land by natural forces; on a beach, the carrying away of beach material by wave action, currents, or the wind. Development and other non-natural forces (e.g., water leaking from pipes or scour caused by wave action against a seawall) may create or worsen erosion problems.

Local Coastal Program

Local coastal programs (LCPs) are basic planning tools used by local governments to guide development in the coastal zone, in partnership with the Coastal Commission. LCPs contain the ground rules for future development and protection of coastal resources in the 76 coastal cities and counties.

The LCPs specify appropriate location, type, and scale of new or changed uses of land and water. Each LCP includes a land use plan and measures to implement the plan (such as zoning ordinances). Prepared by local governments, these programs govern decisions that determine the short- and long-term conservation and use of coastal resources. While each LCP reflects unique characteristics of individual local coastal communities, regional and statewide interests and concerns must also be addressed in conformity with Coastal Act goals and policies. Following adoption by a city council or county board of supervisors, an LCP is submitted to the Coastal Commission for review for consistency with Coastal Act requirements.

¹² The Local & Regional Government Alliance on Race and Equity. Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action (2015)

Mitigation

The term “mitigation” refers to projects, measures or programs intended to offset impacts to resources.

Traditional Ecological Knowledgeⁱ

The phrase “traditional ecological knowledge,” also called “indigenous knowledge” or “Native science,” refers to the evolving knowledge acquired by indigenous and local peoples over hundreds or thousands of years through direct contact with the environment. This knowledge is specific to a location and includes the relationships between plants, animals, natural phenomena, landscapes and timing of events that are used for lifeways, including but not limited to hunting, fishing, trapping, agriculture, and forestry. Traditional knowledge is an accumulating body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of living beings (human and non-human) with one another and with the environment. It encompasses the world view of indigenous people which includes ecology, spirituality, human and animal relationships, and more.

Vulnerable Communitiesⁱⁱ

Climate vulnerability describes the degree to which natural, built, and human systems are at risk of exposure to climate change impacts. Vulnerable communities experience heightened risk and increased sensitivityⁱⁱⁱ to climate change and have less capacity^{iv} and fewer resources to cope with, adapt to, or recover from climate impacts. These disproportionate effects are caused by physical (built and environmental), social, political, and/ or economic factor(s), which are exacerbated by climate impacts. These factors^v include, but are not limited to, race, class, sexual orientation and identification, national origin, and income inequality.

ⁱ U.S. Fish and Wildlife Service: Traditional Ecological Knowledge for Application by Service Scientists. (<https://www.fws.gov/nativeamerican/pdf/tek-fact-sheet.pdf>)

ⁱⁱ Office of Planning and Research, 2018: Defining Vulnerable Communities in the Context of Climate Adaptation.

ⁱⁱⁱ IPCC, 2014

^{iv} Ibid

^v Governor’s Office of Planning and Research, 2017.

EXHIBIT 1

FINAL PUBLIC REVIEW DRAFT

“TRACK CHANGES” VERSION

RELEASED FEBRUARY 2019

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

**Final Public Review Draft – February 2019****California Coastal Commission Environmental Justice Policy****Introduction**

The goal of the Commission’s Environmental Justice Policy (the “Policy”) is to provide guidance and clarity for Commissioners, staff, and the public on how the Commission will implement its recently enacted environmental justice authority¹ including how it will consider environmental justice in coastal development permits. The adoption and implementation of this Policy is intended to integrate the principles of environmental justice, equality, and social equity into ~~the foundation~~ all aspects of the Commission’s program and operations, and to ensure public confidence in the Commission’s mission, process, and commitment to coastal equity.

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.

Section 30006 of the Coastal Act also states 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.*”

Since 1977, the Commission has worked to uphold the Coastal Act, a statute grounded in the principles of public inclusion and equity. However, despite numerous victories, the statute’s vision of coastal protection and access for all people ~~has~~ is not ~~been~~ fully realized. Concern remains that historically, much of the Commission’s work has been largely shaped by coastal residential, commercial and industrial landowners, without adequate consideration of those whose lives and livelihoods are connected to our coast through their labor, recreation, and cultural practices but who cannot afford to live on the coast.²

¹ AB 2616 (Burke) (Ch. 578, Stats. 2016) amended the Coastal Act to give the Commission authority to specifically consider environmental justice when making permit decisions. This legislation also cross-references existing non-discrimination and civil rights law in the Government Code and requires the Governor to appoint an environmental justice Commissioner.

² Morales, M. Central Coast Alliance United for a Sustainable Economy (CAUSE). July 12, 2018 comment letter re: proposed environmental justice policy.

Generations of injustices towards California’s Native American communities, people of color, and other marginalized populations through forms of discriminatory land use policies, desecration of sacred lands and cultural resources, and concentration of environmental pollution has resulted in inequitable distribution of environmental benefits and burdens that still disproportionately burden these communities today. The concept of environmental justice emerged out of the civil rights movement to describe the application of civil rights and social justice to environmental contexts.³ The term “environmental justice” is currently understood to include both substantive and procedural rights⁴, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Taking an environmental justice approach to coastal policy requires a fundamental re-thinking of who is connected to the coast, and how. For instance, tribal and indigenous communities with cultural ties to the coast depend on access to ancestral lands and sacred sites to maintain traditional practices, yet their unique perspectives are frequently overlooked or undervalued. Environmental justice stakeholders across the country who have been working in this policy arena for decades have noted that wherever low income communities and communities of color ~~people of color~~⁵ are predominantly concentrated in coastal regions, they are frequently disconnected from the coast itself, by both social and physical barriers. Countless people commute to the coast for work every day, to labor in homes, businesses, ports and fields. Others come to the coast for free outdoor recreation and fresh air. For them, the coast is an accessible refuge from neighborhoods, many of which are lacking parks and greenspace. Statistics show a startling lack of diversity among those who live on the California coast, and yet millions of inland residents visit and work there every day, without the means to access affordable accommodations.

Historic inequalities, as well as California’s growing population, changing demographics, socio-economic forces, judicial decisions, and policy choices have and continue to shape development patterns and population shifts that widen the disparity gap. Not only is equitable access to the coast for all Californians essential, so is protecting coastal natural resources for future generations.⁶ To fulfill the agency’s mission of protecting and preserving coastal resources for all people, the Commission adopts the following Environmental Justice Policy to inform its decisions, policies, and programs to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone.

Draft Environmental Justice Policy

The California Coastal Commission’s commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to ~~protect~~ empower the public’s full participation in the land-use decision-making process that protects⁷ California’s coast and ocean commons for the benefit

³ Environmental Justice for All: A Fifty State Survey of Legislation, Policy and Cases, fourth edition (2010).

⁴ Ibid.

⁵ Language revised in response comments from Cal EPA, 01/18/19

⁶ Government Code 11135, the state analog to the federal Civil Rights Act of 1964.

⁷ Language revised in response to public comments from Cynthia Hawley, Home Front Morro Bay, 02/17/19

of all the people. In keeping with that visionary mandate, but recognizing that the agency has not always ~~extended~~ achieved this mission with respect to many marginalized communities throughout California’s history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone. The agency is committed to ~~and~~ ensuring that those opportunities not be denied on the basis of background, culture, race, color, religion, national origin, income⁸, ethnic group, age, disability status, sexual orientation, ~~and~~ or gender identity.

The Commission will use its legal authority to ~~advance~~ ensure equitable access to clean, healthy, and accessible coastal environments for communities ~~who~~ that have been disproportionately overburdened by pollution or with natural resources that have been subjected to permanent damage for the benefit of wealthier communities⁹. Coastal development should be inclusive for all who work, live, and recreate on California’s coast and provide equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that all aspects of our ~~conservation~~ mission are ~~is~~ best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, income levels¹⁰ disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission’s goal, consistent with Public Resources Code Section 30013¹¹ and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state’s diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.

This policy uses the terms “disadvantaged” and “marginalized” ~~and~~ “underserved”¹² interchangeably; it intends to encompass not only the definitions contemplated by SB 1000,¹³ but also to include other low-income communities and minority populations communities of color¹⁴ that are disproportionately burdened by or less able to prevent, respond, and recover from

⁸ Language revised in response to public comments from Betty Winholtz, 02/17/19

⁹ Language revised in response to public comments from Kathy Biala, Citizens for Just Water, 02/14/19

¹⁰ Language revised in response to public comments from Betty Winholtz, 02/17/19

¹¹ AB 2616 (Ch. 578, Stats.2016) added Coastal Act Section 30013 findings to advance the principles of environmental justice and civil rights as part of the Coastal Act.

¹² Language revised in response to comments from CalEPA, 01/18/19

¹³ SB 1000 (Leyva) (Ch. 587, Stats. 2016) added Government Code Section 65302(h)(4)(A), expanding the definition of “disadvantaged communities” for the purpose of General Plans to mean “an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.”

¹⁴ Language revised in response to comments from CalEPA, 01/18/19

adverse environmental impacts. The Commission recognizes that all of these communities have assets and are valuable stakeholders, and the purpose of this policy is to empower these communities that have been historically excluded from accessing the benefits of coastal development and resources due to discriminatory implementation of local, state, and federal policies and lack of access to the process and decision makers.¹⁵ This policy uses the term “equity” as defined in the context of social and racial equity,¹⁶ where “equity” refers to the fairness of achieving outcomes for all groups and no one factor, such as race, can be used to predict outcomes.

This policy is designed to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone. It incorporates and is further implemented by the following Statement of Principles.

Statement of Environmental Justice Principles

Respecting Tribal Concerns: The Commission respectfully acknowledges the painful history of genocide against Native American Tribes and honors the efforts of California’s coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. The Commission commits to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California’s coast. In addition to the requirements of the Commission’s formal [Tribal Notification and Consultation Policy](#), the Commission will work collaboratively with tribes to better understand the significance of local and regional cultural concerns. This includes the application of traditional ecological knowledge, as well as access to and protection of areas of cultural significance ethnobotanical resources, traditional fishing and gathering areas, and sacred sites.

Meaningful Engagement: The Commission acknowledges the critical need to communicate consistently, clearly, and appropriately with environmental justice groups and underserved communities. Because of their historic under-representation in coastal land use planning and permitting decisions, it is important to make additional efforts to inform these communities about projects with environmental justice findings implications for their neighborhoods and families. Commission staff will work to obtain and dedicate meaningful resources to reach out early and often to these communities, in language that is understandable and accessible to local communities that face limited English proficiency, lack access to formal education, and experience other obstacles to engagement. They will also augment outreach with non-traditional communication methods, for example, the use of social media, flyers, ~~and~~ community meetings, town halls, surveys, language translation services¹⁷ and focus groups targeted at populations who face barriers to participation. To ensure that specific outreach efforts are effective, staff will ask community groups and organizations for their suggestions and preferences for adjusting these techniques for any given matter.

¹⁵ Language revised in response to public comments from Olivia Van Damme, City Surf Project 2/19/19

¹⁶ The Local & Regional Government Alliance on Race and Equity. Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action. (2015)

¹⁷ Language revised in response to comments from CalEPA, 01/18/19

Coastal Access: Article X of the California Constitution guarantees the right of access to navigable waters for all people. The Commission also recognizes that equitable coastal access is encompassed in and protected by the public access policies in Chapter 3 of the Coastal Act.¹⁸ The Coastal Act's mandates to provide maximum access and recreational opportunities for all, and to protect, encourage, and provide lower-cost visitor and recreational opportunities embody fundamental principles of environmental justice. The Commission reaffirms its long-standing commitment to identifying and eliminating barriers, including those that unlawfully privatize public spaces,¹⁹ in order to provide for those who may be otherwise deterred from going to the beach or coastal zone. The coast belongs to everyone, and access cannot be denied or diminished on the basis of race, ethnicity, income²⁰ socio-economic status, ~~or~~ place of residence or other factors listed in the Policy Statement.

Understanding that even nominal costs can be barriers to access preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas. The conversion of lower-cost visitor-serving facilities to high-cost facilities is also a barrier to access for those with limited income, and contributes to increased coastal inequality. The Commission will strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer-term strategy to increase the number and variety of new lower-cost opportunities.

Where a local government fails to consider environmental justice when evaluating a proposed development that has the potential to adversely or disproportionately affect a historically disadvantaged group's ability to reach and enjoy the coast, that failure may be the basis for an appeal to the Coastal Commission. Similarly, where a local coastal program includes policies that implement environmental justice principles, a local government's failure to consider those principles may also be the basis of an appeal to the Coastal Commission.

Housing: The Commission acknowledges the historical use of discriminatory housing policies in California and their impact on present day demographics in the coastal zone.²¹ Home deeds often included restrictive covenants, preventing homeowners from selling or renting to certain classes of buyers, most often members of specified racial or other minority groups²². For example, a 1920's-era subdivision in Palos Verdes Estates in Los Angeles County included thirty pages of restrictions, protecting against "encroachment by any possible developments of an adverse sort," and prohibiting rent or sale to African- or Asian-American families²³. By the late 1970s neighborhoods that had benefited from decades of discrimination against racial minorities

¹⁸ Language revised in response to public comments from Marce Gutierrez-Graudins, Azul, 02/17/19

¹⁹ Language revised in response to public comments from Rene Aiu, Harbors and Beach Community Alliance, 02/15/19

²⁰ Language revised in response to public comments from Betty Winholtz and Cynthia Hawley, Home Front Morro Bay, 02/17/19

²¹ Language revised in response to public comments from Saied Kashani, 02/13/19

²² Bono, Marisa. "Don't You Be My Neighbor: Restrictive Housing Ordinances as the New Jim Crow." *The Modern American* 3.2 (Summer-Fall, 2007): 29-38.

²³ Fogelson, *Bourgeois Nightmares*, pp.5-19

translated that benefit into higher property values, despite the end of widespread public and official housing discrimination²⁴.

The Commission recognizes that the elimination of affordable residential neighborhoods has pushed low-income Californians and communities of color further from the coast, limiting access for communities already facing environmental health disparities with respect to coastal access and may contribute to an increase in individuals experiencing homelessness.

Although the Legislature removed the Coastal Act mandate to protect and provide for affordable housing in 1981, the Commission ~~still has~~ retained the authority to encourage affordable housing. The Commission will increase these efforts with project applicants, appellants and local governments, by analyzing the cumulative impacts of incremental housing stock loss, and by working with local government to adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types. The Commission will continue to seek legislative action to regain its previous authority with respect to affordable housing.

The Commission recognizes the myriad laws and regulations that regulate housing, including those that dictate the kinds and amounts of housing that local governments must provide in their communities. Implementation of these housing laws must be undertaken in a manner fully consistent with the Coastal Act. The Commission will work with local governments to adopt local coastal program policies that allow for a broad range of housing types including affordable housing, ADUs, transitional/supportive housing, homeless shelters, residential density bonuses, farmworker housing, and workforce/employee housing, in a manner that protects coastal resources consistent with Chapter 3 of the Coastal Act.

The Commission will also support measures that protect existing affordable housing. If the Commission staff determines that existing, affordable housing would be eliminated as part of a proposed project in violation of another state or federal law, the Commission staff will use its discretion to contact the appropriate agency to attempt to resolve the issue.

~~The agency will also support measures that increase affordable housing options, but also protect coastal resources. If it is reasonably alleged that a proposed project, or permit on appeal, is or would be in violation of another state or federal law, the Commission will utilize its discretion to contact the appropriate agency to resolve the issue.~~

Local Government: Local governments implement Coastal Act policies at the local level through planning documents certified by the Commission. The Commission will strongly encourage local governments to amend their local coastal programs, port master plans, public works plans and long range development plans to address environmental justice issues. Staff will develop a list of best practices to help local government develop policies that reduce impacts on ~~vulnerable~~ disadvantaged communities resulting from new development.

²⁴ George Sanchez, The History of Segregation in Los Angeles: A report on Racial Discrimination and Its Legacy, University of Southern California

The Commission also recognizes the harm in allowing communities to that engage in punitive exclusionary and discriminatory practices such as hiring security guards who have been known to enlist law enforcement to exclude communities of color from certain coastal recreation areas. The Commission will consider the historic role of such ~~enforcement~~ exclusionary measures when reviewing proposed local coastal policies that may have discriminatory intent or impact.

The Commission understands that regional transportation policies can discourage inland communities from visiting the coast, burdening both workers and families. The Commission will work with local governments and regional transit agencies on local coastal program policies to decrease vehicle miles travelled and increase public transportation from inland areas to the coast.

Participation in the Process: Achieving the Coastal Act’s mandate for coastal protection depends on full public participation that reflects California’s diversity. The Commission is committed to identifying and eliminating barriers to its public process in order to provide a more welcoming, understandable and respectful atmosphere for those who may be otherwise intimidated or deterred from taking part in government proceedings. This includes making an effort to schedule items with significant environmental justice implications in close proximity to affected underserved communities, at locations and times accessible to those who work during the day or lack access to private vehicles, when legal deadlines allow, and providing language translation services as needed and time extensions for translators. The Commission will not engage the services of private security or law enforcement unless a credible threat to public safety has been clearly demonstrated.

The Commission will make an effort to schedule time for public comment at the beginning and end of meetings to maximize opportunity for interested parties to provide public comment and to minimize the burden of interested parties from having to take time off of work to participate at Commission meetings. The Commission will also continue to accept public comment by letter and email, including on weekends. Staff will also explore alternative manners to solicit public comment and participation, such as accepting video-taped comments. This effort and intention will need to be balanced by the practical realities of Commission member schedules, meeting duration and costs and facility availability.

The Commission will conduct a review of equitable access to and utilization of its existing programs and funding sources to ensure that disadvantaged populations are included in its efforts. The agency will also acknowledge and include environmental justice and equity principles in its educational programs, job announcements and other communication materials whenever possible.

Accountability and Transparency: Creating a measure of accountability is critical to building and maintaining trust and respect with communities who have become skeptical of government’s motives or relevance to their lives. When evaluating projects, programs and activities, Commission staff shall ~~will~~²⁵ consider, when applicable, whether and how proposed development will positively or negatively affect ~~underserved~~ marginalized communities, and will be fully transparent in that analysis in staff reports and presentations. The Commission will make use of CalEnviroScreen, U.S. EPA EJSCREEN, U.S. Census data and/or similar tools and data to

²⁵Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 02/12/19

identify disadvantaged communities. Where project impacts to disadvantaged or overburdened communities are identified, and where otherwise consistent with under the Coastal Act, civil rights and environmental justice laws, the Commission staff shall ²⁶ ~~will~~ propose permit conditions to avoid or mitigate those impacts to underserved communities to the maximum extent feasible while protecting coastal resources.²⁷ Analysis of mitigation measures will include consideration of the technical knowledge and lived experiences of affected communities.

Any third party studies, reports or analyses will be evaluated to ensure they have been conducted by reputable, independent parties, using the best available science. When warranted by applicable Coastal Act or LCP policies, Aanalysis will assess meaningful alternatives beyond mitigation measures to re-siting projects with negative environmental health impacts in disadvantaged communities, to minimize or avoid adverse impacts to those communities. If viable alternatives are available, consider those in permitting decisions.

The Commission will use the powers within its authority to examine the level of inclusive access to public recreation, ~~and~~ affordable housing and clean water ²⁸ in any ~~new~~ proposed coastal development, as well as be a voice for maximizing these benefits for disadvantaged communities during review of projects.

Climate Change: Climate change and sea level rise hazards will have disproportionate impacts on communities with the least capacity to adapt and may exacerbate existing environmental injustices and cumulative impacts from other environmental hazards. For example, underserved communities that may rely on public access for indigenous gathering activities, subsistence fishing, recreational opportunities, jobs and other economic benefits of the coastal economy will face greater impacts.

Access to cooler coastal temperatures will increasingly become a public health imperative for inland residents as the climate warms. Some sea level rise, coastal erosion and climate adaptation measures, such as sea walls, may further reduce access to public trust resources and coastal recreation areas for all residents, particularly lower income residents living inland.

Lower-income residents and those who live in rental units are also more likely to be displaced by flooding or related impacts as compared to property owners because they lack the funds and/or abilities to rebuild, have less control over their safety, and often have limited access to insurance. The expense of sea level rise adaptation measures for coastal communities could also heighten displacement of disadvantaged populations by increasing living expenses for sewer and water services.

Low-income communities are more vulnerable to climate-driven water quality and supply issues that can result from seawater intrusion, contamination from extreme storm events, and drought. The Commission will take this reality into consideration when analyzing the effectiveness and the impacts of sea level rise adaptation and mitigation measures as well as implementation of these measures. The Commission will also continue to recommend considering environmental

²⁶ Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 02/12/19

²⁷ Language revised in response to public comments from Marce Gutierrez-Graudins, Azul, 02/17/19

²⁸ Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 02/12/19

justice when analyzing sea level rise impacts in planning and permitting decisions as stated in its adopted Sea Level Rise Policy Guidance.

Within its existing authority, the Commission will avoid the siting of and avoidance of existing hazardous facilities in flood-prone areas or areas vulnerable to seawater intrusion, prioritize the cleanup or relocation of existing hazardous facilities, and ~~will~~ work to advance buffering measures like wetlands restoration that prevent seawater intrusion into groundwater supplies²⁹.

Habitat and Public Health: Understanding that public health and the health of natural ecosystems are inextricably intertwined, ecological impacts are felt first by ~~vulnerable~~ disadvantaged and at-risk communities, and that there is no environmental justice without a healthy environment, the Commission will continue to prioritize the protection of coastal resources. This includes ~~including~~ sensitive habitats, watersheds, water quality, marine biodiversity, and biological productivity. Heavy industrialization and environmental contamination of some portions of California’s coast has effectively eliminated much of the public coastal use in these industrialized and contaminated areas. The Commission will also work with the relevant public agencies to consider project impacts to air quality and soil health in disadvantaged communities which reduce the positive health and recreational benefits associated with coastal access and coastal resources for pollution-burdened communities.

The Commission’s environmental justice policy ~~will~~ shall³⁰ be implemented in a manner that is fully consistent with the standards in, and furthers the goals of, Chapter 3 of the Coastal Act (the agency’s legal standard of review), and certified local coastal programs., ~~including but not limited to ensuring~~ The intent will be to ensure that low-income communities and communities of color, and other disadvantaged communities are not disproportionately affected by water contamination or overuse, or diminished environmental services such as those provided by healthy ecosystems, fully-functioning wetlands, and clean waters and lands in the coastal zone.

Implementation

In order to implement the environmental justice policy, including the statement of principles, the Coastal Commission commits to the following actions, which will be largely accomplished over the course of the next five years. The Commission commits to adding a permanent section on Environmental Justice and Equity to all future Strategic Plan updates for the agency. Thus, the actions outlined in this implementation section ~~These Actions~~ will be included in the 2019 update of the agency’s Strategic Plan, which establishes the agency’s top priorities for the near-term.

Putting environmental justice and equity goals into the agency’s Strategic Plan will provide the public with ongoing accountability and transparency of the Commission’s efforts to incorporate environmental justice into its program. Stakeholders will have the opportunity to participate in regular reviews and updates on Strategic Plan progress at both the state and federal level to

²⁹ Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 02/12/19

³⁰ Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 02/12/19

ensure the policy remains relevant, accessible and an active component of the statewide coastal program.

The following actions are not meant to be an exhaustive list but are examples of how the Commission will advance its policy goals during the initial implementation. These themes will be further explored with ample opportunities for public review during multiple hearings on the Strategic Plan Update in 2019.

Engagement with Affected Communities

1. To better balance the historic inequities surrounding disadvantaged communities' access to the planning process, the Executive Director ~~will~~ shall³¹ host a quarterly teleconference between the Executive director and environmental justice leaders and stakeholders.
2. Partner with environmental justice leaders and groups to educate their communities about coastal issues that intersect with environmental justice. Use listservs, social media, the Commission's website and other technology to communicate with environmental justice communities. Create and maintain an environmental justice listserv of groups and individuals who have expressed an interest in getting more involved. Continuously update and enhance contacts and relationships with local, regional and statewide environmental justice advocates.
3. Establish a protocol for disseminating and receiving³² informational material that can be easily understood by disadvantaged communities identifying projects with environmental justice concerns findings.
4. Expand the Commission's communication methods to include flyers, community meetings, town halls, webinars and surveys and partner with community groups to reach out early and often.
5. Develop educational materials explaining the Coastal Act and the Commission through an environmental justice lens that can be easily adapted by staff or Commissioners for community meetings and other public speaking events.
6. Conduct outreach and develop relationships with community-based organizations and seek their input on identifying marginalized and disadvantaged communities that live, work and recreate near a proposed project.

³¹ Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 02/12/19

³² Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 02/12/19

7. As spelled out in the Tribal Consultation Policy, the Commission will work collaboratively with California Native American Tribes to better understand the significance of local and regional cultural concerns. The Commission will seek out and learn from indigenous peoples' unique historical, cultural and ecological knowledge of California's land and resources.
8. Tribal representatives will receive acknowledgement equal to that of elected officials during general public comment and public comment on specific hearing items.³³
9. Staff will regularly analyze barriers to implementation to environmental justice policies in conjunction with local partners and community based organizations for the purpose of compiling a report on how best to support implementation of this policy.

Environmental Justice Staff Training and Support

1. Develop a team of environmental justice and equity champions across the Coastal Commission in every major department including management. Integrate environmental justice and equity considerations throughout the agency.
2. Submit formal budget requests to add ~~an~~ environmental justice staff positions that will focus on policy implementation, community outreach and issue identification. This will include at least one senior level staff position.
3. Designate staff in every district office of the Coastal Commission who can be the point of local contact for environmental justice groups and stakeholders. These staff members will provide more effective and personalized responses to issues and facilitate ongoing communication among staff and environmental justice communities.
4. Provide a base level of training on equity and environmental justice issues for the entire staff, which can include inviting environmental justice experts as speakers, language sensitivity training and other strategies.³⁴ Video tape the training for future staff.
5. Work with experts to develop an internal, required training program for all staff and Commissioners to address unconscious bias and related issues.

³³ Language revised in response to public comments from Fred Collins, Northern Chumash, 01/22/19

³⁴ Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 02/12/19 and Olivia Van Damme, City Surf Project, 02/19/19

6. Provide training and financial support for staff members who are willing to serve as interpreters at community meetings and local events. Include such work in the description of the employee's job duties ~~and duty statements.~~
7. Include environmental justice concepts and issues in the agency's relevant planning and guidance documents, including the Commission's Public Education curricula.

Coastal Development and Environmental Justice

1. Encourage and teach staff to incorporate environmental justice issue identification, research and analysis into their work. Develop internal criteria and guidance³⁵ for early identification of project proposals that could raise environmental justice issues
2. Develop an internal checklist for staff to help analyze the ~~level~~ existence of potential environmental justice impacts associated with a proposed project. Have staff identify environmental justice communities in the area and potential impacts of the project on those communities
3. Include an analysis of environmental justice issues in applicable staff reports, and, when appropriate, propose mitigation measures to avoid or fully mitigate identified impacts, in a manner that is fully consistent with Chapter 3 or ~~LCP~~ local coastal program policies.
4. Strongly encourage local governments to amend their local coastal programs to address environmental justice issues. Develop a guidance memo for local governments to assist with the incorporation of environmental justice policies and develop a list of best practices to help reduce disparate impacts on vulnerable communities resulting from new development.
5. Seek additional local assistance grant funding from the Legislature to encourage local government partners to include environmental justice policies in local coastal programs.
6. Seek legislation to restore Coastal Act policies regarding ~~protecting~~ affordable housing.
7. Staff will continue to work collaboratively with partner agencies, the public, and commissioners to ensure that coastal management decisions at all levels appropriately consider environmental justice concepts and values.

³⁵ Language revised in response to comments from CalEPA, 01/18/19

8. Explore ways to mitigate for historical forces that excluded low-income people from the coast, by undertaking new measures to encourage coastal access.

Public Participation

1. Make Commission meetings more geographically accessible, affordable and inviting to underserved communities by adopting an annual meeting calendar that includes at least three Commission meetings per year in more inland areas accessible by public transit. Explore ways to increase meeting accessibility through technology.³⁶
2. Whenever possible, agendize hearings that are relevant to disadvantaged communities at times and locations that are convenient for working families. Explore ways to expand public comment opportunities for these communities to encourage input.
3. Provide language-appropriate training materials describing available online resources, how Commission meetings work, how to fill out comment cards, how to report violations and file appeals, and how to apply for Whale Tail grants.
4. Encourage broader participation by creating materials and supporting community workshops to show residents how to participate at Commission meetings.
5. Host a public workshop with the Commission and Environmental Justice leaders to discuss coastal justice concepts, priorities and challenges within two years of adopting the policy.
6. To track and measure success, the Commission shall conduct a bi-annual public review on the effectiveness and progress of this policy, and amend the policy as appropriate.

Immediate Next Steps

- ~~1. Commission staff will continue to evaluate public and Commissioner feedback on this Revised Public Review Draft policy, conduct additional outreach to stakeholder groups and affected communities, and revise the above statement accordingly for final consideration and adoption at the March, 2019 Coastal Commission meeting in Los Angeles.~~
2. Following the policy's adoption, Commission staff will begin the implementation phase of the Environmental Justice Policy. The implementation phase will include specific program objectives, implementing actions and goals, as identified above. These will be included as a new section in the Commission's Five-Year Strategic Plan Update, which

³⁶Language revised in response to public comments from Saied Kashani, 02/13/19

will begin in 2019. Stakeholders and environmental justice groups will have multiple opportunities over the course of the year to provide additional input on these actions at public hearings, in letters and emails or through meetings with staff. All future updates to the Strategic Plan will include an update to the Environmental Justice section.

3. Commission staff will release a public engagement plan outlining the timeline, outreach tools and other details related to gathering feedback on the Strategic Plan Update and the implementation phase of the Policy
4. The Commission's Environmental Justice Team will continue to gather ideas and identify opportunities for the agency to implement environmental justice issues on an ongoing basis across the agency and throughout the districts.
5. The Commission's GARE (Government Alliance on Race and Equity) Team, in collaboration with the Environmental Justice Team and senior staff, will complete an Agency Racial Equity Action Plan in 2019 to inform and inspire greater inclusivity and diversity in all of the Commission's internal processes and functions.

###

Glossary of Terms

The following terms were collected from the Coastal Commission’s Sea Level Rise Guidance document, the California Coastal Act and other agency sources unless otherwise noted.

Adaptation

Climate change adaptation helps individuals, communities, organizations and natural systems deal with consequences of climate change that cannot be avoided. It involves taking practical actions to manage risks from climate impacts and protect communities.

Coastal Development Permit

Generally, anything broadly considered to be “development” (defined below) in the coastal zone according to the Coastal Act requires a coastal development permit (CDP) from the Commission or local government with a certified local coastal program. The width of the coastal zone varies, but it can extend up to five miles inland from the shore, including private and public property, and three miles out to sea.

Coastal Zone

The California Coastal Act regulates development within the coastal zone. This is an area along the California coast of variable width, in some cases extending up to five miles inland and including coastal mountains.

Development

The term "development" is defined very broadly in the Coastal Act. It covers many activities, including, but not limited to, the construction, demolition, or alteration of the size of homes or other structures; the grading of earth, extraction of materials, and removal of major vegetation; the disposal of liquid or solid waste; the subdivision of land or changing of lot lines; changes in the intensity of use of water; and actions that change access to the coast, such as the placement of fencing, gates, or no parking/trespassing signs.

Disadvantaged, Marginalized

SB 1000 (Leyva) (Ch. 587, Stats. 2016) added Government Code Section 65302(h)(4)(A), expanding the definition of “disadvantaged communities” for the purpose of general plans to mean “an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.”

This policy uses the terms “disadvantaged” and “marginalized” interchangeably; it intends to encompass not only the definitions contemplated by SB 1000, but also to include other low-income and minority populations that are disproportionately burdened by or less able to prevent, respond, and recover from adverse environmental impacts.

Environmental Justice

“Environmental justice” means 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.

The United States has a history of racial discrimination that has persisted in multiple forms. During the 20th century, the civil rights movement sought to secure legal rights that were held but not fully realized by African Americans and other marginalized populations. The concept of environmental justice emerged out of this movement to describe the application of civil rights and social justice to environmental contexts. For example, the cumulative effect of siting a disproportionate number of toxic waste and other hazardous facilities in disadvantaged, urban communities of color has led to disproportionate impacts from pollution and lack of environmental services, such as clean drinking water, clean air, and access to parks and open space

Equity

This policy uses the term “equity” as defined in the context of social and racial equity,³⁷ where “equity” refers to the fairness of achieving outcomes for all groups and no one factor, such as race, can be used to predict outcomes.

Erosion

“Erosion” is the wearing away of land by natural forces; on a beach, the carrying away of beach material by wave action, currents, or the wind. Development and other non-natural forces (e.g., water leaking from pipes or scour caused by wave action against a seawall) may create or worsen erosion problems.

Local Coastal Program

Local coastal programs (LCPs) are basic planning tools used by local governments to guide development in the coastal zone, in partnership with the Coastal Commission. LCPs contain the ground rules for future development and protection of coastal resources in the 76 coastal cities and counties.

The LCPs specify appropriate location, type, and scale of new or changed uses of land and water. Each LCP includes a land use plan and measures to implement the plan (such as zoning ordinances). Prepared by local governments, these programs govern decisions that determine the short- and long-term conservation and use of coastal resources. While each LCP reflects unique characteristics of individual local coastal communities, regional and statewide interests and concerns must also be addressed in conformity with Coastal Act goals and policies. Following adoption by a city council or county board of supervisors, an LCP is submitted to the Coastal Commission for review for consistency with Coastal Act requirements.

Mitigation

The term “mitigation” refers to projects, measures or programs intended to offset impacts to resources.

³⁷ The Local & Regional Government Alliance on Race and Equity. Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action (2015)

Traditional Ecological Knowledgeⁱ

The phrase “traditional ecological knowledge,” also called “indigenous knowledge” or “Native science,” refers to the evolving knowledge acquired by indigenous and local peoples over hundreds or thousands of years through direct contact with the environment. This knowledge is specific to a location and includes the relationships between plants, animals, natural phenomena, landscapes and timing of events that are used for lifeways, including but not limited to hunting, fishing, trapping, agriculture, and forestry. Traditional knowledge is an accumulating body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of living beings (human and non-human) with one another and with the environment. It encompasses the world view of indigenous people which includes ecology, spirituality, human and animal relationships, and more.

Vulnerable Communitiesⁱⁱ

Climate vulnerability describes the degree to which natural, built, and human systems are at risk of exposure to climate change impacts. Vulnerable communities experience heightened risk and increased sensitivityⁱⁱⁱ to climate change and have less capacity^{iv} and fewer resources to cope with, adapt to, or recover from climate impacts. These disproportionate effects are caused by physical (built and environmental), social, political, and/ or economic factor(s), which are exacerbated by climate impacts. These factors^v include, but are not limited to, race, class, sexual orientation and identification, national origin, and income inequality.

ⁱ U.S. Fish and Wildlife Service: Traditional Ecological Knowledge for Application by Service Scientists. (<https://www.fws.gov/nativeamerican/pdf/tek-fact-sheet.pdf>)

ⁱⁱ Office of Planning and Research, 2018: Defining Vulnerable Communities in the Context of Climate Adaptation.

ⁱⁱⁱ IPCC, 2014

^{iv} Ibid

^v Governor’s Office of Planning and Research, 2017.

EXHIBIT 2

REVISED PUBLIC REVIEW DRAFT

“TRACK CHANGES” VERSION

RELEASED JANUARY 2019

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

**Revised Public Review Draft – January 2019****California Coastal Commission Environmental Justice Policy****Introduction**

The goal of the Commission’s Environmental Justice Policy is to provide guidance and clarity for Commissioners, staff, and the public on how the Commission will effectively implement its environmental justice authority¹. The adoption and implementation of this policy is intended to integrate the principles of environmental justice, equality, and social equity into the foundation of the Commission’s program and operations, and to ensure public confidence in the Commission’s mission, process, and commitment to coastal equity².

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.

Section 30006 of the Coastal Act also states 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.”

Since 1977, the Commission has worked to uphold the Coastal Act, a statute grounded in the principles of public inclusion and equity. However, despite numerous victories, the statute’s vision of coastal protection and access for all people has not been fully realized. Concern remains that historically, much of the Commission’s work has been largely shaped by coastal residential, commercial and industrial landowners, without adequate consideration of those whose lives and livelihoods are connected to our coasts through their labor, recreation, and cultural practices but cannot afford to live on the coast.³

¹ AB 2616 (Burke) (Ch. 578, Stats. 2016) amended the Coastal Act to give the Commission authority to specifically consider environmental justice when making permit decisions. This legislation also cross-references existing non-discrimination and civil rights law in the government code and requires the governor to appoint an environmental justice Commissioner.

² Language revised in response to public comments from Arlene Versaw, 10/30/18

³ Morales, M. Central Coast Alliance United for a Sustainable Economy (CAUSE). July 12, 2018 comment letter re: proposed environmental justice policy.

Generations of injustices towards California’s Native American communities, people of color, and other marginalized populations through forms of discriminatory land use policies, desecration of sacred lands and cultural resources, and concentration of environmental pollution has resulted in inequitable distribution of environmental benefits and burdens that still disproportionately burden these communities today. The concept of environmental justice emerged out of the civil rights movement to describe the application of civil rights and social justice to environmental contexts.⁴ The term “environmental justice” is currently understood to include both substantive and procedural rights⁵, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Taking an environmental justice approach to coastal policy requires a fundamental re-thinking of who is connected to the coast, and how. For instance, tribal and indigenous communities with cultural ties to the coast depend on access to ancestral lands and sacred sites to maintain traditional practices, yet their unique perspectives are frequently overlooked or undervalued. Environmental justice stakeholders across the country who have been working in this policy arena for decades have noted that wherever people of color are predominantly concentrated in coastal regions, they are frequently disconnected from the coast itself, by both social and physical barriers. Countless people commute to the coast for work every day, to labor in homes, businesses, ports and fields. Others come to the coast for free outdoor recreation and fresh air. For them, the coast is an accessible refuge from neighborhoods lacking parks and greenspace. Statistics show a startling lack of diversity among those who live on the California coast, and yet millions of inland residents visit and work there every day, without the means to access affordable accommodations.

Historic inequalities, as well as California’s growing population, changing demographics, socio-economic forces, judicial decisions, and policy choices have and continue to shape development patterns and population shifts that widen the disparity gap. Not only is equitable access to the coast for all Californians essential, so is protecting coastal natural resources for future generations.⁶ To fulfill the agency’s mission of protecting and preserving coastal resources the Commission adopts the following Environmental Justice Policy to inform its decisions, policies, and programs to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone.

Draft Environmental Justice Policy

The California Coastal Commission’s commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act⁷ ~~an~~ inherently equitable law, a law designed to protect California’s coast and ocean commons for the benefit of all the people. In keeping with that ~~aspirational vision~~ visionary mandate, but recognizing the agency has not always extended this

⁴ Environmental Justice for All: A Fifty State Survey of Legislation, Policy and Cases, fourth edition (2010).

⁵ Ibid.

⁶ Government Code 11135 is the state analog to the federal Civil Rights Act of 1964.

⁷ Language revised in response to public comments from Cynthia Hawley, Home Front Morro Bay, 11/7/18

mission to many marginalized communities throughout California’s history⁸, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities not be denied on the basis of background, culture, race, color, religions, national origin, ethnic group, age, disability status, sexual orientation, and gender identity.

The Commission will use its legal authority to advance clean, healthy, and accessible coastal environments for communities who have been disproportionately overburdened by pollution. Coastal development should be inclusive for all who work, live, and recreate on California’s coast and provides equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that ~~all aspects of our conservation mission~~ are is best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities.⁹ It is also the California Coastal Commission’s goal, consistent with Public Resources Code Section 30013¹⁰ and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state’s diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.¹¹

This policy uses the terms “disadvantaged,” “marginalized,” and “underserved” interchangeably; it intends to encompass not only the definitions contemplated by SB 1000,¹² but also to include other low-income and minority populations that are disproportionately burdened by or less able

⁸ Language revised in response to public comments from Cynthia Hawley, Home Front Morro Bay, 11/7/18 and Robert García (The City Project), Yvonne Gonzalez Duncan (California League of United Latin American Citizens), Mark Magaña (GreenLatinos), and Robert Bracamontes (Bob Black Crow, Yu-va’-tal ‘A’lla-mal, Acjachemen Nation, Juaneno Tribe), 11/7/18.

⁹ Language revised in response to public comments from Robert García (The City Project), Yvonne Gonzalez Duncan (California League of United Latin American Citizens), Mark Magaña (GreenLatinos), and Robert Bracamontes (Bob Black Crow, Yu-va’-tal ‘A’lla-mal, Acjachemen Nation, Juaneno Tribe), 11/7/18

¹⁰ AB 2616 (Ch. 578, Stats.2016) added Coastal Act Section 30013 findings to advance the principles of environmental justice and civil rights.

¹¹ Language revised in response to public comments from Robert García (The City Project), Yvonne Gonzalez Duncan (California League of United Latin American Citizens), Mark Magaña (GreenLatinos), and Robert Bracamontes (Bob Black Crow, Yu-va’-tal ‘A’lla-mal, Acjachemen Nation, Juaneno Tribe), 11/7/18

¹² SB 1000 (Leyva) (Ch. 587, Stats. 2016) added Government Code Section 65302(h)(4)(A), expanding the definition of “disadvantaged communities” for the purpose of General Plans to mean “an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.”

to prevent, respond, and recover from adverse environmental impacts. This policy uses the term “equity” as defined in the context of social and racial equity¹³, where “equity” refers to the fairness of achieving outcomes for all groups and no one factor, such as race, can be used to predict outcomes.

This policy is designed to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone. It incorporates and is further implemented by the following Statement of Principles.

Statement of Environmental Justice Principles

Respecting Tribal Concerns: The Commission respectfully acknowledges the painful history of genocide against Native American Tribes ~~Native American genocide among our nation’s first people~~ and honors the efforts of California’s coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. The Commission commits ~~We commit~~ to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California’s coast. In addition to the requirements¹⁴ of the Commission’s formal tribal notification and consultation policy, the Commission will work collaboratively with tribes to better understand the significance of local and regional cultural concerns. This includes including but not limited to the application of traditional ecological knowledge, as well as access to and protection of areas of cultural significance, access to and protection of ethnobotanical resources, access to and protection of traditional fishing and gathering areas, and access to and protection of sacred sites¹⁵.

Meaningful Engagement¹⁶: The Commission acknowledges the critical need to communicate consistently, clearly, and appropriately with environmental justice groups and underserved communities. Because of their historic under-representation in coastal land use planning and permitting decisions, it is important to make additional, ~~creative~~ efforts to inform these communities about ~~issues and~~ projects with environmental justice findings implications for their neighborhoods and families. ~~To reach the goal of full engagement, Commission staff should make every effort~~ will work to obtain and dedicate meaningful resources¹⁷ to reach out early and often to these communities, in language that is understandable and accessible to local communities that face limited English proficiency, lack access to formal education, and

¹³ The Local & Regional Government Alliance on Race and Equity. Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action. (2015)

¹⁴ Language revised in response to public comments from Andrew Salas, Gabrieleño Band of Mission Indians – Kizh Nation, 9/24/18 and Dina Gilio-Whitaker, Environmental Justice Policy and Education Consulting, Cal State San Marcos, 11/7/18.

¹⁵ Language revised in response to public comments from Lorelle Ross, Federated Indians of Graton Rancheria, 11/7/18.

¹⁶ Language revised in response to public comments from Rachel Toti, 10/29/18.

¹⁷ Language added in response to public comments from Lucas Zucker and Marciela Morales, Central Coast Alliance United for a Sustainable Economy, 11/6/18.

experience other obstacles to engagement¹⁸, as staffing and resources allow. They should will also ~~augment~~ communication methods outreach with non-traditional communication methods, for example, the use of social media, flyers, and community meetings, town halls, surveys, and focus groups targeted at populations who face barriers to participation. To ensure that outreach efforts are effective, staff will ask community groups and organizations for their suggestions and preferences for adjusting these techniques.

Coastal Access¹⁹: Article X of the California Constitution guarantees the right of access to navigable waters for all people.²⁰ The Commission reaffirms its long-standing commitment to protecting, providing, and maximizing public access for all the people. The Coastal Act's mandates to provide maximum access and recreational opportunities for all, and to protect, encourage, and provide lower cost visitor and recreational opportunities embody fundamental principles of environmental justice. The Commission reaffirms its long-standing commitment to identifying and eliminating barriers in order to provide for those who may be otherwise deterred from going to the beach or coastal zone²¹. The coast belongs to everyone, and access cannot be denied or diminished on the basis of race, ethnicity, socio-economic status, or place of residence or other factors listed in the Policy Statement.

Understanding that even nominal costs can be become insurmountable barriers to access for vulnerable populations and underserved communities, the Commission confirms that preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas. The conversion of lower-cost visitor-serving facilities to high-cost facilities is also a barrier to access for those with limited income, and contributes to increased coastal inequality²². The Commission will strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer-term strategy to increase the number and variety of new lower-cost opportunities.

The Commission realizes that the conversion of lower-cost visitor-serving facilities to high-cost facilities is a barrier to access for those with limited income, and contributes to increased coastal inequality. Where a local government fails to consider environmental justice when evaluating a proposed development that has the potential to adversely or disproportionately affect a historically disadvantaged group's ability to reach and enjoy the coast, that failure may be the basis for an appeal to the Coastal Commission. Similarly, where a local coastal program

¹⁸ Language added in response to public comments from Lucia Casalnuovo, Oceano Beach Community Association, 9/7/18.

¹⁹ Language revised in response to public comments from Rachel Toti, 10/29/18 and Lucas Zucker and Marciela Morales, Central Coast Alliance United for a Sustainable Economy, 11/6/18.

²⁰ Language revised in response to public comments from Robert García (The City Project), Yvonne Gonzalez Duncan (California League of United Latin American Citizens), Mark Magaña (GreenLatinos), and Robert Bracamontes (Bob Black Crow, Yu-va'-tal 'A'lla-mal, Acjachemen Nation, Juaneno Tribe), 11/7/18

²¹ Language revised in response to public comments from Marce Gutiérrez-Graudiņš, Azul, 11/7/18.

²² Language added in response to public comments from Lucas Zucker and Marciela Morales, Central Coast Alliance United for a Sustainable Economy, 11/6/18.

includes policies that implement environmental justice principles, a local government’s failure to consider those principles may also be the basis of an appeal to the Coastal Commission²³.

Housing²⁴: The Commission recognizes the elimination of affordable residential neighborhoods has pushed low-income Californians and communities of color further from the coast, limiting access for communities already facing environmental health disparities.

Although the Legislature removed the Coastal Act mandate to protect and provide affordable housing in 1981, the Commission ~~still has~~ retained the authority to “encourage” affordable housing. The Commission will increase these efforts with project applicants, appellants and local governments, by analyzing the cumulative impacts of incremental housing stock loss, and by working with local government to adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types. The Commission will continue to seek legislative action to regain its previous authority.

The agency will also support measures that increase affordable housing options, but also protect coastal resources. If it is reasonably alleged that a proposed project, or permit on appeal, is or would be in violation of another state or federal law, the Commission will utilize its discretion to contact the appropriate agency to resolve the issue.

Local Government²⁵: Local governments implement Coastal Act policies at the local level through planning documents certified by the Commission. The Commission will strongly encourage local governments to amend their local coastal programs, port master plans, public works plans and long range development plans to address environmental justice issues. Staff will develop a list of best practices to help local government develop policies that reduce impacts on vulnerable communities resulting from new development²⁶.

The Commission also recognizes the harm in allowing communities to engage in punitive practices such as hiring security guards who have been known to enlist law enforcement to exclude communities of color from certain coastal recreation areas. The Commission will consider the historic role of such enforcement measures when reviewing local policies that may have discriminatory intent or impact.

The Commission understands that regional transportation policies can discourage inland communities from visiting the coast, burdening both workers and families. The Commission will work with local governments and regional transit agencies on local coastal program policies to decrease vehicle miles travelled and increase public transportation from inland areas to the coast²⁷.

²³ Language revised in response to public comments from Marce Gutiérrez-Graudiņš, Azul, 11/7/18.

²⁴ Language revised in response to public comments from Lucas Zucker and Marciela Morales, Central Coast Alliance United for a Sustainable Economy, 11/6/18

²⁵ Language added in response to public comments from Richard E.T. Sadowski, Home Front Morro Bay, 10/7/18, Livia Borak Beaudin, Coastal Environmental Rights Foundation, 11/7/18, and Rene Aiu, 11/7/18.

²⁶ Language added in response to public comments from Marce Gutiérrez-Graudiņš, Azul, 11/7/18.

²⁷ Language added in response to public comments from Larry Truesdale, Home Front Morro Bay, 10/8/18

~~Access to~~ Participation in the Process: ~~Fully~~ Achieving the Coastal Act's mandate for coastal protection depends on full public participation that reflects California's diversity. The Commission is committed to identifying and eliminating barriers to its public process in order to provide a more welcoming, understandable and respectful atmosphere for those who may be otherwise intimidated or deterred from taking part in ~~by~~ government proceedings. This includes making an effort to schedule items with significant environmental justice implications in close proximity to affected underserved communities, at locations and times accessible to those who work during the day or lack access to private vehicles, when legal deadlines allow, and providing language translation services as needed and time extensions for translators. The Commission will not engage the services of private security or law enforcement unless a credible threat to public safety has been clearly demonstrated.

The Commission will conduct a review of equitable access to and utilization of its existing programs and funding sources to ensure that disadvantaged populations are included in the its efforts²⁸. The agency will also acknowledge and include environmental justice and equity principles in its educational programs, job announcements and other communication materials whenever possible²⁹.

Accountability and Transparency³⁰: Creating a measure of accountability is critical to building and maintaining trust and respect with communities who have become skeptical of government's motives or relevance to their lives. When evaluating projects, programs and activities, the Commission will consider whether and how proposed development will positively or negatively affect underserved communities, and will be fully transparent in that analysis in staff reports and presentations. The Commission will make use of CalEnviroScreen, U.S. EPA EJSCREEN, U.S. Census data and/or similar tools and data to identify disadvantaged communities. And where consistent with the Coastal Act, civil rights and environmental justice laws, the Commission will propose permit conditions to avoid or mitigate impacts to underserved communities.³¹ Analysis of mitigation measures will include consideration of the technical knowledge and lived experiences of affected communities.

Any third party studies, reports or analyses will be evaluated to ensure they have been conducted by reputable, independent parties, using the best available science. Analysis will assess meaningful alternatives beyond mitigation measures to re-siting projects with negative environmental health impacts in disadvantaged communities, to minimize or avoid adverse impacts to those communities. If viable alternatives are available, consider those in permitting decisions. The Commission will use the powers within its authority to examine the level of inclusive access to public recreation and affordable housing in any new coastal development, as well be a voice for maximizing these benefits for disadvantaged communities during review of projects³².

²⁸ Language added in response to public comments from Therese Kollerer, 11/7/18.

²⁹ Language added in response to public comments from Marce Gutiérrez-Graudiņš, Azul, 11/7/18.

³⁰ Language revised in response to public comments from Rachel Toti, 10/29/18

³¹ Language revised in response to public comments Robert García (The City Project), Yvonne Gonzalez Duncan (California League of United Latin American Citizens), Mark Magaña (GreenLatinos), and Robert Bracamontes (Bob Black Crow, Yu-va'-tal 'A'lla-mal, Acjachemen Nation, Juaneno Tribe), 11/7/18

³² Language added in response to public comments from Central Coast Alliance United for a Sustainable Economy, 11/6/18 and Marce Gutiérrez-Graudiņš, Azul, 11/7/18.

Climate Change³³: Climate change and sea level rise hazards will have disproportionate impacts on communities with the least capacity to adapt and may exacerbate existing environmental injustices and cumulative impacts from other environmental hazards. The Commission recognizes that climate change impacts on coast and ocean resources have a disproportionate impact on For example, underserved communities that may rely on public access for indigenous gathering activities, subsistence fishing, and lower-cost recreational opportunities, jobs and other economic benefits of the coastal economy will face greater impacts. A warming climate means that access

Access to cooler coastal temperatures will increasingly become a public health imperative for inland residents as the climate warms. Some sea level rise, coastal erosion and climate adaptation measures, such as sea walls, may further reduce access to public trust resources and coastal recreation areas for all residents, particularly lower income residents living inland³⁴.

Lower-income residents and those who live in rental units are also more likely to be displaced by flooding or related impacts as compared to property owners because they lack the funds and/or abilities to rebuild, have less control over their safety, and often have limited access to insurance, and that some climate adaptation measures such as sea walls to protect coastal property may have the negative impact of further eliminating public coastal areas serving this function. Commission also recognizes that the The expense of sea level rise adaptation measures for coastal communities could also heighten displacement of disadvantaged populations by increasing living expenses for sewer and water services³⁵.

Low-income communities are more vulnerable to climate-driven water quality and supply issues that can result from seawater intrusion, contamination from extreme storm events, and drought. Within its existing authority, the Commission will prioritize the cleanup and avoidance of hazardous facilities in flood-prone areas and will work to advance buffering measures like wetlands restoration that prevent seawater intrusion into groundwater supplies.

The Commission will take this reality into consideration when analyzing the effectiveness and the impacts of sea level rise adaptation and mitigation measures as well as implementation of these measures. The Commission will also continue to recommend considering environmental justice when analyzing sea level rise impacts in planning and permitting as stated in its adopted Sea Level Rise Policy Guidance.

Habitat and Public Health³⁶: Understanding that public health and the health of natural ecosystems are inextricably intertwined, ecological impacts are felt first by vulnerable and at-risk communities, and that there is no environmental justice without a healthy environment, the

³³ Language revised in response to public comments from Lucas Zucker and Marciela Morales, Central Coast Alliance United for a Sustainable Economy, 11/6/18.

³⁴ Language added in response to public comments from Lucas Zucker and Marciela Morales, Central Coast Alliance United for a Sustainable Economy, 11/6/18.

³⁵ Language added in response to public comments from Richard E.T. Sadowski, Home Front Morro Bay, 10/7/18.

³⁶ Language revised in response to public comments from Lucas Zucker and Marciela Morales, Central Coast Alliance United for a Sustainable Economy, 11/6/18.

Commission will continue to prioritize the protection of coastal resources. This includes ~~including~~ sensitive habitats, watersheds, water quality, marine biodiversity, and biological productivity. Heavy industrialization and environmental contamination of concentrated sections of California's coast has effectively eliminated much of the public coastal use in these areas. The Commission will also work with the relevant public agencies to consider project impacts to air quality and soil health in disadvantaged communities which reduce the positive health and recreational benefits associated with coastal access for pollution-burdened communities³⁷.

The Commission's environmental justice policy will be implemented in a manner that is fully consistent with the standards in, and furthers the goals of, Chapter 3 of the Coastal Act, and certified local coastal programs, ~~including but not limited to ensuring~~ to ensure that low-income communities are not disproportionately affected by water contamination or overuse, or diminished environmental services such as those provided by healthy ecosystems, fully-functioning wetlands, ~~and swimmable, fishable, drinkable and clean~~ waters and safe lands in the coastal zone.

Implementation

In order to implement the environmental justice policy, including the statement of principles, the Coastal Commission commits to the following actions, which will be largely accomplished over the course of the next five years. These actions, will be included in the 2019 update of agency's Strategic Plan, which establishes the agency's top priorities for the near-term.

Putting environmental justice and equity goals into the agency's Strategic Plan will provide the public with ongoing accountability and transparency of the Commission's efforts to incorporate environmental justice into its program. Stakeholders will have the opportunity to participate in regular reviews and updates on Strategic Plan progress at both the state and federal level to ensure the policy remains relevant, accessible and an active component of the statewide coastal program.

The following actions are not meant to be an exhaustive list but are examples of how the Commission advance its policy goals during the initial implementation. These themes will be further explored with ample opportunities for public review during multiple hearings on the Strategic Plan Update in 2019.

Engagement with Affected Communities

1. To better balance the historic inequities surrounding disadvantaged communities' access to the planning process, the Executive Director will host a quarterly teleconference between the executive director and environmental justice leaders and stakeholders.

³⁷ Language added in response to public comments from Rosemary Nelson and Michael Young, 10/18/18, Linda Reynolds 10/31/18 and Lucas Zucker and Marciela Morales, Central Coast Alliance United for a Sustainable Economy, 11/6/18.

2. Partner with environmental justice leaders and groups to educate their communities about coastal issues that intersect with environmental justice. Use listservs, social media, the Commission's website and other technology to communicate with environmental justice communities. Create and maintain an environmental justice listserv of groups and individuals who have expressed an interest in getting more involved. Continuously update and enhance contacts and relationships with local, regional and statewide environmental justice advocates.
3. Establish a protocol for disseminating informational material that can be easily understood by disadvantaged communities identifying projects with environmental justice findings.
4. Expand the Commission's communication methods to include flyers, community meetings, town halls, and surveys and partner with community groups to reach out early and often.
5. Develop educational materials explaining the Coastal Act and the Commission through an environmental justice lens that can be easily adapted by staff or Commissioners for community meetings and other public speaking events.
6. Conduct outreach and develop relationships with community-based organizations and seek their input on identifying marginalized and disadvantaged communities that live, work and recreate near a proposed project.
7. As spelled out in the Tribal Consultation Policy the Commission will work collaboratively with Native American Tribes to better understand the significance of local and regional cultural concerns. The Commission will seek out and learn from indigenous peoples' unique historical, cultural and ecological knowledge of California's land and resources.
8. Staff will regularly analyze barriers to implementation to environmental justice policies in conjunction with local partners and community-based organizations for the purpose of compiling a report on how best to support implementation of this policy.

Environmental Justice Staff Training and Support

1. Develop a team of environmental justice and equity champions across the Coastal Commission in every major department including management. Integrate environmental justice and equity considerations throughout the agency.

2. Pursue budget change proposals to add an environmental justice staff positions that will focus on policy implementation, community outreach and issue identification. This will include at least one senior level staff position³⁸.
3. Designate staff in every district office of the Coastal Commission, who can be the point of local contact for environmental justice groups and stakeholders. These staff members will provide more effective and personalized responses to issues and facilitate ongoing communication among staff and environmental justice communities.
4. Provide a base level of training on equity and environmental justice issues for the entire staff. Video tape the training for future staff.
5. Work with experts to develop an internal, required training program for all staff and Commissioners to address unconscious bias and related issues.
6. Provide training and financial support for staff members who are willing to serve as interpreters at community meetings and local events. Include such work in duty statements.
7. Include environmental justice concepts and issues in the agency's relevant planning and guidance documents, including the Commission's Public Education curricula.

Coastal Development and Environmental Justice³⁹

1. Encourage and teach staff to incorporate environmental justice issue identification, research and analysis into their work. Develop internal criteria for early identification of project proposals that could raise environmental justice issues
2. Develop an internal checklist for staff to help analyze the level of potential environmental justice impacts associated with a proposed project. Have staff identify environmental justice communities in the area and potential impacts of the projects on those communities⁴⁰
3. Include an analysis of environmental justice issues in applicable staff reports, and proposed mitigation measures to avoid or fully mitigate identified impacts, in a manner that is fully consistent with Chapter 3 or LCP policies.

³⁸ Language added in response to public comments from Therese Kollerer, 11/7/18.

³⁹ Language revised in response to public comments from Katherine Biala, Citizens for Just Water, 10/31/18

⁴⁰ Language added in response to public comments from Rene Aiu, 11/7/18.

4. Strongly encourage local governments to amend their local coastal programs to address environmental justice issues. Develop a guidance memo for local governments to assist with the incorporation of environmental justice policies and develop a list of best practices to help reduce disparate impacts on vulnerable communities resulting from new development.
5. Seek additional local assistance grant funding from the Legislature to encourage local government partners to include environmental justice policies in local coastal programs.
6. Seek legislation to restore Coastal Act policies protecting affordable housing.
7. Staff will continue to work collaboratively with partner agencies, the public, and commissioners to ensure that coastal management decisions at all levels appropriately consider environmental justice concepts and values.

Public Participation

1. Make Commission meetings more geographically accessible and affordable to underserved communities by adopting an annual meeting calendar that includes at least three Commission meetings per year in more inland areas accessible by public transit. Explore ways to increase meeting accessibility through technology.
2. Whenever possible, agendaize hearings that are relevant to disadvantaged communities at times and locations that are convenient for working families. Explore ways to expand public comment opportunities for these communities to encourage input.
3. Provide language-appropriate training materials describing available online resources, how commission meetings work, how to fill out comment cards, how to report violations and file appeals, and how to apply for Whale Tail grants.
4. Encourage broader participation by creating materials and supporting community workshops to show residents how to participate at Commission meetings.
5. Host a public workshop with the Commission and Environmental Justice leaders to discuss coastal justice concepts, priorities and challenges within two years of adopting the policy.
6. To track and measure success, the Commission shall conduct a bi-annual public review on the effectiveness and progress of this policy, and amend the policy as appropriate.

Immediate Next Steps

1. Commission staff will continue to evaluate public and Commissioner feedback on this Revised Public Review Draft policy, conduct additional outreach to stakeholder groups and affected communities, and revise the above statement accordingly for final consideration and adoption at the March, 2019 Coastal Commission meeting in Los Angeles.
2. Following the policy's adoption, Commission staff will begin the implementation phase of the environmental justice policy. The implementation phase will include specific program objectives, implementing actions and goals, as identified above. These will be included as a new section in the Commission's Five-Year Strategic Plan Update, which will begin in 2019. Stakeholders and environmental justice groups will have multiple opportunities over the course of the year to provide additional input on these actions at public hearings, in letters and emails or through meetings with staff. All future updates to the Strategic Plan will include an update to the Environmental Justice section.
3. Commission staff will release a public engagement plan outlining the timeline, outreach tools and other details related to gathering feedback on the Strategic Plan Update and the implementation phase of the policy
4. The Commission's Environmental Justice Team will continue to gather ideas and identify opportunities for the agency to implement environmental justice issues on an ongoing basis across the agency and throughout the districts.
5. ~~These efforts will inform the update of the Commission's Five Year Strategic Plan Update, which will be scheduled for public hearings in 2019. The Strategic Plan will include specific program objectives, implementing actions **and public accountability.**~~
6. The Commission's GARE (Government Alliance on Race and Equity) Team, in collaboration with the Environmental Justice Team and senior staff, will complete an Agency Racial Equity Action Plan in 2019 to inform and inspire greater inclusivity and diversity in all of the Commission's internal processes and functions.

###

EXHIBIT 3

**STAFF REPORT AND
INITIAL PUBLIC REVIEW DRAFT
RELEASED SEPTEMBER 2018**

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

W6b

September 12, 2018

PUBLIC REVIEW DRAFT

TO: Coastal Commission and Interested Persons

FROM: John Ainsworth, Executive Director
Sarah Christie, Legislative Director
Noaki Schwartz, Public Information Officer
Sumi Selvaraj, NOAA Coastal Management Fellow
Coastal Commission Environmental Justice Team

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

(NOTE: This Public Review Draft has been updated with minor text edits from the draft released on August 9, 2018. This is a discussion item only and the Coastal Commission will not be taking action on the draft Environmental Justice Policy at the September 12, 2018 meeting.)

The Coastal Commission staff has drafted an Environmental Justice (EJ) policy memo for the Commission's review, feedback and public comment. This draft EJ policy will be brought before the Commission at a future meeting for adoption.

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
---Coastal Act, PRC Sec. 30001
(Emphasis added.)

Executive Summary

In 2016, the California Coastal Commission gained the authority through the passage of AB 2616 to specifically consider environmental justice when making permit decisions. This new responsibility is consistent with and expands upon the spirit, intent, mission and history of this agency. The bill also required “one of the members of the commission appointed by the Governor to reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice.” That Commissioner is currently Vice Chair Effie Turnbull-Sanders. The full bill text can be found in Appendix A.

For more than 40 years, this agency has worked to uphold the principles of the Coastal Act, a statute inherently grounded in the principles of public inclusion and equity. Despite numerous environmental victories, the statute’s vision of coastal protection and access for all people has not been fully realized. The concern remains that, historically, much of the Commission’s work has been largely shaped by coastal residential, commercial and industrial landowners, without sufficient consideration for those whose lives and livelihoods are connected to our coasts through their labor, recreation, and cultural practices but cannot afford the staggering cost of land adjacent to the California shoreline.¹ To fulfill the agency’s mission of protecting and preserving coastal resources, the Commission welcomes the inclusion of an environmental justice lens to expand our analysis of, and inform our response to, coastal issues -- for all Californians.

Since the bill’s passage, Commission staff has conducted meetings with 58 environmental justice stakeholders across the state and heard from dozens more at a roundtable meeting in July. The agency formed an environmental justice team with members across the agency, participated in racial equity and environmental justice trainings, collaborated with sister agencies, created a dedicated webpage and email address, a webinar, and implemented other strategies. As a related but independent process, the agency adopted a separate Tribal Consultation Policy.

Comments and feedback from these meetings were organized into core themes, including agency outreach and engagement, tribal concerns, coastal access, energy, climate change, staffing and hiring, policy development, permitting, housing, health and local governments. The most frequently cited request was for the Commission to do more community outreach and engagement, alert groups about important upcoming agenda items and explain how their communities might be affected and what they could do. Other key requests included the agency making their meetings more accessible and user-friendly, and working to establish better relationships with tribes.

Although all of the feedback received was valuable, some very thoughtful suggestions were not applicable to the draft policy. In an effort to go beyond the requirements of AB2616 and embrace the spirit of this law, staff has planned a comprehensive three phase approach to integrate the principals of environmental justice and social and racial equity throughout the Coastal Commission.

¹ Morales, M. Central Coast Alliance United for a Sustainable Economy (CAUSE). July 12, 2018 comment letter re: proposed environmental justice policy.

The Environmental Justice Policy is the leading effort of this larger framework. The policy will provide both the public and the Commission with a guide on how the agency will conduct the public's business, make public decisions, and ensure equitable procedural access. Staff is also drafting a Racial Equity Action Plan that will inform the agency's internal policies, such as those related to recruitment, hiring, retention and promotion. Lastly, staff is also in the process of updating our five year Strategic Plan, which will include a new chapter on Environmental Justice. The Strategic Plan will be the document that creates ongoing accountability by identifying the specific tasks necessary to successfully implement both the EJ Policy and the Equity Action Plan.

The following draft Environmental Justice Policy is meant to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone:

Draft Coastal Commission Environmental Justice Policy Statement

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 natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities shall not be denied on the basis of race, ethnicity, gender, 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 consideration of environmental justice principles, as the term "environmental justice" is defined in Government Code Section 65040.12(e), consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity."

The draft policy also outlines a statement of guiding principles on topics such as respecting tribal concerns, meaningful engagement, coastal access, accountability and transparency, climate change, and habitat and public health.

Commission staff is working on and will release a public engagement plan outlining the timeline, outreach tools and other details related to gathering feedback on the draft policy. The plan calls for a 90 day outreach and comment period with the roundtables, one-on-one and group meetings with members of the environmental justice team.

I. Introduction

Assembly Bill 2616

In 2016, the Legislature passed, and Governor Brown signed [Assembly Bill \(AB\) 2616](#) (Chapter 578, Statutes of 2016) amending the Coastal Act to give the California Coastal Commission explicit authority to consider environmental justice (EJ) in its permitting and planning decisions.

This bill authorized the Commission, local governments, or the Commission on appeal, to consider environmental justice, or the equitable distribution of environmental benefits in communities throughout the state, when acting on a coastal development permit.

The bill relied on the definition of environmental justice in Government Code Section 65040.12(e), and also cross-referenced the state's non-discrimination law, Government Code Section 11135 (a) which states:

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....

EJ Team, Training and Outreach

Since the law took effect on January 1, 2017, Coastal Commission staff has conducted extensive public outreach efforts, participated in comprehensive racial equity and environmental justice trainings, and actively collaborated with sister agencies sharing similar goals and complimentary mandates. An agency-wide EJ Team has been assembled, including staff members from every department, program, and district. Team members created and conducted an educational webinar to inform the public about the new law; attended community meetings; hosted conference calls; initiated one-on-one conversations with EJ stakeholders; and created informational materials and communication products including a web page, handouts, an EJ listserv, and a dedicated public email account: environmentaljustice@coastal.ca.gov. Another group of Commission staff, which includes members of the EJ Team, is participating with 18 other state agencies in a year-long equity and environmental justice training conducted by the Government Alliance on Race and Equity (GARE), which is supported by the California Endowment and the Health in All Policies initiative. The 50 hours of training is designed to help public agencies identify institutional barriers to racial and social equity, and to create change through the implementation of a Racial Equity Action Plan.

Tribal Consultation Policy

As a related but independent process, the Commission adopted a separate Tribal Consultation Policy in August. That policy will affirm the State of California's commitment to regular and meaningful consultation and partnership with tribal officials in policy decisions that have tribal implications. The Policy is also intended to strengthen the Commission's relationships with Native American tribes, while encouraging further outreach and collaboration.

Draft Policy

This draft Environmental Justice Policy is the product of all these efforts. While it represents the synthesis of extensive public feedback, research, and ongoing training, it should also be considered a work in progress. The primary goal of the final policy is to provide guidance and clarity for Commissioners, staff, and the public on how the agency will effectively implement the agency's new environmental justice authority when making permit decisions. More broadly, the adoption and implementation of this policy is intended to integrate the principles of environmental justice and social equity into the foundation of the Commission's program and operations, and to ensure public confidence in the Commission's mission, process, and commitment to coastal equity.

II. Background

Environmental Justice

The United States has a history of racial discrimination that has persisted in multiple forms. During the 20th century, the civil rights movement sought to secure legal rights that were held but not fully realized by African Americans and other marginalized populations. The concept of environmental justice emerged out of this movement to describe the application of civil rights and social justice to environmental contexts.² For example, the cumulative effect of siting a disproportionate number of toxic waste and other hazardous facilities in disadvantaged, urban communities of color has led to disproportionate impacts from pollution and lack of environmental services, such as clean drinking water, clean air, and access to parks and open space. Civil rights leaders, such as Cesar Chavez, and organized stakeholder groups played a key role in advocating for marginalized groups and shaping how government engages in these topics.

California Environmental Justice Legislation

The term "environmental justice" is currently understood to include both substantive and procedural rights³, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Beginning in 1999, California passed a series of bills advancing the concepts of environmental justice in state law.⁴ That year, [Senate Bill \(SB\) 115 \(Solis\)](#) defined the term "environmental justice" in Government Code Section 65040.12(e) 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." It also designated the Governor's Office of Planning and Research (OPR) as the agency responsible for coordinating state efforts to integrate environmental justice principles into their specific missions.⁵

² *Environmental Justice for All: A Fifty State Survey of Legislation, Policy and Cases*, fourth edition (2010).

³ *Ibid.*

⁴ *Opportunities for Environmental Justice, Agency by Agency* (2003) Auyong, et al., Public Law Research Institute, Hastings College of Law. Page 3.

⁵ [Environmental Justice in State Government](#) (2003) Office of Governor Gray Davis, Office of Planning and Research.

[Executive Order B-10-11](#) (Brown) established the position of Governor's Tribal Advisor within the Office of the Governor in 2011. The order requires that the Governor's Tribal Advisor oversee and implement effective government-to-government consultation between the Administration and Tribes on policies that affect California tribal communities. The order also determined that it is the policy of the Administration that every state agency and department shall encourage communication and consultation with California Indian Tribes.

In 2000, [SB 89 \(Escutia\)](#) called for a strategic path to advance environmental justice and required CalEPA to establish the Interagency Working Group on Environmental Justice to assist in developing a strategy for identifying and addressing gaps in existing programs, policies, or activities that may hinder the achievement of environmental justice in the state. It also directed the Secretary of CalEPA to convene an advisory group of external stakeholders to assist the agency and the working group in developing the agency's strategy.

In 2012, [SB 535 \(De León\)](#) required CalEPA to designate disadvantaged communities and required that a minimum of one quarter of all Greenhouse Gas Reduction Fund (GGRF) investments benefit those disadvantaged communities. Four years later, [SB 1000 \(Leyva\)](#) (Chapter 587, Statutes of 2016) required cities and counties to adopt an EJ element or to integrate EJ goals, policies, and objectives into other elements of their general plan.

The passage of AB 2616 (Burke) in 2016 presents another step the California Legislature is taking to ensure that agencies prioritize racial and social equity. After taking public testimony and other public feedback, a final draft of the policy will be submitted to the Commission for adoption in a subsequent public hearing.

III. Discussion

California Coastal Commission History

In the 1970s, California residents became increasingly concerned about the pollution of coastal waters, the industrialization and privatization of coastal lands, and the loss of open space, public views and access to the coast. The work of a spirited grassroots campaign led to the passage of Proposition 20 and later the California Coastal Act in 1976. This statute was the product of unprecedented public participation and is inherently grounded in the principles of public participation and equity.

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.

Section 30006 of the Coastal Act also states 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.”

Public Access

The California Constitution guarantees the public’s right of access to navigable waters, and directed the Legislature to enact laws, such as the Coastal Act, to maximize this right. Over the years, the Coastal Act has been largely responsible for providing more than 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 across the California coast.

Commission Programs

For more than four decades the Commission has worked diligently to uphold the equitable principles of the Coastal Act through its various programs. The agency’s core planning and regulatory program is founded on the principles of maximizing access for all and protecting the public’s rights to the coast. The agency’s Enforcement Program protects the public’s right to coastal access through ongoing enforcement actions. The Commission’s Public Education program, funded through sales of license plates and tax check offs, provides grant funding and other resources to support coastal access and awareness, such as beach field trips for underserved, rural, and diverse inland communities. The Commission’s Sea Level Rise Policy Guidance, adopted in 2015, addresses the disproportionate impact of sea level rise on underserved communities, as does the agency’s Strategic Plan. Commission decisions about development along the shoreline affect not only those who live there, but inland residents who count on the beach and shoreline as a public commons for respite and affordable recreation. Through its regulatory and permitting programs, Commission has been responsible for countless decisions protecting habitat, public views, open space, water quality, and biodiversity that have contributed to public health and the overall environmental welfare of the entire coastal zone.

The Case for an Environmental Justice Policy

Despite the longstanding legal authority and mandate for coastal protection and access for *all the people*, the *Coastal Act’s vision* has not been fully realized. In addition to protecting public access and lower-cost visitor serving and recreational opportunities, the Coastal Act originally included policies protecting affordable housing, which were later taken out of the law by the Legislature. California’s population has doubled since the Act was written, and changing demographics, socio-economic forces, judicial decisions, and policy choices are shaping development patterns and population shifts that widen the disparity gap. These create both intentional and unintentional barriers to public access not only to the beach, but to the broader benefits of coastal protection, and to the Commission’s public process. Not only is access to the coast for all Californians essential, so is protecting coastal natural resources for future generations of Californians to enjoy the beauty and opportunities the coast provides.

For example, census data shows that most Californians live within 62 miles of the coast, but populations closest to the coast are disproportionately white, affluent, and older than those who

live farther inland, according to the Stanford Environmental Law Review Journal.⁶ Many low-income people of color work in these coastal communities but cannot afford to live there. This disparity means that the millions of people who have to travel farther to enjoy the benefits of the coast are more likely to face other barriers to coastal access such as lack of transportation, parking costs, and the lack of affordable accommodations. The disparity is so severe in some 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 this in the numerous Whale Tail® grant applications received annually from groups who are working to connect these children and underserved groups to the coast and ocean environment through science-based learning, recreation, exploration, and stewardship activities.⁷

To fulfill the agency's mission of access for everyone, and to ensure full participation by potentially affected communities in the coastal management and land use process, the Commission is committed to understanding and responding to coastal issues through an environmental justice lens. Coastal policy has for decades been shaped primarily by coastal residential, commercial and industrial landowners, without sufficient consideration for those whose lives and livelihoods are connected to our coasts through their labor, recreation, and cultural practices but cannot afford to live near the California shoreline. The recent enactment of AB 2616 will begin to ameliorate this problem.

As it implements this new policy, the Coastal Commission will have to sometimes make difficult decisions regarding how to make the coast more accessible for all people, particularly for communities that have been excluded from it by historic environmental injustice. Stakeholders have urged the Commission to view its role as an intermediary, an advocate, and an ally on behalf of these communities particularly when faced with opposition from powerful interests.⁸

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

IV. Outreach and Engagement

Work Plan

To better understand the unmet needs of the EJ community with respect to the Commission's coastal program and in consultation with the EJ commissioner, staff developed a four-phase environmental justice stakeholder outreach and engagement work plan for the EJ policy development. The primary goals of the plan were to:

⁶ [*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.

⁷ *Ibid.*

⁸ Morales, M. July 12, 2018.

- 1) Meet with EJ stakeholders⁹ throughout the state to better understand environmental justice concerns, particularly as they relate to coastal resources and public access in different regions and local communities;
- 2) Assess the current level of stakeholder engagement and understanding of the Commission's coastal program, and its perceived relevance to those stakeholders;
- 3) Seek input on what to include in the Environmental Justice Policy, and;
- 4) Incorporate the accumulated input and information into a draft Environmental Justice Policy for public review.

Forming an Environmental Justice Team

Outreach was conducted by an internal environmental justice staff team (EJ Team) made up of 15 staff members from each district office and most departments, including Public Education, Enforcement, Legal, Human Resources, Executive Administration, Legislative Affairs, and Statewide Planning. Another purpose and co-benefit of the statewide, stakeholder outreach was to begin establishing place-based relationships and partnerships with EJ community members who will be or already are affected by Coastal Commission decisions and programs. This network of relationships will allow staff to better understand how local communities may be disproportionately burdened by or benefit from Coastal Commission decisions and identify opportunities for stakeholders to become more proactively engaged for projects which may be of interest to their communities. A list of EJ groups staff has contacted as part of its work plan to develop this Environmental Justice Policy is attached as Appendix B.

Team Training

Prior to conducting the outreach phase, the EJ Team underwent a day-long training in October 2017 in Sacramento hosted by Cal EPA and Cal Recycle's Environmental Justice division. The training focused on recognizing environmental justice issues, understanding the history and systemic causes of inequality, developing a common language to talk with stakeholders about environmental justice issues, and an introduction to CalEnviro Screen. This training was also provided to a wider group of district Commission staff in February 2018.

Commission Webinar

To kick off the outreach and engagement phase with EJ stakeholders, the EJ Team developed and presented a webinar to introduce the Coastal Commission to new audiences unfamiliar with the Commission's programs and roles, and to explain why the Commission is developing an EJ policy. Initially, the webinar was developed to be an informational product for the EJ team to share with stakeholders to provide background information about why staff is interested in meeting with them and their community, but it was also designed to be easily adapted for a variety of audiences to explain the Commission's role in furthering environmental justice. The webinar was presented in October 2017, and a recording is available online and used as part of ongoing staff outreach.

⁹ EJ Stakeholders refers to community leaders, non-profits, and any public member with an interest in environmental justice communities and concerns.

Staff engaged with participants by asking poll questions during the webinar and sending a follow-up survey (Appendix C). Staff asked these questions to understand some key concerns and identify stakeholders to set up follow-up informational meetings. The responses are summarized in Appendix D.

Stakeholder Engagement

The second phase of the work plan involved meeting with EJ stakeholders individually or in groups to get more personalized input on what they would like to see included in the Commission's EJ policy and to better understand environmental justice concerns in their communities. The EJ team staff in each of the six district offices reached out to organized groups and non-profits as well as individual members of the public. Team members started with a preliminary list of EJ stakeholders identified through staff research, recommendations from existing EJ stakeholders and partners who have worked with Coastal Commission in the past, and participants from the October 2017 webinar. EJ Team staff in each district office became the main point of contact for all interested EJ stakeholders in or near that district. Staff conducted meetings, either in-person or over the phone, and used a semi-structured interview format based on six questions to guide the discussion (Appendix E). Some stakeholders also chose to send in email comments if they could not meet in-person or speak over the phone.

Joint Workshops

In June 2018, Commission staff co-hosted a public workshop with the State Lands Commission and the San Francisco Bay Conservation and Development Commission (BCDC) in Oakland, and is planning a second roundtable in September in Long Beach. Notes from all of these meetings, conversations, and email comments were qualitatively analyzed for key themes and actions suggested by participating stakeholders that the Commission can take to address the concerns of environmental justice communities. A full summary of the themes and number of meetings staff had with stakeholders can be found in Appendix F.

Integrating Environmental Justice

Although all of the feedback received was valuable and informative, some relevant suggestions were not applicable to the draft policy. In an effort to go beyond the requirements of AB2616 and embrace the spirit of this law, staff has planned a comprehensive three phase approach to integrate the principals of environmental justice and social and racial equity throughout the Coastal Commission.

The Environmental Justice Policy is the leading effort of this larger framework. The policy will provide both the public and the Commission with a guide on how the agency will conduct the public's business, make public decisions, and ensure equitable procedural access for all. Staff is also working with the aforementioned GARE trainers to draft a Racial Equity Action Plan that will inform our internal policies, such as those related to recruitment, hiring, retention and promotion. Lastly, we are also in the process of updating our five year Strategic Plan, which will include a new chapter on Environmental Justice. The Strategic Plan will be the document that creates ongoing accountability by identifying the specific tasks necessary to successfully implement both the EJ Policy and the Equity Action Plan.

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V. Feedback Themes

To date, staff has engaged with 58 environmental justice stakeholders through individual and group meetings all over the state. Staff additionally heard from approximately 52 individuals who attended the Oakland Environmental Justice Roundtable in June. Feedback from all districts was synthesized into a statewide document of comments, concerns and suggestions.

More Outreach and Engagement

The most frequently heard request was for the Commission to do more in terms of community outreach and engagement. Stakeholders requested that staff reach out to underserved communities prior to Commission meetings in their native language with clear information alerting them to important agenda items, and explaining how their communities might be affected and what they could do. Outreach via phone calls, social media posts, emails, and flyers that could be shared easily and posted in public places were all deemed by stakeholders to be more effective than standard legal notices or links to a web-based agenda. A majority of the responses related to outreach made this request in some form. Related to this was a request to engage EJ groups early in the process so that they can participate in a variety of ways, including arranging for the Commission to tour affected areas.

More Accessible Meetings

The second-most requested action was to make the Commission's monthly meetings more accessible and user-friendly. Some suggestions, such as providing child care, food, transportation, or cost reimbursement are not feasible for the Commission to provide due to meeting logistics and restrictions on how state funds may be spent. Other suggestions such as creating more resources to explain how meetings work and how to participate can be accomplished. The comments illustrate the difficulties that individuals from underserved communities must overcome to simply get in the room where the decisions are made, much less make their voices heard.

Tribal Concerns

Tribal concerns generated some of the highest numbers of comments in the greatest detail. Tribal representatives requested the agency work to establish better relationships with tribes by engaging them early in the process and educating staff and Commissioners about tribal issues and needs. These concerns will be addressed comprehensively in the Commission's upcoming Tribal Consultation Policy, but this feedback underscores the importance of building and maintaining local relationships that will allow for a contextual understanding and application of the Commission's policy going forward.

Feedback Themes

After integrating the district feedback into a statewide document of comments and suggestions were tallied and organized into groups according to the following general themes:

- Agency Outreach and Engagement
- Tribal Concerns
- Coastal Access
- Energy

- Climate Change
- Staffing and Hiring
- Policy Development
- Permitting
- Housing
- Health
- Local Governments

Staff further sorted the themes into four categories:

- 1) Policy recommendations suitable for inclusion in the EJ Policy below,
- 2) Programmatic recommendations more effectively implemented through specific plan goals and actions in the Strategic Plan Update and the Agency Racial Equity Action Plan.
- 3) Suggestions that could be feasibly implemented immediately, and,
- 4) General observations and personal opinions to provide context for all of the above.

VI. Draft Coastal Commission Environmental Justice Policy

Draft Policy

Based on all of the above, staff has developed the following Draft Environmental Justice Policy for Commission consideration and discussion. The Draft Environmental Justice Policy states:

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 natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities shall not be denied on the basis of race, ethnicity, gender, 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 consideration of environmental justice principles, as the term "environmental justice" is defined in Government Code Section 65040.12(e), consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity."

This Policy Statement is designed to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone, and incorporates and is further implemented by the following Statement of Principles:

Respecting Tribal Concerns: The Commission respectfully acknowledges the painful history of Native American genocide among our nation's first people and honors the efforts of California's coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. We commit to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California's coast. In addition to the Commission's formal tribal notification and consultation policy, the Commission will work collaboratively with tribes to better understand the significance of local and regional cultural concerns, including but not limited to access to and protection of areas of cultural significance, ethnobotanical resources, traditional fishing and gathering areas, and access to and protection of sacred sites.

Meaningful Engagement: The Commission acknowledges the critical need to communicate consistently, clearly, and appropriately with environmental justice and underserved communities. Because of their historic under-representation in coastal land use planning and permitting decisions, it is important to engage in additional, creative efforts to inform these communities about issues and projects with environmental justice implications for their communities and families. To reach the goal of full engagement, Commission staff should make every effort to reach out early and often to these communities, and in language that is understandable and accessible, as staffing and resources allow. They should also augment standard communication methods with non-traditional methods, such as the use of social media, flyers, and community meetings. To ensure that outreach efforts are effective, staff will ask community groups and organizations for assistance, and will adjust techniques according to the feedback received.

Coastal Access: The Commission reaffirms its long-standing commitment to protecting, providing, and maximizing public access for all the people. The coast belongs to everyone, and cannot be denied or diminished on the basis of race, ethnicity, socio-economic status, or place of residence. The Commission realizes that the conversion of lower-cost visitor-serving facilities to high-cost facilities is a barrier to access for those with limited income, and contributes to increased coastal inequality. The Commission will continue to strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer-term strategy to increase the number and variety of new lower-cost opportunities. Understanding that even nominal costs can become insurmountable barriers to access for vulnerable populations and underserved communities, the Commission confirms that preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas.

Access to Process: Fully achieving the Coastal Act's mandate for coastal protection depends on full public participation that reflects California's diversity. The Commission is committed to identifying and eliminating barriers to its public process in order to provide a more welcoming, understandable and respectful atmosphere for those who may be otherwise intimidated by government proceedings. This includes making an effort to schedule items with significant environmental justice implications in close proximity to affected underserved communities,

when legal deadlines allow, and providing language translation services as needed and time extensions for translators. The Commission will not engage the services of private security or law enforcement unless a credible threat to public safety has been clearly demonstrated.

Accountability and transparency: Creating a measure of accountability is critical to building and maintaining trust and respect with communities who have become skeptical of government's motives or relevance to their lives. When evaluating projects, the Commission will consider whether and how proposed development will positively or negatively affect underserved communities, and will be fully transparent in that analysis in staff reports and presentations. The Commission will make use of CalEnviro Screen and/or similar tools to identify disadvantaged communities, and where otherwise consistent with the Coastal Act will carefully consider on the facts presented appropriate permit conditions to avoid or mitigate impacts to underserved communities. Analysis of mitigation measures will include consideration of the technical and/or expert knowledge and lived experiences of affected communities.

Climate Change: The Commission recognizes that climate change impacts on coast and ocean resources have a disproportionate impact on underserved communities who may rely on public access for indigenous gathering activities, subsistence fishing, and lower-cost recreational opportunities. A warming climate means that access to cooler coastal temperatures will increasingly become a public health imperative for inland residents. Low-income communities are more vulnerable to climate-driven water quality and supply issues that can result from seawater intrusion, contamination from extreme storm events, and drought. The Commission will take this reality into consideration when analyzing the effectiveness and the impacts of sea level rise adaptation and mitigation measures.

Habitat and Public Health: Understanding that public health and the health of natural ecosystems are inextricably intertwined, and that there is no environmental justice without a healthy environment, the Commission will continue to prioritize the protection of coastal resources including sensitive habitats, watersheds, water quality, marine biodiversity, and biological productivity. The Commission's Environmental Justice Policy will be implemented in a manner that is fully consistent with the standards in, and furthers the goals of, Chapter 3 of the Coastal Act, and certified local coastal programs, including but not limited to ensuring that low-income communities are not disproportionately affected by water contamination or overuse, or diminished environmental services such as those provided by healthy ecosystems, fully-functioning wetlands, and swimmable, fishable, drinkable waters.

VII. Next Steps

1. Commission staff will release a public engagement plan outlining the timeline, outreach tools and other details related to gathering feedback to further develop and refine the draft policy. The plan calls for a 90 day outreach and comment period with the goal of adopting the policy before 2019.
2. Commission staff will evaluate public and Commissioner 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.

3. The Commission's EJ Team will continue to gather ideas and identify opportunities for the agency to implement environmental justice issues on an ongoing basis across the agency and throughout the districts.
4. These efforts will also inform the update of the Commission's Five-Year Strategic Plan Update, which will be scheduled for public hearings in 2019. The Strategic Plan will include specific program objectives and implementing actions with respect to environmental justice.
5. The Commission's GARE Team, in collaboration with the EJ Team and senior staff, will complete an Agency Racial Equity Action Plan in 2019 to inform and inspire greater inclusivity and diversity in all of the Commission's internal processes and functions.
6. 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.

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APPENDIX A

Assembly Bill No. 2616 CHAPTER 578

An act to amend Sections 30301 and 30604 of, and to add Sections 30013 and 30107.3 to, the Public Resources Code, relating to coastal resources.

[Approved by Governor September 24, 2016. Filed with Secretary of State September 24, 2016]

LEGISLATIVE COUNSEL'S DIGEST

AB 2616, Burke. California Coastal Commission: environmental justice.

Existing law, the California Coastal Act of 1976, establishes the California Coastal Commission and prescribes the membership and functions and duties of the commission. Existing law provides that the commission consists of 15 members.

This bill would require one of the members of the commission appointed by the Governor to reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice, as defined. The bill would require that the Governor appoint a member who meets these qualifications to a vacant position from the appointments available no later than the fourth appointment available after January 1, 2017.

Existing law requires any person, as defined, wishing to perform or undertake any development, as defined, in the coastal zone to obtain a permit, except as provided. Existing law prescribes a process for the certification of local coastal programs in the state and requires, after certification of the local coastal program, a coastal development permit to be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the certified local coastal program.

This bill would authorize the issuing agency, or the commission on appeal, to consider environmental justice, as defined, or the equitable distribution of environmental benefits in communities throughout the state, when acting on a coastal development permit.

Digest Key Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: NO

Bill Text The people of the State of California do enact as follows:

SECTION 1. Section 30013 is added to the Public Resources Code, to read:

30013. The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin,

ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall 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 pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

SEC. 2. Section 30107.3 is added to the Public Resources Code, to read:

30107.3. "Environmental justice" means 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.

SEC. 3. Section 30301 of the Public Resources Code is amended to read:

30301. The commission shall consist of the following 15 members:

- (a) The Secretary of the Natural Resources Agency.
- (b) The Secretary of Transportation.
- (c) The Chairperson of the State Lands Commission.
- (d) Six representatives of the public from the state at large. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint two of these members.
- (e) Six representatives selected from six coastal regions. The Governor shall select one member from the north coast region and one member from the south central coast region. The Speaker of the Assembly shall select one member from the central coast region and one member from the San Diego coast region. The Senate Committee on Rules shall select one member from the north central coast region and one member from the south coast region.
For purposes of this division, these regions are defined as follows:
 - (1) The north coast region consists of the Counties of Del Norte, Humboldt, and Mendocino.
 - (2) The north central coast region consists of the Counties of Sonoma and Marin and the City and County of San Francisco.
 - (3) The central coast region consists of the Counties of San Mateo, Santa Cruz, and Monterey.
 - (4) The south central coast region consists of the Counties of San Luis Obispo, Santa Barbara, and Ventura.
 - (5) The south coast region consists of the Counties of Los Angeles and Orange.
 - (6) The San Diego coast region consists of the County of San Diego.

(f) Of the representatives appointed by the Governor pursuant to subdivision (d) or (e), one of the representatives shall reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice, including, but not limited to, communities with diverse racial and ethnic populations and communities with low-income populations. The Governor shall appoint a representative qualified pursuant to this subdivision to a vacant position from the appointments available pursuant to either subdivision (d) or (e) no later than the fourth appointment available after January 1, 2017.

SEC. 4. Section 30604 of the Public Resources Code is amended to read:

30604. (a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding that sets forth the basis for that conclusion.

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the certified local coastal program.

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

(d) No development or any portion thereof that is outside the coastal zone shall be subject to the coastal development permit requirements of this division, nor shall anything in this division authorize the denial of a coastal development permit by the commission on the grounds the proposed development within the coastal zone will have an adverse environmental effect outside the coastal zone.

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property, or property adjacent to the property, on which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds that could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency, or the commission on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

(h) When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

APPENDIX B

List of Stakeholders Contacted

This list contains groups or Tribes that members of the EJ Team contacted at least once by email, postal mail, or phone to speak with about the environmental justice policy. This list does not include individual members of the public who spoke with staff about the policy. Of those contacted, 58 EJ groups and stakeholders engaged with staff on the draft policy.

Organization

Access

African American Nature and Parks Experience
Agua Caliente Band of Cahuilla Indians
Amigos de los Rios
California Air Resources Board
Asian Pacific Environmental Network
Asian Pacific Policy and Planning Council
National Audubon Society
Azul
Resilient Communities Initiative
Bayside Community Center
Bear River Band of Rohnerville Rancheria
Big Lagoon Rancheria
Big Valley Rancheria of Pomo Indians
Black Surfers Collective
Blue Lake Rancheria
Brown Girls Surf
Buena Vista Rancheria
Bureau of Ocean Energy Management
Cabazon Band of Mission Indians
Cahuilla Band of Indians
Calaveras Band of Mi-Wuk Indians - Grimes
Calaveras Band of Mi-Wuk Indians - Wilson
California Environmental Justice Alliance (CEJA)
California Indian Environmental Alliance
California League of Conservation Voters
California Rural Legal Association
Campo Band of Mission Indians
Center for Community Action and Environmental Justice
Center for Race Poverty and the Environment
Center for World Indigenous Studies
Central California Legal Services
Central Coast Alliance United for a Sustainable Economy (CAUSE)
Cher-Ae Heights Indian Community of the Trinidad Rancheria
Chicken Ranch Rancheria of Me-Wuk
Citizens for Affordable Living

City Council, City of Oxnard
City Surf Project
Climate Parents
Cloverdale Rancheria of Pomo Indians
Coalition for Clean Air
Coastal Advocates
Coastal Band of the Chumash Nation
Colusa Indian Community Council
Communities for Better Environment (CBE)
Community Bridges
Community Environmental Council Santa Barbara
Community Nature Connection
Cortina Band of Indians
Costanoan Ohlone Rumsen-Mutsun Tribe
Costanoan Rumsen Carmel Tribe
Coyote Valley Band of Pomo Indians
Day One
Dry Creek Rancheria of Pomo Indians
East Yard Communities for Environmental Justice
ECO San Diego
Elem Indian Colony of Pomo
Elk Creek Rancheria
Elk Valley Rancheria
Enterprise Rancheria - Estom Yumeka Maidu Tribe
Environment California
Environmental Health Coalition
Environmental Justice Coalition for Water
Environmental Law Clinic
Environmental Protection Info Center (EPIC)
Environmental Studies Professor HSU
Environmental Traveling Companions
Equity Alliance of the North Coast (Humboldt Area Foundation)
Ewiiapaayp Tribal Office
Fernandeno Tetaviam Band of Mission Indians
Food & Water Watch
Fort Ord Environmental Justice Network
Friends of Friendship Park
Gabrielino Band of Mission Indians
Gabrielino/Tongva San Gabriel Band of Mission Indians
Gabrielino Tongva Indians of California Tribal Council
Gabrielino/Tongva Nation
Gabrielino-Tongva Tribe
Green for All
Greenaction for Health and Environmental Justice
Greenlining Institute
Grindstone Rancheria of Wintun-Wailaki

Groundworks Richmond
Groundworks San Diego Challas Creek
Groundworks USA
Guidiville Band of Pomo Indians
Habematolel Pomo of Upper Lake
Haitian Bridge Alliance
Harbor & Beach Community Alliance
Homeless Garden Project
Hoopa Valley Tribe
Hopland Band of Pomo Indians
Humboldt Baykeeper
Iipay Nation of Santa Ysabel
Independent Consultant working with State Lands
Indian Canyon Mutsun Band of Costanoan
Inter-Neighborhood Council Organization (INCO) City of Oxnard
Ione Band of Miwok Indians
Juaneno Band of Mission Indians
Juaneno Band of Mission Indians Acjachemen Nation -- Belardes
Juaneno Band of Mission Indians Acjachemen Nation -- Romero
Karuk Tribe
Kashia Band of Pomo Indians of the Stewarts Point Rancheria
Kitanemuk & Yowlumne Tejon Indians
Koi Nation of Northern California
La Posta Band of Mission Indians
Latino Outdoors
Laytonville Rancheria/Cahto Indian Tribe
League of Conservation Voters of the East Bay
Llytton Rancheria of California
Los Angeles Environmental Justice Network (coordinates monthly meetings)
Los Angeles Waterkeeper
Los Coyotes Band of Mission Indians
Manchester-Point Arena Rancheria
Manzanita Band of Kumeyaay Nation
Mendocino Coast Affordable Housing Group of Healthy Mendocino
Mesa Grande Band of Mission Indians
MeWater Foundation
Mi Casa at Hartnell College
Middletown Rancheria of Pomo Indians
Mishewal-Wappo Tribe of Alexander Valley
Mixteco Indigena Community Organizing Project
Morongo Band of Mission Indians
Mountains Recreation and Conservation Authority
Movement Generation
Mujeres de la Tierra
Muwekma Ohlone Indian Tribe of the SF Bay Area
NAACP Santa Cruz Branch

Natural Resources Defense Council
NHUDG
Nor-Rel-Muk Nation
Northern Chumash Tribal Council
Noyo River Indian Community
Occidental College
Ocean Connectors
Ocean Conservancy
Ocean Discovery Institute
Ohlone/Costanoan-Esselen Nation
Outdoor Afro
Outdoor Outreach
Pala Band of Mission Indians
Paskenta Band of Nomiaki Indians
Pechanga Band of Mission Indians
Pinoleville Pomo Nation
Potter Valley Tribe
Quartz Valley Indian Community
Ramona Band of Cahuilla Mission Indians
Redding Rancheria
Redwood Community Action Agency (RCAA)
Redwood Valley Rancheria of Pomo
Resighini Rancheria/Coast Indian Community
Resources Legacy Fund
Rincon Band of Mission Indians
Robinson Rancheria of Pomo Indians
Round Valley Reservation/ Covelo Indian Community
Region 9 Water Quality Board
Sacred Places Institute for Indigenous People
Salinan Tribe of Monterey, San Luis Obispo Counties
San Fernando Band of Mission Indians
San Francisco League of Conservation Voters
San Luis Rey Band of Mission Indians
San Pasqual Band of Mission Indians
Santa Barbara Community Action Network (SBCAN)
Santa Cruz Barrios Unidos
Santa Ynez Band of Mission Indians
Sata Rosa Band of Mission Indians
SCOPE - Strategic Concepts in Organizing & Policy Educaiton
Scotts Valley Band of Pomo
Scripps Institute of Oceanography
San Deigo Bay Council
San Diego State Univeristy Green Love EJ Committe
Seventh Generation Fund for Indigenous Peoples
Shasta Nation
Sherwood Valley Band of Pomo Indians

Shingle Springs Band of Miwok Indians
Shore Up Marin
Sierra Club
Smith River Rancheria of California
Soboba Band of Luiseno Indians
Social and Public Art Resource Center
Social Justice Consultancy
Strawberry Valley Rancheria
Surfrider Foundation Ventura County Chapter
Surfrider Foundation, Humboldt Chapter
Sycuan Band of the Kumeyaay Nation
Table Mountain Rancheria
The City Project
The Nature Conservancy
The Ohlone Indian Tribe
The Wahine Project
The Wildlands Conservancy
Torres-Martinez Desert Cahuilla Indians
True North Organizing Network
Tsnugwe Council
Tsurai Ancestral Society
Tule River Indian Tribe
UC Santa Cruz Center for Justice, Tolerance, & Community
UC, Santa Barbara, Bren School Lecturer, ES Depart. Strategic Environmental Communications
and Media Focus
UCLA, Emmett Institute on Climate Change and the Environment
Unitarian Universalist Fellowship of Santa Cruz County
Urban Corps San Diego County
Urban Semillas
Viejas Band of Kumeyaay Indians
West Oakland Environmental Indicators Project
Wildcoast
Winnemem Wintu Tribe
Wintu Tribe of Northern California
Wiyot Tribe
Xolon-Salinan Tribe
Yak Tityu Tityu Northern Chumash Tribe
YES - Nature to Neighborhoods
YMCA Surf Camp
Yocha Dehe Wintun Nation
Yurok Tribe

APPENDIX C

October 2017 post-Webinar survey questions – This written survey was sent to all individuals who registered for the webinar, even if they did not watch the webinar.

- What area do you represent (region, city, county, etc.)?
- Select the top three environmental concerns in your community.
 - Air quality
 - Hazardous waste and/or facility siting
 - Water quality and quantity
 - Clean energy access
 - Public access to open space (including access and affordability of parks, beaches, other greenspace)
 - Agriculture
 - Habitat quality
 - Other
- Which methods do you/your community prefer for participating in government decisions (select all that apply):
 - Public comment at hearings
 - Workshops
 - Conference calls/phone
 - Local community meetings
 - Webinars
 - E-mails
 - US Mail
 - Other
- How can we make public participation easier for you?
- When is the best time for us to contact you?
 - Morning (before 12pm)
 - Afternoon (between 12 to 5pm)
 - Evening (after 5pm)
- What is the best way to contact you? Please write your preferred email, phone number, and/or other contact information (social media, mailing address, etc.) below:
- Are there other organizations/groups we should add to our contact list? If so, please list them here. Thank you.
- What did you find useful about this webinar?
- What was least useful or missing from this webinar?

- Additional comments or suggestions?

APPENDIX D

October 2017 Webinar response summary

Coastal Commission staff presented an environmental justice introduction webinar on October 24, 2017. Approximately 92 individuals and groups registered to watch the webinar, and of those, a total of 48 groups or individuals called in and participated during the actual webinar presentation. Since then, an online recording has been posted to the Commission's website and YouTube page, which has been viewed over 350 times. During the webinar, participants were asked three questions so staff could understand who participated in the webinar. Below are poll question responses:

Webinar poll question responses

1. What type of organization/group do you represent?

- 50% Community organization/non-profit
- 37% Public agency
- 10% Individual resident
- 3% Private sector

2. How familiar are you with the Coastal Commission?

- 63% Very familiar
- 34% Somewhat familiar
- 3% Have no idea what the Commission does

3. How important are coastal issues to your community?

- 75% high priority
- 25% medium priority (around key issues like power plants)

Following the initial webinar presentation on October 24, 2017, staff sent a follow-up survey to anyone who registered to watch the webinar (Appendix C), whether or not they participated the day of the webinar. A total of 24 survey responses were received.

APPENDIX E

Questions for staff meetings with EJ stakeholders – Staff used these questions to help guide conversations between them and the EJ stakeholders they met with, following a semi-structured interview format. Based on the conversation, staff might have asked additional or fewer questions than the ones below.

Sample questions:

- How familiar are you with the Coastal Commission?
- Tell me a bit about your background or interest in environmental justice work?
- What do you think the Coastal Commission can do to further environmental justice?
- What would you like to see included in the environmental justice policy? Do you have any specific language?
- Do you have any other suggestions of things the Commission could do, or do differently, to make the process more accessible and relevant to underserved communities?
- Are there any other groups we should consult in the development of our draft environmental justice policy?

APPENDIX F

Summary of staff outreach and meetings

To date, staff has engaged with 58 environmental justice stakeholders through individual and group meetings located all over the state. Staff met with stakeholders in-person or over the phone. Staff additionally heard from 52 individuals who attended the Oakland Environmental Justice Roundtable on June 19th, 2018, which Coastal Commission staff co-hosted with California State Lands Commission and SF Bay Conservation and Development Commission staff.

Table F1. Staff EJ Stakeholder Outreach

Region/Unit	Total contacted	Total responded
North	60	9
North Central	35	10
Central	24	4
South Central	14	8
South	48	10
San Diego	26	7
Statewide	12	6
Public Ed	8	4
Total	227	58

Table F2. June 2018 Oakland Roundtable Attendance

Events	Total Registered	Confirmed attended - excluding SF BCDC, CCC, and DOJ staff
Oakland Roundtable	96	52

EXHIBIT 4

**PUBLIC COMMENT RECEIVED FROM
AUGUST 9TH, 2018 THROUGH FEBRUARY 21ST, 2019**

From: Rich Everett [mailto:thinningapples@gmail.com]
Sent: Friday, August 10, 2018 9:26 AM
To: EnvironmentalJustice@Coastal
Subject: Input from concerned citizen

Coastal Commission:

Much of what you focus on is excellent and we support and appreciate all your work.

Our only recommendation is that you stay away from opening every single part of the Calif Coast to all public when the access is challenging in some cases does not exist today. Seems like you spend too much of your time and energy in this area. Lets focus on making what we have, the public access beaches, parking, facilities world class. Lets control the commercial development along the coast. Finally lets educate our visitors to the coast on how to treat, act, and respect our valuable coast line and oceans.

Rich Everett

Everett Family Farm
Soquel Cider

"Fine Organics From Seed to Core"

PO Box 308
Soquel, Ca. 95073
831 566 0472
EverettFamilyFarm@comcast.net

From: Lucia Casalnuovo <luciagalore@gmail.com>
Sent: Friday, September 7, 2018 1:32 PM
To: Christie, Sarah@Coastal; Carl, Dan@Coastal; Pearce, Kevin@Parks
Subject: environmental justice by Oceano Beach Community Association

Dear Sarah, Commissioners, Staff:

When you review and discuss the draft of your new Environmental Justice policy, **please remember and consider the plight of Oceano, a small beach community on the central coast. Two million visitors drive every year through the heart of our beach community, Pier Avenue, on Oceano Beach, the Arroyo Grande Creek, and the Oceano Dunes. They endanger our children, trash our beach, impact our streets, block our driveways and mailboxes, pollute our air and water and nobody has ever asked our opinion about it.**

The United States Environmental Protection Agency defines environmental justice as : the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies... It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work. I think Oceano is being discriminated against because, although it is a beach town, it is denied a safe beach access free from vehicles and it is not involved in the decision making process regarding the management of the Oceano Dunes State Vehicular Recreation Area (ODSVRA). In Oceano, we are mostly Latino and poor. Most of us lack knowledge, means, and skills to voice, let alone fight the environmental injustice done to us by letting vehicles drive through our community, on the beach, and dunes. While others enjoy themselves, we are forced to suffer from bad air quality, traffic congestion, and exclusion from the decision making process.

Therefore, when you review and discuss the draft of your new Environmental Justice policy, **please remember and consider the plight of Oceano, a small beach community on the central coast. Thank you.**

Lucia Casalnuovo
per Oceano Beach Community Association
1621 23rd Street
Oceano, Ca 93445
805 994-8580
www.oceanobeach.org



CALIFORNIA FARM BUREAU FEDERATION

GOVERNMENTAL AFFAIRS DIVISION

1127-11TH STREET, SUITE 626, SACRAMENTO, CA 95814 · PHONE (916) 446-4647

September 18, 2018

California Coastal Commission
Environmental Justice Team
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Draft Environmental Justice Policy

Dear Honorable Coastal Commissioners:

The California Farm Bureau Federation (Farm Bureau) writes in response to the draft *Environmental Justice Policy* released by the California Coastal Commission (Commission) on August 9th. Farm Bureau is a non-profit, voluntary organization whose purpose is to protect and promote agricultural interests throughout California and find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus representing nearly 40,000 members from every coastal county. In representing a large majority of landholders and community members within the counties in the Commission's purview, we are disappointed to not have been considered a relevant stakeholder in the Commission's public engagement strategy related to the draft environmental justice policy.

As agriculture and coastal California are inextricably linked, we have been engaged for years to ensure the goals pertinent to environmental justice (EJ)—namely, clean water and air, sustainable environmental management, adaptation to climate change, affordable housing, thoughtful land use, nutrition, and stable employment—are adequately met. Our farmers, ranchers, dairymen and women, their families, and employees live and work in these communities and manage these issues daily. In short, EJ issues are our issues and only through inclusion and collaboration can we maintain agricultural productivity in a manner that's sensitive and responsive to the needs of our communities. These learned lessons may prove helpful in implementing a future Commission EJ Policy and re-position farmers and EJ advocates as partners, rather than adversaries. Finally, the Coastal Act, the Commission's governing charter, reiterates that agriculture plays an important role in California's coastline and charges the Commission as its protector. We, in exchange, want to be included as a relevant party in the protection of our communities. Agriculture must be a participant in this dialogue.

We respectfully encourage the Commission to see Farm Bureau as a willing contributor in the discussion of environmental justice and implore you to extend invitations to other agricultural interests to join in this important dialogue.

Sincerely,

Taylor Roschen
Policy Advocate, California Farm Bureau Federation

From: Andrew Salas [mailto:gabrielenoindians@yahoo.com]

Sent: Monday, September 24, 2018 10:27 PM

To: Selvaraj, Sumi@Coastal; Henrypedregon; Christina Swindall Martinez. Kizh Gabrieleno; Matt Teutimez. Kizh Gabrieleno; Vicky Goodwin; Richard Gradias

Cc: EnvironmentalJustice@Coastal

Subject: Re: Coastal Commission's Draft Environmental Justice Policy

We don't see anything of much concern. What we really want to see is the policy for tribal consultation. That one will need to be evaluated thoroughly.

Also some clarification-pg.12-13 Respecting Tribal Concerns. May need to specify 'lineal' or 'ancestral' descendants of an effected area. Don't forget to correct our tribal government name , Gabrieleño Band of Mission Indians Kizh Nation pronounces (keech) . Other than the clarifications and corrections it pretty good. Thank you

Sent from my iPhone

From: Lynn Ross [mailto:lrthinkgreen@gmail.com]

Sent: Tuesday, September 25, 2018 10:23 AM

To: EnvironmentalJustice@Coastal

Subject: Environmental Justice Policy: Smoke pollution on beaches should be stopped

California Coastal Commission Webinar directors:

Please include this issue in your discussion:

The EJP must include the fact that smoke prevents access for many people who cannot tolerate smoke in their lungs. Will you include it in your policy?

It seems like discrimination to knowingly prevent people from accessing the beaches who have breathing problems, or who are more vulnerable such as children and older adults. To travel from a smoke-polluted environment to a smoke-filled beach makes no sense.

Thank you,

Lynn Ross

From: Richard E.T. Sadowski [mailto:r.e.t.sadowski@gmail.com]
Sent: Sunday, October 07, 2018 7:33 PM
To: EnvironmentalJustice@Coastal
Subject: Comment on CCC Draft Environmental Justice Policy

October 7, 2018

Dear CCC Environmental Justice staff,

First and foremost, I would like to thank you all, for the work and talent that has gone into this Draft Environmental Justice Policy document.

The application of Environmental Justice (EJ) is predicated upon trust and accountability with the sociological impacts integrated into the practice and implementation of the policy.

It is a known fact that the most disadvantaged in communities around California bare the brunt of the health and environmental effects of Climate Change. The problem for those is exacerbated when dealing with Reginal and State regulators in addressing the environmental hazards in their neighborhoods. In disadvantaged and economically diverse communities, local politics continue to marginalize and ignore the needs of those less fortunate.

The CCC Environmental Justice Policy should be a global standard how we practice the art of humanity. The tread of justice needs to be laced into the ever increasing economic gap between the affluent and the impoverished. I believe that any successful EJ policy is going to require sustainable funding that weighs the long term benefits of investing in our future generations' economic and environmental benefits.

Sustainable funding for the CCC's EJ policy will be dependent upon State agency collaboration, cooperation and innovation. California's carbon cap and trade market is setting a pace for how we reduce our Greenhouse Gases (GHG) and is opening up fiscal opportunities for disadvantaged communities. With the affects of Climate Change, for example, extreme temperatures and urban heat zones, the value of coastal property is bound to rise. The more affluent invest and relocate to these coastal areas as part of the climate change migration phenomenon. In contrast, the citizens who have lived, worked and raised their families in these coastal climates are being displaced as a result of the transformation of neighborhoods from a lower to a higher economic value. These circumstances are compounded in areas where most of a community's disadvantaged are elderly or fixed and lower income residents.

The expense of Climate Change and Sea Level Rise (SLR) adaptation for coastal communities could heighten the displacement of the disadvantaged by increasing their living expenses for such things like sewer and water services. The CCC's EJ policy must have direct and continual engagement with local governments that are undertaking climate adaptation projects in their respective communities. Many cities don't have the resources or staff expertise to properly address the variables associated with Climate Change adaptation and Environmental Justice. This leads to a city's reliance on hired consultants, which could lead to opportunist enriching themselves by fleecing public funds with studies and analyzing impractical options for climate change adaptation.

The EJ policy must balance the environmental and economic aspects in protecting critical infrastructure like coastal Wastewater Treatment Plants (WWTP). Before a local agency embarks on a climate adaptation project the CCC EJ policy must distinguish when 'managed retreat of critical infrastructure is appropriate or if ' safeguarding' an existing or upgraded infrastructure is better suited. By the CCC engaging early with local staff and affected stakeholders , the risk of politicalization of climate adaptation are reduced.

The CCC's EJ policy must also be integrated into coastal communities Local Coastal Plan (LCP) and General Plan (GP) updates. By recognizing the intrinsic value of Environmentally Sensitive Habit Areas (ESHA) and the economic value of GHG sequestration by coastal flora, such as eelgrass, the CCC could help subsidize programs that help the disadvantaged in a community. These programs could be in collaboration with agencies like the Air Quality Resources Control Board, Strategic Growth Council (SGC) Affordable Housing and Sustainable Communities (AHSC) program, State Lands Commission and State Water Boards.

Once again, I sincerely would like to thank you for all your work and allowing me to comment on this important matter,

Richard E.T. Sadowski
Home-Front, Morro Bay

Sent from my iPad

From: larry truesdale [mailto:ltruesdale@gmail.com]
Sent: Monday, October 08, 2018 7:36 AM
To: r.e.t.sadowski@gmail.com
Cc: EnvironmentalJustice@Coastal
Subject: Re: Comment on CCC Draft Environmental Justice Policy

Looks great!

A minor, additional point for environmental Justice to consider is that the coastal businesses critical for the economic viability of coastal cities desperately need a labor force consisting of hourly workers. They are often lower paying jobs, but also essential for businesses. These workers generally can not live in the coastal area and are forced to commute long distances in their aged cars which are disproportionate polluters of the atmosphere. Here in Morro Bay, one business has discontinued their profitable breakfast service due to the inability to staff it. It turns out that their workers come from 45-60 minutes away and are needed at the restaurant before sunrise. Their workdays are excessively long and not compatible with family obligations. Many coastal communities that are distant from major metropolitan areas will be negatively impacted by their "isolation" while this isolation is an attraction for the affluent. Economic justice desperately needs to play a role in preventing the unraveling of these communities.

Larry

From: Newman, Abby@SLC [<mailto:Abby.Newman@slc.ca.gov>]
Sent: Tuesday, October 09, 2018 6:13 PM
To: Schwartz, Noaki@Coastal
Subject: Re: Abby Newman's EJ SLC Statement
Attached: CCC EJ Presentation AN.docx

In case you need the final statement for the record, please find attached the most recent version with a few small edits.

Thanks for your continued patience.

-Abby

Good morning Commissioners,

My name is Abby Newman and I'm here today on behalf of the California State Lands Commission as their Sea Grant Fellow.

While the Coastal Commission and the State Lands Commission have different jurisdictions and responsibilities, our work on behalf of the people of California is very much related. Our agencies are committed to ensuring public access to California's coastline and protecting the state's ocean, coastal, and Public Trust resources.

Both Commissions have embarked on developing an environmental justice policy. And while the process and timelines of our respective policies may differ, the goals are the same: to ensure that priority concerns facing marginalized and disadvantaged communities are factored into our decision-making process, and that our public land management work adequately considers environmental justice concepts and values. Another key goal, which is also reflected in the Coastal Commission's draft policy, is that the process and outcomes of development are more equitable.

Our Commission has partnered with the Coastal Commission staff to convene meaningful community outreach. These outreach sessions are critical to informing our respective policies, gaining trust, and nurturing partnerships in local communities. Our agencies are also working together as part of the 2018 Government Alliance on Race and Equity cohort in Sacramento, where we are learning how to advance racial equity in government—a key aspect of environmental justice.

The Coastal Commission's draft EJ policy identifies priority concerns for marginalized and disadvantaged communities that are also reflected in the State Lands Commission's draft policy. These include: meaningful community outreach and public engagement, more accessible meetings, honoring tribal concerns, public access, accountability, and climate resiliency—just to name a few.

Healthy communities and a clean environment depend on the State achieving environmental justice. On behalf of the State Lands Commission staff, I commend the Coastal Commission on its work to develop a robust Environmental Justice Policy, and on the significant and extensive community outreach that is the basis of the draft policy. We look forward to continuing working with the Coastal Commission to finalize and implement our respective Environmental Justice Policies.

Thank you.

From: Rosemary Nelson [mailto:rosemarynelson@me.com]
Sent: Thursday, October 18, 2018 8:27 AM
To: Selvaraj, Sumi@Coastal
Subject: Coastal Commission Draft Environmental Justice Policy

Dear Sumi Selvaraj, CFM

As residents of an area affected by air pollution from the Oceano Dunes State Vehicular Recreation Area my husband and I have struggled for years to have our voices heard. The dangerously high levels of PM2.5 and PM 10 air pollution caused by OHV riding cause serious health problems. The only protection residents have is to remain indoors. Unfortunately, those who work in the area such as farm workers and laborers have no choice. And ultimately they have no voice. They are an example of the many people whose quality of life is diminished by the activity of recreation on the Coast of California.

Environmental Justice laws can offer protection, however, there needs to be language to specifically address the problems of pollution. The current Draft does not adequately address the issue. We would suggest contact with the APCD to provide information and guidelines on air quality standards to be included under Habitat and Public Health.

We can also suggest the Website mesaairfacts.net for information on the Air Quality issue on the Nipomo Mesa.

Please let us know if we can provide additional information.

Sincerely,

Rosemary Nelson and Michael Young

Sent from my iPad

From: rachel toti [mailto:rachelletoti@gmail.com]
Sent: Monday, October 29, 2018 11:54 AM
To: EnvironmentalJustice@Coastal
Subject: Comments on Draft Environmental Justice Policy
Attached: 2018 YELP Comments

I would like to provide the following comments on the draft policy. I live in south San Luis Obispo County in an area known as the Nipomo Mesa. I feel there are several areas in the policy which should be made stronger and more specific.

1. Public health and habitat protection should be elevated to the top priorities. Without habitat protection, there will be no viable coast to access. Without healthy air and water, the public health will decline and people will not want to visit the coast. I live near a particular stretch of beach known as the Oceano Dunes. About 5 miles of this beach is open to vehicles. Despite numerous complaints the Coastal Commission has failed to address the problems uncontrolled vehicle impacts are causing. Impacts include denuding of the vegetation, bird deaths, creation of a dust cloud that impacts residents of Oceano and the Nipomo Mesa.
2. Tribal Concerns are not being addressed. I have seen speakers from the Northern Chumash tribe speak many times at the Coastal Commission meetings asking for protection of their sites in the Oceano Dunes. Except for fencing a few sites, a comprehensive plan is not in place. The tribal leaders should be listened to and their sites when located should be protected from vehicle and human traffic. This is long overdue.
3. Where's Oceano's beach?? The little unincorporated town of Oceano is one of the neglected areas of SLO county. Its population is generally less affluent than surrounding areas and its residents are about 60% hispanic. Main streets through Oceano are used to access the OHV park entrance at Pier Avenue. Despite being a beach front community, Oceano has a rundown and seedy appearance. OHV rental places and liquor stores abound. The citizens of Oceano want beach access without the nuisance of non-stop traffic. Picture the 405 freeway on the beach. The Coastal Commission is well aware of this problem and for over 30 years has not resolved it.
4. Coastal Access. On one hand there is too much access for vehicles and overcrowding of camping areas. The camping fee is \$10 per night which would be good for lower income groups, but it seems to be taken by many individuals with huge RV's and expensive ohv toys. These folks rope off the beach and block access for others with "caution tape". About 50% of the park users are NOT people riding ohv's, they are the general public who would like a pleasant beach camping experience. I am attaching YELP comments from such a family and their experience in Oceano Dunes.

Coastal Access could be provided at several areas adjacent to the dunes, where parking and camping sites and walking trails could be added, but haven't been. Oceano has a redevelopment plan with a proposed "bike to the beach" concept that has not been implemented. Access and camping needs to be developed so that the general public is separate from the ohv users. OHV riding is allowed and occurs 365 days per year and 24 hours per day. Night riding, loud music, drunken parties are all a part of the experience you get in the ODSVRA. The Coastal

Commission knows this and seems to be ok with it. Which brings us to accountability and transparency.

5. Accountability and Transparency from the Coastal Commission are lacking in regards to our coastal resources for unknown reasons. Perhaps it is workload, perhaps it is avoidance of difficult problems or perhaps it is inter-agency tension between the Coastal Commission and the State Department of Parks OHV Division. A current example is the failure to hold annual reviews of the park management practices and when they are held, to do nothing of substance to address the long standing issues. The permit for this park requires annual reviews of its operations and management to control vehicle impacts to coastal resources. Despite being sent photos and videos of damage and failure to follow the permit provisions, the Commission has done nothing to enforce the permit provisions. Had it done so at anytime between 1982 and now, the environmental damage and air quality impacts would not have occurred. Instead they looked the other way.

Another perfect example is the Habitat Conservation Plan for the park. At the 2015 annual review, the Commission declared that completion of the HCP was of utmost priority (it was overdue by 20 years) and should be completed as soon as possible. As of this writing, the draft HCP has not been released. In the meantime, Calif. Least Tern and Western Snowy Plover have been killed or "taken" without a U.S. Fish and Wildlife permit.

I could go on, but won't. I hope the environmental justice policy will help the Coastal Commission improve the coastal protection benefits for everyone.

Sincerely,
Rachelle Toti

2018 YELP Comments

7/5/2018

- 1 check-in

The Oceano Dunes Campground, where do I begin? We stayed July 3rd-July 5th per hubby's request. I like actual campgrounds more than sand. I haven't stayed here at the dunes, so I checked reviews to see what to expect. I tried to have a positive outlook prior to experiencing a night here. But, after the trip had concluded we all agreed to never stay here again.

If you have an RV, ATVs, and love to party...sure.
But, we are devoted Christians folks who do not partake in the partying.

If you want a relaxing beach camping trip, go elsewhere!
The first night of the 3rd, ATVs were out passed 11pm blasting rap music with their lights on. There were a few idiots shooting off illegal fireworks. One had almost exploded near our campsite (we had my two year old daughter with us outside) I was very angry! I said "oh no, not with my baby out here!" They seen us with a toddler all day, who the heck does this?? They stop, and finally we hit the hay.

Well, the ATVs people are still out riding, no regulations or rangers that came out to check out fireworks or to keep people quiet. No quiet hours??? Madness.

While in bed, jacks decided to light more illegal fireworks and me almost being in sleep mode, feel my heart pop out of my chest from the surprise attack. Very upsetting... but, we prayed that they would go to sleep and finally we were able to sleep.

The next day was not as terrible, you could see fireworks and people were shooting more illegal fireworks all over the dunes, but they can't keep up with them.

The fireworks from Pismo were in the far distance, very tiny. Another negative was the groups that don't pick up their trash when they leave. They have dumpsters to drop it off that makes it convenient and lazy folks can't wipe their own bottom. It makes me sick!!! Pick up after yourself, people!

Thanks Oceano, but we will not be back. I will stick to the beautiful forest and hidden ocean gems!

ATV riding for the day, but no sleeping at this joint again!

7/27/2018

OUT OF CONTROL! Zero stars, if we could. Forget sleep. Forget decency. Forget common courtesy. Forget everything you think beach camping might be. It's after 3 a.m. and you would think it's noon. Loud music. Screaming drunks. Roaring vehicles pulled up and stopped right next to our tent with bright lights blazing. No rangers or any sort of control. All this after driving forever to find a spot not claimed by regulars (who rope off an acre claiming they have lots of campers coming in later, a huge exaggeration) .If this sounds like paradise, this is your camping area! This is NOT the California depicted in TV commercials! We will not be back and hate rude people ruined this otherwise beautiful area. Shame on California for allowing this to be representative of their state. Pitiful would sum it up in one word.

From: Arlene Versaw [mailto:arleneversaw@gmail.com]
Sent: Tuesday, October 30, 2018 8:42 AM
To: EnvironmentalJustice@Coastal
Subject: Comment on draft environmental justice policy

Good day,

I believe I have already submitted comment on the draft environmental justice policy, but I have given it further thought and would like to add this point:

This policy would be a great enhancement to the mission of the California Coastal Commission. Those who are disadvantaged cannot defend themselves. It is a responsibility of elected and appointed officials, who have the power to protect, to do so. Any attempt through the Oceano Dunes OHV State Parks Public Works Plan to shift any negative public impact of its operations south should be disallowed if it simply moves the problem into areas such as Guadalupe.

Instead of impacting the public, the air pollution generated from the OHV park should be curtailed at the source. Moving it into areas where the public is less able to defend itself is totally unacceptable.

Thank you,

Arlene Versaw
Nipomo Mesa

From: Katherine Biala [mailto:kybiala@icloud.com]

Sent: Wednesday, October 31, 2018 8:04 PM

To: ExecutiveStaff@Coastal

Subject: Public Comment on November 2018 Agenda Item Wednesday 7f - Environmental Justice Draft Policy

Citizens for Just Water is comprised of groups and individuals who receive potable water from the Marina Coast Water District (MCWD) and CalAm and who share a common interest in preserving and protecting a long-term water supply with equity among competing interests. Just Water promotes the fair and equitable use and development of sustainable groundwater without adverse consequences to the needs and rights of any party. Its mission is to educate the community on water issues and to advocate for regional water justice.

As a citizen group, Just Water received formal status as a Party to the Proceeding in the CA Public Utilities Commission processes December, 2015 related to the Monterey Peninsula Water Supply Project (MPWSP). This is highly unusual for members of a disadvantaged community who have neither money, legal representation or experience in formal government proceedings. We have learned along the way.

We are very interested in the Environmental Justice policy and have, as a group, been appreciative of the CA Coastal Commission's significant outreach to disadvantaged communities such as Marina and Seaside. We would like to share some assessment tools for the EJ policy that have incorporated the ways in which disadvantaged communities have been marginalized, discounted, or ignored. It is our hope that you will seriously consider this input that has come from our personal experiences in advocating for our water rights, the preservation of our shoreline habitats and the economic welfare of our communities in the face of enormous challenges.

Representatives of Citizens for Just Water will be speaking to the EJ policy at the meeting, as well. Thank you for this opportunity to address you in written and oral communications.

Cordially,
Kathy Biala
Resident of Marina, CA
Citizens for Just Water

I. Topic: Designation of “Disadvantaged Community”			
Objective: To establish the status of a community as a Disadvantaged Community			
<ul style="list-style-type: none"> Establish criteria for designation of a disadvantaged community and/or identify accepted source for rating of disadvantaged communities e.g. CalEnviro Screen; US Census demographics on race, ethnicity, low income; home affordability due to gentrification; disproportionate number of regional burdens e.g. toxic waste projects within a jurisdiction, disparity of jurisdictional wealth, etc. Make decision on the application of CCC environmental justice policy to an identified community. Apply EJ policy to a designated disadvantaged community. Ensure that disadvantaged communities within a corporate umbrella are not considered to represent the corporation as a whole, or that financial arrangements to help another disadvantaged community at the expense of another disadvantaged community does not prejudice the commissioners in favor of the corporation. 			
Measures	Yes	No	Notes
1. Has the community met the criteria for status of a “disadvantaged community”?			
2. If yes, to above, does the agency Environmental Justice policy apply to this disadvantaged community for the project proposed?			
3. If more than one community involved with the project, has each met the designation criteria?			
4. Will only the designated disadvantaged communities that have been directly negatively impacted (environmentally or financially) by the project be considered under the agency Environmental Justice policy i.e. those disadvantaged communities receiving benefits but suffer no risks and harm are not considered)?			If no, explain.
Describe additional actions, mitigation recommended to meet this objective (attach additional pages as needed):			

II. Topic: Verification of Applicable Current Legal Rights			
Objective: To ensure that applicable laws are in compliance for disadvantaged communities			
<ul style="list-style-type: none"> Specify the essential legal rights required under law for any affected parties related to the project. Receive documentation of legal verification of compliance to relevant local, state and federal laws in question, on behalf of disadvantaged communities. Future acquisition of obtaining necessary current rights is not acceptable. Consideration of any permitting under the CCC will not proceed until verification of current legal rights status is verified through documents by the legal grantor of such rights. 			
Measures	Yes	No	Notes
1. Have essential legal rights been identified for this project?			
2. Have document verifications from legal grantor of such essential current rights been submitted to the CCC?			
3. If no to the above, has the CCC communicated to project proponents that until such documents are received, permitting process will not proceed?			If no, explain.
4. If statements project proponents state that future rights can be obtained for the project, has the CCC communicated that only current rights will be accepted before the project is reviewed for permits?			If no, explain.
Describe additional actions recommended to meet this objective (attach additional pages as needed)			

III. Topic: Application of Community Values

Objective: Equitable assessment and weight applied to community values of disadvantaged communities

- Relevant community values are identified by the disadvantaged community that apply to the project e.g. protection of natural resources including right to clean, affordable water, protection of sensitive habitats, right to economic prosperity related to enjoyment of beaches, beach access and affordable recreation.
- Assess distribution of benefits, risks and harm between applicant and its allies, and the disadvantaged communities.
- Document historical distribution of undesirable industrial plant sitings to determine previous unfair burdens to disadvantaged communities impacted by the current project.
- Consider cumulative impacts of risks and harm and viable alternatives to the project that will not subject the disadvantaged community to unfair future burdens.
- Before accepting any completed EIR, CEQA or other evaluations, conduct independent verification that disadvantaged community concerns and needs were equally addressed in such documents as compared to project proponent needs.

Measures

Yes

No

Notes

1. Has the disadvantaged community engaged with the EJ staff to communicate community values that are or will be violated by the project?

If no, explain

2. Has there been a disproportionate impact in relation to benefits, risks and harm to the disadvantaged community?

If Yes, specify

3. Has there been unfair share of industrial facilities already sited within the disadvantaged community jurisdictions?

If yes, specify

4. Are there viable alternatives to the project that will benefit the disadvantaged community and/or avoid risks and harm?

If yes, identify

5. Has there been disregard of disadvantaged communities' community value needs in previous EIR, CEQA and other approval hearings for this project?

If yes, explain

Describe additional actions/mitigation recommended to meet this objective (attach additional pages as needed):

IV. Topic: Economic Disadvantages of Disadvantaged Communities			
Objective: To acknowledge and make transparent the influence, power advantages of corporations and its allies over disadvantaged communities			
<ul style="list-style-type: none"> Assess and report the ways in which a corporation or its allies may have economic and resource advantages related to the promotion of its project. Request disadvantaged communities to provide any documents that demonstrate ways their financial disadvantage has been evidenced in challenging the project, e.g. in marketing initiatives to the public compared to corporate spending, business agreements that offer financial benefits or forgiving of debt for support of project, ability to pursue and/or sustain lengthy lawsuits, cost of hiring experts/consultants/attorneys in the process of challenging the project versus those of the project proponents etc. Verify any recent corporate donations given to civic/non-profit organizations in the affected areas or surrounding jurisdictions that may be influenced to support or not oppose the project. Research direct and indirect political payments to persons/groups that are involved in or can influence the project's approval or decision-making processes. 			
Measures	Yes	No	Notes
1. Has the CCC staff sought out input directly from the disadvantaged community of the ways in which they have or are experiencing disadvantages from proponents of the project?			If no, explain
2. Has there been research into direct or indirect financial contributions of project proponents that would advantage their position?			If no, explain
3. Has the EJ team incorporated such information in the environmental project report to make transparent the disadvantages experienced?			If no, explain
<i>Describe additional actions recommended to meet this objective (attach additional pages as needed)</i>			

V. Topic: Application of Best Practices Science			
Objective: The CCC will choose the best practice scientific data to be used in its decision-making process and omit findings of other studies that do not utilize such methodologies			
<ul style="list-style-type: none"> • Apply rigorous, best practice, and state-of-the-art science whenever such methodologies are available. • If disagreement about conflicting methodologies, a third party, neutral, academic body will be utilized to determine which conflicting scientific methodology presents the more credible, relevant, best practices science for CCC decision making. • The disadvantaged community's science must be given full consideration to offset any financial, political, and resource advantages of project proponents that may have resulted in previous valid studies not being considered or successfully blocked. • If the disadvantaged community requests scientific inquiry regarding key concerns, scientific evaluation should be pursued independently by the CCC, if the disadvantaged community does not have the funding and/or expertise to verify the concerns themselves. 			
Measures	Yes	No	Notes
1. Are best science methodologies been allowed in the CCC decision making regarding approvals of the project?			If no, specify
2. If there two conflicting scientific methodologies being presented, has an objective determination been made to evaluate the best practices, state-of-the-art and available science for application in decision making?			If no, specify
3. If any FEIR, CEQA, or other documents submitted to CCC have not considered the best science practices, have these findings been disregarded by CCC in their current decision making?			If no, explain
3. Is there scientific inquiry requested by the disadvantaged community that the CCC is able to accomplish on behalf of the disadvantaged community?			If yes, specify
<i>Describe additional actions recommended to meet this objective (attach additional pages as needed)</i>			

VI. Topic: Public Participation and Access to Decision Makers			
Objective: To ensure that disadvantaged communities have equal opportunity for receiving information and giving comments about the project, as well as having access to decision makers, equivalent to the project applicant			
<ul style="list-style-type: none"> • Determine the number, kind and location of informational outreach to disadvantaged communities to educate the public about the project impacts vs. those held for wealthier, more politically connected communities supporting a project. • Assess the extent to which in-person access to CCC staff and commissioners has occurred between disadvantaged community representatives vs. project proponents related to the project. • Conduct in-person or other opportunities for disadvantaged community advocates and public entities to regularly dialogue with staff and the assigned EJ commissioner on the environmental justice project impacts. • Create transparent reporting of all ex parte communications and sanctioned meetings with corporate entities and their allies, as compared to those of disadvantaged community representatives. 			
Measures	Yes	No	Notes
1. Has there been disproportionate outreach efforts by the project proponents to educate and engage the public in the disadvantaged community regarding impacts of the project vs. outreach to wealthier, politically connected communities?			If yes, specify
2. Has regular accounting been reported of the number/kind of project proponents' contacts and ex parte communications comparing contacts with disadvantaged community citizens and their representatives vs. project proponents?			If no, explain.
3. Have there been efforts to provide substantive opportunities for disadvantaged communities to engage with CCC staff related specifically to the project, beyond the 2-3 minute public comment at hearings?			If no, explain
4. Determine when CCC decisions are being made prior to full discussion with and input by disadvantaged communities and public agency's directly impacted.			
<i>Describe additional actions recommended to meet this objective (attach additional pages as needed)</i>			

VII. Topic: Conflict of Interest Issues			
Objective: To evaluate any conflict of interest issues that contribute to disadvantaged communities' ability to be fairly represented in decisions.			
<ul style="list-style-type: none"> • Discuss with the disadvantaged community whether conflict of interest issues exist that have or will substantively impact the proposed project. • Evaluate these claims not by anecdotal justifications by the parties associated with or benefit from the conflict of interest, but by pre-determining inquiry questions and requesting objective information to substantiate any claims. • Identify and report findings to the commission. • Recommend how to omit or minimize previously considered approval actions/findings that may have been influenced by heretofore unconsidered conflicts of interest. 			
Measures	Yes	No	Notes
1. Was the disadvantaged community asked directly if there are any concerns with past or current conflict of interest issues related to the project?			If no, explain
2. If concerns regarding potential conflict of interest are raised by the disadvantaged community, did CCC develop list of inquiry questions to determine the validity of claims?			If no, explain
3. Did CCC inquire into these conflict of interest questions to affected parties and is there a valid potential conflict of interest?			If no, explain
4. If a potential conflict of interest exists, has there been a recommendation as to how to manage the impact of these findings in the CCC project approval processes?			If no, explain
<i>Describe additional actions recommended to meet this objective (attach additional pages as needed)</i>			

From: Linda Reynolds [mailto:lreynolds151@gmail.com]
Sent: Wednesday, October 31, 2018 2:59 PM
To: Selvaraj, Sumi@Coastal
Subject: The Environmental Justice issue regarding the Oceano Dunes

Good afternoon Sumi,

Attached are my comments on this serious issue. I am glad the Coastal Commission is seriously looking at this plight for those visiting the Oceano Dunes and the residents of the area.

Thank you,
Linda Reynolds
Nipomo Mesa Resident

Comments on the Coastal Commission's Draft Environmental Justice Policy

In reviewing the audio and the written documentation regarding the environmental justice issue I would like to make a few brief comments on this serious issue.

The information on the Coastal Commission site and audio portion discusses the need for lower cost coastal activities. Currently, most of the area being used by the OHV community is not a viable recreation for people coming to escape the heat and want to recreate at an affordable cost. There needs to be more camping sites and safe hiking areas for people who want to enjoy the Dunes. The expensive OHV hobby is only for those who can afford the trucks and other equipment.

The other issue is the poor air quality that is affecting the residents who live and work on the Nipomo Mesa and the Guadalupe area.

This is a serious environmental justice issue. People working in the farm community, working in the landscape business, other businesses that involve outside work such as construction, children on the playgrounds and residents living on the Mesa face the particulate matter issue that is caused by the OHV riding on the dunes on a year round basis.

Those of us involved with the the air issue have spent countless hours at Coastal Commission meetings, APCD meetings and Board of Supervisor meetings stressing the importance of clean air for the citizens living downwind from the Oceano OHV park. I personally have been thanked by people I know who are working in the community for what we are trying to do to address this issue. Most people do not have the ability to leave work and present their case on this serious health issue for their young families. The environmental justice policy needs to represent those who are negatively impacted by the particulate matter coming from the Oceano OHV park.

From: Dionne Ybarra [mailto:dionne@thewahineproject.org]

Sent: Monday, November 05, 2018 1:06 PM

To: Martinez, Erik@Coastal

Cc: EnvironmentalJustice@Coastal

Subject: Re: Coastal Commission's Draft Environmental Justice Policy and 11/7/18 Pubic Presentation in San Francisco

Hello, I can't thank you enough for the commitment that has been made on my behalf of disenfranchised communities in California to ensure their equitable access to the coast. I apologize that I haven't been able to be more involved in giving you feedback from the perspective of our non profit. I am running for elected office so I have been strapped for time with work pursuing this other huge endeavor.

I just wanted to take a minute to let you know that I look through the policy draft and I don't have anything to add or change. This Wednesday I will not be able to attend the next meeting because I will be on my way to Santa Fe for a work retreat with The Nature Conservancy.

Let me know if there is anything else I can do to be of assistance in the process.

Many thanks for all of your time and consideration on this.

~Dionne

From: Lucas Zucker [mailto:lucas@causenow.org]

Sent: Tuesday, November 06, 2018 10:58 AM

To: EnvironmentalJustice@Coastal; Selvaraj, Sumi@Coastal; Schwartz, Noaki@Coastal; Christie, Sarah@Coastal; Maricela Morales; Diana Vazquez

Subject: CAUSE Comments on Coastal Commission Draft EJ Policy

Dear Coastal Commission Staff,

Attached are CAUSE's comments on the current draft of the Commission's Environmental Justice Policy. Thank you for the opportunity to provide comment.

Also attached is the State Lands Commission draft EJ policy, which is referenced in our comments.

Thank you,

Lucas Zucker
Policy and Communications Director
Central Coast Alliance United for a Sustainable Economy (CAUSE)
2021 Sperry Ave. #9
Ventura, CA 93003
(805) 658-0810 ext. 204

November 6, 2018

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Dear Coastal Commission Staff,

Thank you for the opportunity to submit comments on the California Coastal Commission's draft Environmental Justice Policy. The Central Coast Alliance United for a Sustainable Economy (CAUSE) is a social, economic, and environmental justice organization working in the Central Coast region of California, which has worked for many years at the nexus of coastal issues and environmental justice. While we appreciate your efforts and attention towards this issue, we believe this draft policy needs significant improvement and suggest a longer timeline for community engagement, policy development, approval and implementation. The proposed policy needs substantial strengthening in addressing specific environmental justice issues, detailing a process for considering decisions related to environmental justice before the commission, and laying out a pathway to implementation. Aside from the introductory memo and attached appendix, the policy itself is only three pages long. The scarcity of detail and substance is particularly disappointing in comparison to the current draft State Lands Commission Environmental Justice Policy (see attached), which contains approximately ten times as much content after in-depth engagement with an advisory committee of California environmental justice organizations who met regularly with each other and a team of SLC staff over the course of eight months and gave several rounds of feedback which were used to adjust and update multiple drafts of the EJ policy.

Often, it seems as though the proposed policy simply points to existing Coastal Commission practice and declares that it is equitable, rather than considering new steps towards environmental justice. This is exemplified in the first line of the policy, stating "*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.*"

For example, **under the Coastal Access section**, no new policies or goals to promote environmental justice are referenced. The most specific goal articulated is "*the Commission will continue to strive for a no-net-loss of lower cost facilities in the coastal zone*". Coastal access is not only about the availability of low-cost visitor facilities. While this is an important existing practice of the Coastal Commission, it does not address the sweeping gentrification that has been experienced by communities within the Coastal Zone, pushing low-income communities and communities of color farther and farther inland away from the coast. It does not speak to the rapid growth of the logistics industry via global trade and online retail that

threatens coastal access through the expansion of ports in environmental justice communities. It makes no mention of efforts to remove fossil fuel and other toxic infrastructure from the coast in communities like Oxnard, Richmond, and Wilmington, which limit coastal access by creating unwelcome, polluted, and privatized coastlines. In neither this section nor the Climate Change section, is any reference made to how some climate adaptation measures like seawalls to protect expensive beachfront property actually reduce coastal access for the inland public.

In the Habitat and Public Health section, the draft policy takes a similar approach. It states “*the Commission will continue to prioritize the protection of coastal resources including sensitive habitats, watersheds, water quality, marine biodiversity, and biological productivity*”. Coastal access and public health are perhaps the most important areas of coastal policy for environmental justice communities, yet the proposed EJ policy contains no new objectives in either of these areas other than the continuation of existing practice. Public health in coastal communities involves more than water quality and species conservation. When ports, power plants, and oil refineries in coastal environmental justice communities propose to expand or redevelop, polluting the air of nearby communities, or companies leave behind old industrial facilities and toxic waste, contaminating the soil for neighboring residents, this threatens public health. It also violates the spirit of the Coastal Act by deteriorating the quality of coastal access for residents of these environmental justice communities, and removing many of its benefits, such as healthy outdoor recreation and connection with nature.

In this policy, it is important to understand that equal access is not equitable access. While the existence of a beach that all can theoretically travel to is equal access, proactively ensuring affordable housing and transportation nearby is a step towards equity. Many of the Coastal Act conflicts with private landowners who attempt to close off public access to nearby beaches are fought over beaches where low-income people or people of color virtually never visit, because they are in remote isolated areas or surrounded by wealthy exclusive communities. Meanwhile, coastlines near communities of color have often been dedicated to heavy industrial uses that have essentially eliminated the public coast in these areas, yet too little is being done to remedy or mitigate this.

While staff may see some environmental justice issues as not clearly in the Coastal Commission’s jurisdiction, the Commission has significant power to influence the direction of coastal development through its permitting authorities that can be used to encourage a more equitable California coast.

For example, expanding the Coastal Commission’s goal of no net loss of *low-cost visitor facilities* to also encompass a goal of no net loss of *low-cost housing* in the coastal zone would be a strong policy vision. The ability to directly achieve this vision is unfortunately limited by the state’s removal of the Coastal Commission’s authority to require inclusionary housing units in new coastal developments. **However, the Commission could still use its review of permits as an opportunity to encourage Community Benefits Agreements in new coastal developments affecting environmental justice communities.** Cities often pursue redevelopment of their waterfronts, using a combination of private investment and public subsidy, with significant review and dialogue between developers, community groups, environmental advocates, labor unions, and local and state agencies. These are opportunities through proactive stakeholder engagement to encourage Community Benefits Agreements that meet the needs of environmental justice communities, including enhanced coastal public recreation access, improved environmental quality, inclusion of affordable housing units, and creation of quality middle-wage jobs. The Coastal Commission, in its Environmental Justice Policy, should declare an intent to

seek these types of community benefits during the review process of major coastal developments, even if it does not have ultimate power to reject or approve them on these grounds.

Similarly, while the Commission may have more direct statutory authority on water quality than it does on air quality, toxics exposure, or other environmental justice issues, it does have influence on projects impacting public health beyond water contamination. When the Coastal Commission has an opportunity to approve or deny a polluting project, it should take into account the level of pollution impacts existing in the surrounding area and consider the cumulative impacts of such a decision. The Coastal Commission can also consider factors such as the practical impact of industrial development in reducing public coastal recreation nearby. While a power plant on a beach may not literally prevent nearby environmental justice communities from physically walking on to the beach, it has a significant impact in the frequency and quality of beach use among that community. The Coastal Commission should also consider the public health risks of coastal toxic sites, particularly in light of climate change, and how storm surge flooding can spread contamination to nearby residents, visitors, or workers.

The policy could also benefit from greater specificity and substance in regards to how regular decision-making processes at the Coastal Commission will change as a result of this policy. Will new coastal development projects undergoing environmental impact assessment face any greater threshold for approval based on whether they exacerbate the inequalities of coastal access or environmental quality within a nearby environmental justice community? Will localities submitting their Local Coastal Plans be encouraged or required to include an environmental justice element, much as municipalities are now required to do for their General Plans to comply with SB 1000? Will the Coastal Commission conduct any review of its current programs and decisions to determine if there has been a disproportionate lack of access among some communities in the distribution of programmatic funding, or a disproportionate impact to certain communities in the permitting of polluting projects?

While the State Lands Commission also has limited ability to immediately cure the ills of generations of environmental injustice, their Environmental Justice Policy lays out clear examples of what is in their authority and how it can be used to advance environmental justice goals. In part, this detailed specificity is due to the two different sections of the State Lands Commission's policy. The first section is the policy itself, which lays out several dozen objectives. The second part is the Implementation Guideline, which details strategies the commission will take to achieve these goals in its day to day work.

For example, while **the Accountability and Transparency section** of the Coastal Commission's Environmental Justice Policy takes important steps in this direction including analysis of impacts to EJ communities and consideration of permit conditions to avoid or mitigate these impacts, a more detailed implementation plan would greatly improve the policy. For a model, see Implementation Goals 4-6 in pages 9-11 of the current State Lands Commission Environmental Justice Policy draft. **We strongly encourage the Coastal Commission to include a similar Implementation Guideline section in its EJ Policy, with steps and timelines for implementation.**

At times, the draft EJ policy takes great pains to avoid overpromising major changes in Coastal Commission practice. For example, **in the Meaningful Engagement section**, the text states, "To reach the goal of full engagement, Commission staff should make every effort to reach out early and often to these communities, and

in language that is understandable and accessible, as staffing and resources allow.” If basic outreach and accessible language require significant staff time, the Commission should proactively dedicate staff and resources in its budget so that these engagement practices are consistent and guaranteed, not provided if possible after other staff priorities. Furthermore, while staff’s perspective is that some issues should be included in later documents like the commission’s Strategic Plan, there is no reason why significant environmental justice issues should not be included in the general vision of the Environmental Justice Policy, even if they will be examined in more detail through later processes such as the Strategic Plan.

While we appreciate the staff’s work thus far and progress on creating the Commission’s first Environmental Justice Policy, we are troubled by the lack of detail and substance in how this policy will be implemented, as well as the hesitation to set forward a new vision for advancing environmental justice beyond existing practice. Given the short timeline to incorporate feedback after the public comment deadline, with mere weeks before commissioners are expected to make final approval of the policy in December, CAUSE encourages the staff to extend this timeline as long as necessary to develop a more comprehensive and thorough Environmental Justice Policy based on input received from environmental justice communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Maricela Morales". The signature is fluid and cursive, with the first name "Maricela" and last name "Morales" clearly distinguishable.

Maricela Morales
Executive Director
Central Coast Alliance United for a Sustainable Economy (CAUSE)

California State Lands Commission
SECOND DISCUSSION Draft Environmental Justice Policy

I. Introduction

The Commission envisions a future in which all Californians have access to and enjoy the benefits of public lands and natural resources, regardless of socioeconomic status, race, religion, culture, national origin, gender, gender identity, gender expression, or sexual orientation. It also envisions a future where environmental justice communities are no longer disproportionately impacted by pollution and environmental hazards. The Commission's primary responsibility to apply the Public Trust Doctrine¹ to California lands is rooted in the principle that the public has a right to use and enjoy rivers, lakes, and the ocean for commercial and recreational navigation, fishing, swimming and other recreation. The Commission is entrusted to protect, preserve, and manage the lands and natural resources under its jurisdiction in the best interests of all Californians. The Commission commits to promoting social equity and advancing environmental justice² through more inclusive decision-making that considers the needs and concerns of all communities, but with sensitivity to disproportionate burdens on marginalized, disadvantaged, and tribal communities.

For thousands of years, Tribes and tribal communities have inhabited the lands we know as "California." The Commission recognizes the critical connection California's tribal communities have to the environment and acknowledges that the environmental injustices they have endured over generations, including the destruction of natural resources that sustained their communities and systematic displacement from their lands, give Native communities a unique perspective on environmental justice concerns. Today, California's Tribes and tribal communities experience many of the same environmental injustices as other vulnerable communities, such as impacts from pollution to air, water, soil, and other resources. Impacts experienced by indigenous communities from the loss of access to sacred resources or locations and lost opportunities to gather or grow food, to hunt and fish, or to practice traditional medicine are uniquely experienced by indigenous communities. Incorporating tribally-identified metrics and narratives, where applicable, is a critical part of an environmental justice impact analysis. Together with its Tribal Consultation Policy,³ the Commission will use this policy to amplify tribal voices in fulfilling its mission and vision.⁴

¹ <http://www.slc.ca.gov/PublicTrust/PublicAccess.html>

² California law 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. See Government Code section 65040.12.

³ <http://www.slc.ca.gov/About/Docs/Tribal.pdf>

⁴ <http://www.slc.ca.gov/About/Overview.html>

Environmental justice issues and concerns intersect with much of the Commission's work. Examples include surface leasing for industrial and commercial uses, regulatory oversight of marine oil terminals, access to public lands and resources, renewable energy siting and development, preventing aquatic invasive species introduction, climate change resiliency, sea-level rise preparedness and adaptation, the oversight of granted Public Trust lands including those underlying most major ports, and waterfront redevelopment. The Commission commits to the principle that the environmental injustices of the past will not define California's future, and supports the ideal that all communities equitably share in the environmental benefits and burdens resulting from its decisions. Through training about environmental justice and social equity, increased awareness, communication, and early and frequent engagement with marginalized and disadvantaged communities, the staff analysis and recommendations will be more inclusive, transparent, and equitable.

II. Environmental Justice Vision and Objectives

1. PROMOTE EQUITY

- a. Promote the fair treatment of people of all races, cultures, national origins, genders, gender identities, gender expressions, religions, sexual orientation, and socioeconomic status concerning the development, adoption, implementation, and enforcement of laws, regulations, and policies within the Commission's jurisdiction.

2. INFORM THE PUBLIC AND TRIBES

The Commission will develop tools and strategies to better inform the public and tribal communities about:

- a. The Public Trust Doctrine - its history and why it is relevant to advancing environmental justice.
- b. The public's rights to access and enjoy Public Trust lands,⁵ including tide and submerged lands and navigable waterways; and
- c. The Commission's role:
 - i. As a trustee landowner of ungranted Public Trust lands and resources.

⁵ In coastal areas, sovereign lands include both tidelands and submerged lands, from the shore out three nautical miles into the Pacific Ocean and lands that have been filled and are no longer underwater. Tidelands lie between mean high tide and mean low tide. The beds of navigable lakes and rivers are also sovereign lands subject to the Public Trust. <http://www.slc.ca.gov/PublicTrust/PublicAccess.html>

- ii. As it relates to the oversight of lands and resources that the Legislature granted to local jurisdictions.
- iii. Generating income for the California State Teachers' Retirement System through the management of school lands.
- iv. As a regulator in the prevention of oil spills and marine invasive species.

3. INCREASE AND ENCOURAGE EQUITABLE PUBLIC ACCESS.

Preserve, protect, and expand public access to Public Trust lands and resources by supporting, facilitating and encouraging projects that increase public access to these lands and resources for disadvantaged, marginalized, and vulnerable communities that have traditionally not been able to enjoy them.

- a. Embrace partnerships with state agencies, Tribes, local jurisdictions, and organizations for projects and other efforts which:
 - i. Protect, conserve and restore natural resources, cultural resources, and wildlife habitat.
 - ii. Increase and enhance trail and recreational amenity construction, habitat restoration, open space parks, and beach access.

4. INCREASE COMMISSION AWARENESS

- a. Be more informed about how and to what extent Commission decisions impact tribal communities and communities that are marginalized, disadvantaged, or vulnerable.
- b. Identify impacted and vulnerable communities that live, work, and recreate near a proposed project site.
- c. Engage in early and effective outreach and collaborate with affected communities and Tribes beginning at the application submittal and throughout the application/project review process.

5. ANALYZE IMPACTS/IDENTIFY BENEFITS

- a. Assess and analyze information gained from environmental justice research and outreach to evaluate how environmental justice communities might be impacted by a proposed Commission action. Where applicable, analyze climate justice and climate resiliency and adaptation for disadvantaged communities.
- b. Identify and analyze potential benefits that may accrue to disadvantaged communities from changes to project proposals and create greater equity in the distribution of environmental benefits and burdens resulting from the Commission's decisions.

6. HONOR THE IMPORTANCE OF TRIBES' ANCESTRAL HOMELANDS

- a. Acknowledge, uplift, and respect the voices of California Native American Tribes and tribal communities in managing lands and resources that include their ancestral homelands. Seek out and learn from indigenous peoples' unique historical, cultural, and ecological knowledge of California's lands and resources.
- b. Understand the importance of Ancestral Homelands:
 - i. Respect and apply principles and practices of government-to-government consultation between California Native American Tribes and the State.
 - ii. Support opportunities to advance traditional use and enjoyment of ancestral lands by tribal communities by facilitating and prioritizing access to and use of state-owned lands by tribes with historical connections to the land.
 - iii. Protect cultural resources and preserve sacred and culturally significant sites whenever possible.
 - iv. Actively support opportunities to empower Tribes to protect, restore, and manage their ancestral lands.

7. BUILD TRUST AND FORM RELATIONSHIPS

- a. Leverage partnerships with public agencies, non-governmental organizations, ports and Tribal governments to advance environmental justice and achieve better outcomes for impacted communities.
- b. Forge cooperative relationships with local communities, tribal communities, and environmental justice groups.
- c. Support and encourage efforts by trustee ports to minimize and reduce environmental and health impacts and maximize environmental and economic benefits to vulnerable communities from industrial activities within the port.

8. SUPPORT CLEANER INDUSTRY

The California Global Warming Solutions Act of 2006 (AB 32) limits greenhouse gas emissions, reduces fossil fuel dependency, and encourages clean energy. To help achieve these goals, the Commission is generally supportive of efforts to:

- a. Transition California away from fossil fuels through the timely and responsible decommissioning of oil and gas facilities.
- b. Promote the use of State lands and resources to facilitate the development and growth of renewable and clean energy production.
- c. Work with regulatory agencies, industry, and lessees to prioritize energy efficiency and clean energy, with the goal of achieving near zero emissions.

9. INCREASE PUBLIC PARTICIPATION

- a. Increase and expand outreach efforts to communities that are impacted by Commission actions.
- b. Increase transparency by ensuring that materials related to a proposed Commission action use plain language and are available, where appropriate, in the languages that are most prevalent in the impacted communities.

- c. Engage vulnerable and impacted communities throughout the decision-making process on projects that affect them.
- d. Hold outreach meetings, public hearings, and Commission meetings in locations that are accessible to communities impacted by the decisions the Commission may make at those meetings.
- e. Leverage technology to increase public access and opportunities for participation in the Commission's deliberative process.

10. REDUCE IMPACTS/INCREASE BENEFITS

- a. Strive to minimize additional burdens and increase benefits to marginalized and disadvantaged communities through careful consideration of the equitable distribution of benefits and burdens on vulnerable communities resulting from a proposed project or lease.
- b. Work to reduce and mitigate adverse impacts on vulnerable communities that are disproportionately impacted by reduced air and water quality, water pollution, climate change, sea-level rise, displacement, lost economic opportunities, and inadequate access to open space and Public Trust lands and resources.

11. ACCOUNTABILITY

- a. Finalize and approve an Environmental Justice Policy Implementation Plan based on the attached appendix.
- b. Incorporate Environmental Justice Policy Implementation into the Commission's Strategic Plan.
- c. Regularly assess progress and efficacy of the implantation of this policy and provide progress reports to the Commission at a duly noticed public meeting.

***Appendix

Implementation Outline

I. PURPOSE STATEMENT

These strategies are meant to guide the Commission's policy implementation and can be adapted to ensure the intent of this policy is carried through to and meaningfully considered in all areas of the Commission's work.

II. PROCEDURAL GOALS

The Commission will:

Goal 1.0: *IDENTIFY AND ENGAGE WITH IMPACTED COMMUNITIES.*

The Commission will work to identify marginalized and disadvantaged communities, including tribal and non-tribal communities, that live, work, and recreate near a proposed project or lease site as an initial step in the application process.

Strategies to Achieve this Goal:

- 1.1. Reach out to environmental justice groups, impacted communities, and Tribes and tribal communities when the Commission becomes aware of project proposals or receives a lease application and collaborate with impacted groups throughout the review process.
- 1.2. Develop relationships with community-based organizations and seek their assistance in identifying marginalized and disadvantaged communities that live, work, and recreate near a proposed project.
- 1.3. Develop and sustain relationships with tribal communities, to ensure tribal-specific environmental justice concerns are understood and considered.
- 1.4. Use CalEnviroScreen and other resources that assess where there are marginalized or disadvantaged communities in relation to project and lease applications and policy decisions.
- 1.5. Continuously update and enhance contacts and relationships with local, regional, and statewide environmental justice advocates.

Goal 2.0: SOLICIT INDIGENOUS PERSPECTIVES.

The Commission acknowledges that Tribes and their members have unique environmental justice issues and valuable historical, cultural, and ecological knowledge of California lands and resources. The Commission will seek tribal perspectives and expertise in furtherance of the Commission's Tribal Consultation Policy.

Strategies to Accomplish this Goal:

- 2.1. Respect and apply principles and practices of government-to-government consultation between California Native American Tribes and the State.
- 2.2. Seek out and learn from indigenous peoples' unique historical, cultural, and ecological knowledge of California's lands and resources.

Goal 3.0: EDUCATE AND EMPOWER STAFF.

All staff will receive ongoing environmental justice training to understand what environmental justice is, how it intersects with the Commission's jurisdiction, why it matters, and how staff will incorporate it into their everyday work.

Strategies to Accomplish this Goal:

- 3.1 Provide staff with educational materials about environmental justice and social equity. Build an Environmental Justice library of relevant and informative materials. Provide comprehensive environmental justice and social equity training for all staff. Incorporate environmental justice training into new employee onboarding training. Provide all staff with continuous education training for environmental justice.
- 3.3 Employ an Environmental Justice Liaison who will be the first point of contact with vulnerable communities, which will allow for more immediate and personalized response to inquiries, and facilitate ongoing communication with staff. The Liaison will also coordinate with local governments and environmental justice groups and expand the Commission's network of contacts.
- 3.4 Partner and collaborate with agencies, Tribes and tribe-affiliated trusts, nonprofit organizations, and other entities that are knowledgeable about environmental justice issues to host outreach meetings and workshop solutions.

- 3.5 Develop environmental justice champions throughout the Commission. Integrate environmental justice considerations into all aspects of the Commission's work.
- 3.6. Encourage and teach staff to incorporate, environmental justice issue identification, research, and analysis into division and program practices and procedures.
- 3.7. Share and implement lessons about social and racial equity learned from the Commission's participation in the Government Alliance on Race and Equity Cohort.⁶
- 3.8. Continuously assess staff capacity and workload and leverage resources to ensure that staff can fulfill the goals of this policy.
- 3.9. Incorporate and prioritize implementation of the Commission's Environmental Justice Policy in its Strategic Plan.
- 3.10. Empower staff to challenge the norm; seek to challenge the established culture and self-reflect.

Goal 4.0: ANALYZE POTENTIAL ENVIRONMENTAL JUSTICE IMPACTS OF A PROPOSED PROJECT OR ACTION.

The Commission will ensure that staff analyze, consider, incorporate, and balance the priorities and concerns of marginalized and disadvantaged communities equitably with the priorities and concerns of other stakeholders; and identify and explain the factors that staff has analyzed, considered, and weighed in making its recommendation to the Commission.

Strategies to Accomplish this Goal:

- 4.1. Incorporate the identification, research, and analysis of environmental justice concerns, issues and potential impacts into the Commission's practices and procedures.
- 4.2. Require industrial and commercial lease applications to identify environmental justice communities in the area and potential impacts of the project on those communities.

⁶ <https://www.racialequityalliance.org/>

- 4.3. Include an environmental justice section in staff reports for projects that impact vulnerable communities.

Goal 5.0: REDUCE IMPACTS.

Foster a culture that focuses on reducing and avoiding impacts and scrutinizes the value of a proposed project based upon its potential impacts on tribal and environmental justice communities.

Strategies to Accomplish this Goal:

- 5.1. Modify the Commission's industrial and commercial lease application forms to require applicants to identify environmental justice communities in the area and to identify potential impacts and mitigation.
- 5.2. As part of the application process, research impacts and work with the applicant and impacted communities to develop strategies to decrease those impacts and increase benefits to impacted communities.
- 5.3. When there are concerns that a project will result in disproportionate burdens to vulnerable communities, weigh those against the merits of the project and, where feasible, require reduction or elimination of those burdens.

Goal 6.0: IDENTIFY AND PROMOTE ACTIONS THAT INCREASE EQUITY.

The Commission will work to leverage the Commission's ownership and management authority over Public Trust and school lands to facilitate and encourage projects that alleviate or remove barriers to racial and social equity, including community- or regional-scale renewable energy facilities, broadband internet infrastructure, and habitat protection, management, or restoration projects that improve resource health for tribal subsistence and access to natural spaces for all communities.

Strategies to Accomplish this Goal:

- 6.1. Where the Commission is a responsible agency or a noticed party on a proposed project, Commission staff will seek to identify projects that have environmental justice impacts and provide comments during CEQA.
- 6.2. Develop strategic partnerships with trustee ports, harbor districts, and other grantees and lessees to support efforts to minimize and reduce environmental and health impacts on vulnerable communities from port industrial activity.

- 6.3. The Commission will seek opportunities to work with stakeholders to preserve, protect, and expand public access to Public Trust lands and resources for everyone, with careful consideration given to increasing access opportunities to Public Trust lands and resources for marginalized, disadvantaged, and tribal communities that live or work nearby but have not traditionally been able to enjoy these areas.
- 6.4. Promote and support the environmentally responsible development of school lands.

Goal 7.0: IMPROVE PUBLIC ENGAGEMENT AND INCREASE TRANSPARENCY.

Strategies to Accomplish this Goal:

- 7.1. Develop and implement a meaningful public participation process. Connect with communities at the beginning of the lease application and project review process and continue engaging them throughout the process.
- 7.2. Plan outreach meetings, public hearings, and Commission meeting times and locations in areas that are accessible to communities impacted by the decisions that the Commission may make at those meetings.
 - 7.2.1. When that is not feasible, find alternate ways of hearing from affected communities, such as satellite meeting locations and listening sessions, webinars, or community visits during the application review process before a Commission meeting.
- 7.3. Ensure that public notices are available to disadvantaged and marginalized communities.
- 7.4. Improve the readability of public documents, including CEQA documents, staff reports, and lease applications. Use fewer acronyms and common language and, where appropriate, will be translated and provided in all threshold languages⁷.
- 7.5. Incorporate environmental justice topics and concerns into consultations under the Commission's Tribal Consultation Policy.

⁷ "Threshold Language" means a language that has been identified as the primary language, as indicated on the MEDS, of 3,000 beneficiaries or five percent of the beneficiary population, whichever is lower, in an identified geographic area (9 CA ADC § 1810.410 (a)(3)).

- 7.6. Where appropriate, send knowledgeable staff to environmental justice-oriented events around the State to share information about the Commission, build relationships, improve public participation, and respond to and address issues and concerns from impacted communities.

Goal 8.0: MAKE BETTER USE OF TECHNOLOGY.

Strategies to Accomplish this Goal:

- 8.1. Develop geographic or subject-matter e-lists to quickly distribute updates and information to interested individuals and groups.
- 8.2. Increase information available on the Commission's website and social media platforms.

Goal 9.0: ENCOURAGE COMMUNITY-ORIENTED LEASES.

The Commission will work to leverage its ownership and management authority over Public Trust and school lands to promote healthy communities around those lands by considering the values and the risks that a potential lessee will bring to those communities based on their unique needs and vulnerabilities.

Strategies to Accomplish this Goal:

- 9.1. Work with potential lessee's early in the planning process to develop projects that will be consistent with the Public Trust and will reduce impacts and provide benefits to the vulnerable neighboring communities.

Goal 10.0: ENSURE ACCOUNTABILITY

The Commission and its staff will be held accountable through measurable goals and mechanisms for evaluating and retooling strategies. The Commission will regularly measure success and reflect upon the effectiveness of this policy and its implementation. Staff will review the information provided by the public, environmental justice communities, Tribes, and others to ensure that it fulfills the policy expectations and is benefitting vulnerable communities. The Commission will use this review to determine if revisions are needed to improve the policy's effectiveness or adapt it to reflect new concerns, issues, or laws.

Strategies to Accomplish this Goal:

- 10.1. Establish a standing external environmental justice advisory group that will meet 1-4 times annually and advise the Commission and staff on the effectiveness of the Commission's environmental justice policy and implementation plan.

10.2. Adopt methods for determining effectiveness in implementing the policy and establish performance measures to ensure that the policy is benefitting marginalized, disadvantaged, and tribal communities.

10.3. Seek feedback on the implementation of the policy and identify ways to measure how well it is working.

10.4. Present an annual status report to the Commission to inform the Commissioners of steps taken to implement of the Policy.

10.5. Revise the policy and implementation plan as needed to reflect lessons learned and policy or implementation shortcomings identified through the assessment process or public consultation.

From: Eric Aaholm [mailto:eric@yesfamilies.org]

Sent: Tuesday, November 06, 2018 2:39 PM

To: Selvaraj, Sumi@Coastal

Subject: Re: Coastal Commission's Draft Environmental Justice Policy and 11/7/18 Pubic Presentation in San Francisco

Hi Sumi,

Thank you for reaching out. Unfortunately my calendar won't allow me to participate in these meetings, however, I did review the draft EJ policy and support the inclusive and equitable language that has been included.

Thanks, and best wishes as you and your team move the policy forward on our behalf,

Eric

From: Alex Dashman (clinic) [mailto:adashman.clinic@law.uci.edu]
Sent: Tuesday, November 06, 2018 5:11 PM
To: EnvironmentalJustice@Coastal
Cc: Marce Graudinš; Casey Powell (clinic); Brett Korte (clinic); Michael Robinson-Dorn
Subject: Public Comment on November 2018 Agenda Item Wednesday 7f - Environmental Justice Draft Policy

Dear California Coastal Commission,

Please find attached comments submitted on behalf of Azul on the California Coastal Commission's Draft Environmental Justice Policy (Item Wednesday 7f).

Best Regards,
Alex Dashman & Casey Powell o/b/o Azul
Certified Law Students
University of California, Irvine School of Law

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UCI University of
California, Irvine

Environmental Law Clinic
School of Law
PO Box 5479
Irvine, CA 92616
Phone (949) 824-9660

November 7, 2018

Sent via Electronic Mail.

environmentaljustice@coastal.ca.gov

Jack Ainsworth, Executive Director
California Coastal Commission
45 Fremont St., Suite 2000,
San Francisco, CA 94105- 2219

**RE: COMMENTS ON THE CALIFORNIA COASTAL COMMISSION'S DRAFT
ENVIRONMENTAL JUSTICE POLICY**

Dear Executive Director Ainsworth,

The University of California, Irvine Environmental Law Clinic submits this letter on behalf of Azul to provide comments on the California Coastal Commission's Draft Environmental Justice Policy. Azul is a grassroots nonprofit organization founded in 2011 to address the lack of Latinx voices and perspectives in ocean conservation and coastal access policy. Since its inception, Azul has led efforts to reduce ocean pollution, increase Latinx involvement in marine advocacy, and ensure that all Californians can enjoy the benefits of the ocean and coastline. Over 240,000 Latinx individuals live within one kilometer (0.62 miles) of the coast, over one million live within ten kilometers (6.21 miles) of the coast, and over 11.5 million live within 100 kilometers (62.14 miles) of the coast.¹

Azul supports the Coastal Commission's effort to extend the Environmental Justice Policy beyond the requirements of Assembly Bill 2616. Unfortunately, the Draft Environmental Justice Policy ("Draft Policy") fails to adequately enumerate substantive or procedural safeguards necessary to address environmental justice concerns. Latinx communities have a profound interest in healthy coastal ecosystems and equitable commercial, subsistence, and recreational access to coastal resources.² A robust and effective Final Policy will help protect this interest for Latinx communities, who comprise 38.2% of California's population.³ Access to no- and low-cost coastal resources is especially important to Latinx communities living farther from the coast — communities who face greater difficulty and incur greater costs accessing them.⁴

¹ Dan R. Reineman, et al., *Coastal Access Equity and the Implementation of the California Coastal Act*, 36 STAN. ENVTL. L. REV. J. 89, 105 (2016).

² See generally LUKE W. COLE & SHEILA R. FOSTER, FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT 19-33 (2001) (discussing the environmental justice movement, including Latinx involvement).

³ See Reineman, et al., *supra* note 1, at 105.

⁴ *Id.* at 98.

Azul is eager to support the Coastal Commission's effort to develop a more effective Final Policy, and offers these comments to show how the Final Policy can better promote environmental justice. Azul offers two broad categories of comments: policy-wide comments and comments specific to planning and permitting provisions. Detailed explanations of each comment follows. Azul reserves the right to rely on any other comments submitted in response to the Draft Policy.

I. Policy-Wide Comments

- I.A. The Coastal Commission Should Describe Substantive and Procedural Rights Encompassed in Environmental Justice in Detail, Describe Specific Measures to Remedy Inequitable Coastal Management, and Address Other Environmental Justice Issues With Greater Specificity Throughout the Final Policy.**
- I.B. The Coastal Commission Should Recognize That the Constitutional Right of Access to Navigable Waters Encompasses Environmental Justice.**
- I.C. The Coastal Commission Should Shift the Responsibility of Demonstrating Impacts of Proposed Projects Away from Overburdened or Vulnerable Communities.**
- I.D. The Coastal Commission Should More Accurately Identify Environmental Justice Representatives.**
- I.E. The Coastal Commission Should Elaborate on Plans for Updating Hiring and Training Practices.**

II. Planning and Permitting Comments

- II.A. The Coastal Commission Should Recommend That Local Governments Amend Their Local Coastal Programs to Address Environmental Justice Issues.**
- II.B. The Coastal Commission Should Determine That Inadequate Consideration of Environmental Justice is Grounds for Appealing a Coastal Development Permit.**
- II.C. The Coastal Commission Should Condition Permits on the Elimination or Mitigation of Any Potential Significant Impacts on Vulnerable Communities.**
- II.D. The Coastal Commission Should Prioritize Areas of Particular Concern to Vulnerable Communities Threatened by Climate Change in Future Coastal Planning.**

I. Policy-Wide Comments

A. The Coastal Commission Should Describe Substantive and Procedural Rights Encompassed in Environmental Justice in Detail, Describe Specific Measures to Remedy Inequitable Coastal Management, and Address Other Environmental Justice Issues With Greater Specificity Throughout the Final Policy.

The Draft Policy states that environmental justice encompasses both substantive and procedural rights,⁵ and acknowledges that “much of [the Coastal Commission’s] work has been largely shaped by coastal residential, commercial, and industrial landowners, without sufficient consideration for those whose lives and livelihoods are connected to our coasts . . . but cannot afford the staggering cost of land adjacent to the California shoreline.”⁶ This is the only mention of historic inequitable coastal management in the Draft Policy.

Although the Coastal Commission recognizes that substantive and procedural rights mean “equitable distribution of environmental benefits” and “equitable access to the process where significant environmental and land use decisions are made,” the Coastal Commission fails to explain what, specifically, these substantive and procedural rights encompass.⁷ Acknowledging prior injustice in coastal management and enumerating these rights would better inform the Coastal Commission’s future management of coastal resources, help the Commission to avoid repeating its past failures, and better protect these important substantive and procedural rights.

To address this vagueness, Azul recommends that the Coastal Commission elaborate on the substantive and procedural rights included within environmental justice, and incorporate language discussing historic inequitable coastal management throughout the Final Policy. To facilitate better protection of these substantive and procedural rights, Azul also recommends that the Coastal Commission include in the Final Policy all information available to the state that demonstrates a pattern of historic inequitable coastal management. The inclusion of this information would establish a baseline from which to measure future progress and would allow the Coastal Commission to tailor solutions to environmental injustice to protect those substantive and procedural rights.

Similarly, the Coastal Commission has indicated that it intends the Environmental Justice Policy to be only a general guideline, leaving measures aimed at addressing specific environmental justice issues to be discussed in the forthcoming Five-Year General Plan.⁸ If left unchanged, the Final Policy would not address or attempt to promote environmental justice in any meaningful way before the eventual development of the Five-Year Plan. If the Coastal Commission wishes to meaningfully address environmental injustice, then it should do so in the Final Policy, and not at an unspecified later date in a document that must be redrafted every five years. More importantly, to embrace the spirit of Assembly Bill 2616, the Final Policy must address environmental justice issues in greater detail, which would productively inform every future Five-Year General Plan prepared by the Coastal Commission by establishing clear

⁵ CALIFORNIA COASTAL COMMISSION, DRAFT ENVIRONMENTAL JUSTICE POLICY 5 (2018).

[https://documents.coastal.ca.gov/assets/env-justice/EJ%20Draft%20Policy_Public%20Review%20Draft\(8.30\).pdf](https://documents.coastal.ca.gov/assets/env-justice/EJ%20Draft%20Policy_Public%20Review%20Draft(8.30).pdf)

⁶ *Id.* at 2.

⁷ *Id.* at 5.

⁸ See e.g., California Coastal Commission, *Overview of the Coastal Commission's Draft Environmental Justice Policy*, YOUTUBE (Oct. 1, 2018), <https://www.youtube.com/watch?v=YgyOdiWmXIw> at 19:00 (describing the Five-Year Plan), 45:21 (describing the generality of the Final Policy).

expectations and goals for all future planning. The following comments identify some of the substantive and procedural rights encompassed in environmental justice, and describe measures to more effectively protect those rights.

B. The Coastal Commission Should Recognize That the Constitutional Right of Access to Navigable Waters Encompasses Environmental Justice.

Azul requests that the Final Policy clearly state that failing to adequately consider environmental justice when issuing Coastal Development Permits (CDPs) violates the constitutional right of equitable access to the coast. The California Constitution protects the right of access to navigable waters for all members of the public.⁹ Environmental Justice cannot be achieved without recognizing equitable access to the coast as a fundamental vested right. Offering clear and direct guidance for coastal decision-making will provide greater administrative and judicial protection of the substantive and procedural rights encompassed within environmental justice.

C. The Coastal Commission Should Shift the Responsibility of Demonstrating Impacts of Proposed Projects Away from Already Overburdened or Vulnerable Communities.

Environmental justice communities face severe hurdles engaging in administrative hearings for proposed developments, which will often be approved if community members do not participate in the administrative process or otherwise display their opposition to the project.¹⁰ This arrangement disadvantages individuals from overburdened communities for whom it is already more difficult to bear the costs of missing work, traveling to hearings, or otherwise spending time engaging with decision-makers to keep development harmful to the communities at bay.¹¹

The Coastal Commission has described the Final Policy as a tool for advocacy organizations, suggesting that the Coastal Commission would rely on advocacy groups and outside researchers to identify potential disproportionate impacts of proposed projects on vulnerable communities.¹² This arrangement would continue to burden vulnerable communities and the advocacy organizations representing them with the costs – monetary or otherwise – of organizing and assembling information to demonstrate a project's impacts on their communities.¹³

Azul recommends that the Final Policy state that the onus will be on the Coastal Commission to initiate its own research and fact-finding to study potential environmental justice impacts of each project. The Coastal Commission should delegate that work to its own staff, or partner with universities or nonprofits, provided that the Coastal Commission supports these organizations monetarily when necessary. Either approach would better ensure that the potential

⁹ See CAL. CONST. art. X § 4.

¹⁰ See generally Cole & Foster, *supra* note 2, at 6-7.

¹¹ *Id.*

¹² Overview of the Coastal Commission's Draft Environmental Justice Policy, *supra* note 8, at 51:10.

¹³ See Robert D. Bullard & Glenn S. Johnson, *Environmental Justice: Grassroots Activism and Its Impact on Public Policy Decision Making* 56 CLARK ATLANTA U. J. SOC. ISSUES 560-64 (2000), available at: <http://www.unc.edu/courses/2005spring/epid/278/001/Bullard2000JSocIssues.pdf>

harmful impacts of proposed projects will be considered, and that communities with fewer resources will be able to better articulate their concerns without shouldering additional burdens.

If the Coastal Commission is unable to incorporate the above comment into the Final Policy, then the Final Policy should explicitly acknowledge that relying on communities to provide evidence of negative impacts will continue to disadvantage overburdened communities, and express support for state funding for programs that will reduce or eliminate that burden.

D. The Coastal Commission Should More Accurately Identify Environmental Justice Representatives.

Although Azul supports the Coastal Commission receiving feedback from environmental justice communities on proposed projects to better inform Coastal Commission and local government decision-making,¹⁴ Azul is concerned that groups with other interests—such as those supportive of a particular development—will falsely represent environmental justice community opinions on a proposed project through astroturfing—the organized effort to create the false impression of a grassroots movement.¹⁵ In the Final Policy, the Coastal Commission should commit to establishing a specific method to identify and prevent astroturfing.

For example, the Coastal Commission could request that those providing information to the Coastal Commission to declare their interests and sources of funding. Another potential approach is for the Coastal Commission to specifically seek input from groups truly representative of vulnerable or overburdened communities, determined by identifying the geographic area the group represent, if applicable, and examining other indicators such as those provided by CalEnviroScreen, including poverty, linguistic isolation, and housing burdens¹⁶ None of these actions would exclude groups from contributing to conversations about environmental justice, but would help the Coastal Commission to identify the voices and concerns of groups that are truly representative of overburdened or vulnerable communities.

E. The Coastal Commission Should Elaborate on Plans for Updating Hiring and Training Practices.

The Draft Policy contains no information regarding the continued training of Coastal Commission staff on issues pertaining to environmental justice. Measures incorporated in the Coastal Commission's own Tribal Consultation Policy that more effectively address environmental justice concerns than those in the Draft Policy include provisions for the Tribal Liaison to train Coastal Commission staff in: the history of mistreatment of Native Americans; law and regulations protecting Cultural Resources; tribal sovereignty; and the implementation of the Tribal Consultation Policy.¹⁷ Azul recommends that the Coastal Commission include in the

¹⁴ DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 5, at 12.

¹⁵ See *astroturfing*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/astroturfing> (last visited Nov. 1, 2018).

¹⁶ CalEnviroScreen reports are available at <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>

¹⁷ CALIFORNIA COASTAL COMMISSION, TRIBAL CONSULTATION POLICY 7 (2018).
<https://documents.coastal.ca.gov/assets/env-justice/tribal-consultation/CCC%20Tribal%20Consultation%20Policy%20Adopted%208.8.2018.pdf>

Final Policy similar employment and training provisions as those contained in the Tribal Consultation Policy, such as hiring an Environmental Justice Liaison to conduct trainings for staff on both the history of the mistreatment of environmental justice communities and procedures for implementation of the Final Policy. Azul also recommends that the Coastal Commission consider integrating the forthcoming Government Alliance on Race and Equity (GARE) social equity plan into the Final Policy. These measures will allow the Coastal Commission to develop and disseminate critical institutional knowledge of issues facing vulnerable communities.

II. Planning and Permitting Comments

A. The Coastal Commission Should Recommend That Local Governments Amend Their Local Coastal Programs to Address Environmental Justice Issues.

In the Executive Summary of the Draft Policy, the Coastal Commission notes that the Draft Policy was created as one component of a larger effort to “go beyond the requirements of [Assembly Bill 2616] and embrace the spirit of this law.”¹⁸ That objective cannot be fulfilled without a means of addressing environmental justice at the local level. Azul requests that the Coastal Commission integrate measures into the Final Policy directing local governments to consider environmental justice in a manner consistent with the Final Policy for all future coastal planning decisions.

Azul specifically requests that the Coastal Commission add language to the Final Policy providing for the review of all Local Coastal Programs (LCPs) to ensure compliance with the Final Policy no later than a date certain, such as December 31, 2020. Doing so will facilitate more immediate redress of environmental injustice by forcing local governments to consider environmental justice in developing their LCPs.

The Final Policy should also state that the Coastal Commission shall recommend actions or amendments necessary to reduce any disparate impacts on vulnerable communities resulting from existing LCPs.¹⁹ Additionally, Azul recommends that the Coastal Commission monitor the progress of amended LCPs each time it reviews them for conformity with the Coastal Act, and reiterate any previous recommendations that local governments did not previously incorporate into LCPs. These measures will clarify how LCPs will be affected by implementation of the Final Policy, and provide for regular review and monitoring of LCPs to assess how effectively they are addressing environmental injustice.

B. The Coastal Commission Should Determine That Inadequate Consideration of Environmental Justice is Grounds for Appealing a Coastal Development Permit.

The Coastal Commission has not explained whether failure to consider environmental justice constitutes nonconformity with the public access policies of the Coastal Act and is grounds for an appeal of a local government decision, even though Assembly Bill 2616 grants the Coastal Commission authority to consider environmental justice in its decisions.²⁰ Azul

¹⁸ DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 5, at 2.

¹⁹ The Coastal Commission is required to review each LCP at least once every five years but is not barred from reviewing LCPs more frequently if it chooses. *Pub. Res. Code*, § 30519.5.

²⁰ *Act of Sept. 24, 2016 Ch. 578, 2016 Cal. Stat.*; *See Pub. Res. Code* § 30604(h).

requests that the Coastal Commission declare in the Final Policy that inadequate consideration of environmental justice constitutes a violation of the public access policies in Chapter 3 of the Coastal Act.²¹ Such a determination would explicitly allow for direct appeals to the Coastal Commission when local governments do not adequately consider environmental justice in issuing CDPs. Additionally, such a determination would incentivize local governments to amend their LCPs to address environmental injustice.

C. The Coastal Commission Should Condition Permits on the Elimination or Mitigation of Any Potential Significant Impacts on Vulnerable Communities.

The Coastal Commission should state in the Final Policy that issuance of CDPs shall be conditioned on the elimination or mitigation of impacts on vulnerable communities. The Coastal Commission may impose mitigation conditions on CDPs for various purposes, such as upholding the policies of the Coastal Act or the California Environmental Quality Act.²² Therefore, the Coastal Commission may impose conditions on permits to promote environmental justice and to comport with the Final Policy. Azul recommends that the Final Policy state that, where the potential for significant disparate impacts on vulnerable or overburdened communities are found, the Coastal Commission shall condition permits on the inclusion of mitigation measures that will eliminate the risk of those disparate impacts. In other words, if the permit applicant cannot eliminate or completely mitigate the risk, the Coastal Commission shall not grant the permit. Imposing such a strict mitigation requirement would provide the most effective means to protect vulnerable or overburdened communities. However, if the Commission declines to incorporate the above recommendation into the Final Policy, Azul recommends that, at a minimum, the Coastal Commission require any significant impacts on vulnerable communities be mitigated to the maximum extent feasible.

D. The Coastal Commission Should Prioritize Areas of Particular Concern to Vulnerable Communities Threatened by Climate Change in Future Coastal Planning.

Although the Draft Policy acknowledges that vulnerable communities bear disproportionate impacts of climate change, it offers no indication as to how the Coastal Commission will take those impacts into consideration.²³ To address this gap, Azul recommends that the Coastal Commission state in the Final Policy that, when planning for the effects of

²¹ CDPs issued by local governments may be appealed to the Coastal Commission if they do not conform with the policy guidelines set forth in Chapter 3 of the Coastal Act. *Pub. Res. Code*, § 30603(b). One of these policies, Public Resources Code § 30210, mandates the provision of maximum public access and recreation opportunities to all people. *Pub. Res. Code*, § 30210.

²² See, e.g. CALIFORNIA COASTAL COMMISSION, PROCEDURAL GUIDANCE FOR EVALUATING WETLAND MITIGATION PROJECTS IN CALIFORNIA'S COASTAL ZONE, (Oct. 18, 2018 11:27 PM), <https://www.coastal.ca.gov/weteval/we4.html> (describing categories of acceptable compensatory mitigation measures for wetlands development); CALIFORNIA COASTAL COMMISSION, STAFF REPORT: CDP HEARING 3-18-0286 10 (Aug. 24 2018) <https://documents.coastal.ca.gov/reports/2018/9/Th13a/Th13a-9-2018-report.pdf> (CDP conditioned on subsurface reconnaissance for significant cultural materials at the proposed site of a residence in the Asilomar Dunes); CALIFORNIA COASTAL COMMISSION, STAFF REPORT: CDP HEARING 3-18-0777 12 (Aug. 23 2018), <https://documents.coastal.ca.gov/reports/2018/9/Th13b/Th13b-9-2018-report.pdf> (CDP conditioned on containment systems for construction debris for a proposed bridge pathway over the San Lorenzo River).

²³ DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 5, at 14.

climate change and making decisions that potentially impact coastal access, the Coastal Commission shall prioritize the protection of “access hotspots.”²⁴ Access hotspots are areas that provide coastal access to more diverse populations, who are more likely to come from communities facing environmental justice issues.²⁵ Azul recommends that the Final Policy also state that, in responding to effects of climate change such as sea-level rise, the Coastal Commission shall condition CDPs in regions with access hotspots on the elimination or mitigation of any access-limiting impacts. These commitments will better ensure that the access areas most important to environmental justice communities are adequately protected in the face of rising seas and an inevitably changing climate.

Conclusion

In conclusion, Azul respectfully requests that the Coastal Commission revise the Draft Environmental Justice Policy to incorporate the comments provided above. Azul thanks the Coastal Commission for its careful consideration of these comments, and looks forward to continuing to support the Coastal Commission in its efforts to attain equitable coastal management for all Californians.

²⁴ See Reineman, et al., *supra* note 1, at 104.

²⁵ See Bullard & Johnson, *supra* note 13, at 562.



Marce Gutiérrez-Graudiņš
Founder and Director
Azul



Alex Dashman
Casey Powell
Certified Law Students
Environmental Law Clinic
UC Irvine School of Law

cc. Brett M. Korte
Clinical Fellow
Environmental Law Clinic
UC Irvine School of Law

From: Noel Johnston [mailto:noel.only@verizon.net]
Sent: Tuesday, November 06, 2018 6:33 PM
To: EnvironmentalJustice@Coastal
Subject: Justice for all

Your definition of "Environmental Justice" is frighteningly narrow.

Please think about the oceans, coastal conditions, and their dependent species. Yes. Before people.

There are nearly 8 billion people in the world. We have reached pest status, as we are now the most populous mammal on the planet, outstripping rats by an unknown but considerable margin. We humans have no predators threatening us (except ourselves) and we are the dominant species on the planet, proliferating wildly and encroaching on all habitats, consuming and decimating as our population continues to grow unchecked.

Please think about how "fair treatment" could be expanded upon. Think how to keep oceans and coasts clean and clear. Help sustain species other than our own. Try to be fair to the globe and not focus strictly on homo sapiens, a species that has proven to be not so wise after all.

Thank you for thinking about this as you ponder AB2616 and its implications.

Respectfully,

Noël C. Johnston

From: Oceano Beach Community Association [mailto:oceanobeachca@gmail.com]
Sent: Wednesday, November 07, 2018 6:52 AM
To: EnvironmentalJustice@Coastal
Subject: OBCA comments on draft EJ policy

Please see our comment letter, attached.

Best,
Cynthia Replogle, President
Oceano Beach Community Association
[805-321-0073](tel:805-321-0073)
oceanobeach.org



Oceano Beach Community Association
1501 24th St, Oceano, CA 93445
oceanobeach.org

November 6, 2018

Environmentaljustice@coastal.ca.gov

We thank the Coastal Commission for sending members of the Environmental Justice team to tour Oceano and meet with residents on November 1st. The draft environmental justice policy contains a provision for Meaningful Engagement, as exemplified by your team's visit, and we hope that this outreach will continue.

Despite being an oceanfront community with a long stretch of lovely beach, Oceano residents do not currently have many of the low-cost recreational activities identified in the Coastal Access section of the draft policy, due to the ownership of our beach by the vehicle-focused State Parks department. Our unincorporated town is negatively impacted in numerous ways by allowing thousands of vehicles to enter Oceano's beach via Pier Avenue and drive miles south along a "sand highway" to the off-highway vehicle riding area. Heavy truck and trailer traffic on Pier Avenue makes the street unsafe for pedestrians and bicyclists, and creates noise and clouds of unhealthy dust and sand. Our economically-disadvantaged community is being held back from redevelopment of this potential business corridor because of State Park's use of our street as its gateway to the Oceano Dunes State Vehicular Recreation Area. Along Pier Avenue, there are shuttered shops and restaurants, for sale signs that have been in place for years, and neglected, litter-strewn and weedy lots. The residents of the beach town of Oceano do not have a safe beach of our own. We cannot take our dogs for a peaceful walk, or enjoy watching the sun set into the ocean with our families, or cross the sand to surf, without checking for traffic and worrying about inattentive drivers mowing us down. Oceano is not the "Gateway to the Dunes" but rather the "Doormat of the Dunes."

Additionally, the degradation of the natural environment due to intensive vehicle use of the ODSVRA may make Oceano more vulnerable to the changing climate, as the natural dunes provide a bulwark against rising sea levels. We appreciate that the draft policy considers Climate Change impacts.

We support the draft policy's Access to Process provision, especially as State Parks does not hold meetings concerning its administration of the ODSVRA in Oceano. Accountability and Transparency are also extremely important.

Thank you for your efforts on behalf of environmental justice.

Sincerely,

A handwritten signature in black ink, appearing to read "CynR", written over the printed name.

Cynthia Replogle
President

Oceano Beach Community Association

From: Dina Gilio-Whitaker [mailto:dina@cwis.org]

Sent: Wednesday, November 07, 2018 9:56 AM

To: Selvaraj, Sumi@Coastal

Cc: EnvironmentalJustice@Coastal

Subject: Re: Updates on Coastal Commission's Draft Environmental Justice Policy and Final Days for Public Comment

Hi Sumi,

Thanks for reaching out. My only other input would be to make the following changes/additions:

The Commission respectfully acknowledges the painful history of Native American genocide among our nation's first people and honors the efforts of California's coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. We commit to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California's coast. In addition to the Commission's formal tribal notification and consultation policy, the Commission will work collaboratively with tribes **on a government-to-government basis** to better understand the significance of local and regional cultural concerns, including but not limited to access to and protection of areas of cultural significance, ethnobotanical resources, traditional fishing and gathering areas, and access to and protection of sacred sites.

Adding this language does two things: 1) it affirms the sovereignty of tribes, whether they are federally recognized or not, and is an important step in helping to overcome the genocidal history that was part of the robbing of California Indians of their nationhood. 2) It affirms their collectivity. CCC EJ policy should acknowledge working with tribes as governments, not with Indians as individuals.

That's it for now. Great work!

Best,

~Dina Gilio-Whitaker

Environmental Justice Policy and Education Consulting

Adjunct American Indian Studies Faculty, California State University San Marcos

www.dgwconsulting.org

www.dinagwhitaker.wordpress.com

Find me on Twitter, @DinaGWhit

From: Livia Beaudin [mailto:livia@cerf.org]
Sent: Wednesday, November 07, 2018 2:17 PM
To: EnvironmentalJustice@Coastal
Cc: Erika Cueva
Subject: CERF Comments -- Environmental Justice Policy

Please find attached CERF's comments on the Commission's draft Environmental Justice Policy.

Thank you,

Livia Borak Beaudin
Legal Director
Coastal Environmental Rights Foundation





November 7, 2018

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94118

Via Electronic Mail
environmentaljustice@coastal.ca.gov

RE: CERF Comments on Environmental Justice Policy

Dear Commissioners:

On behalf of the Coastal Environmental Rights Foundation (CERF), please accept the following comments on the Coastal Commission's Draft Environmental Justice Policy. CERF is a nonprofit environmental organization founded by surfers in North San Diego County and active throughout California's coastal communities. Our organization is dedicated to the enforcement of environmental laws and raising public awareness about coastal environmental issues. CERF commends the California Coastal Commission's ongoing efforts to develop and finalize its Environmental Justice Policy.

CERF is excited to see the Commission taking steps to ensure the interests of all Californians, specifically our underserved communities, are considered in decision-making processes via the implementation of an Environmental Justice Policy. However, CERF implores the Commission to incorporate specific references within the Policy related to coastal development permits and local coastal programs (LCP). The most important aspect of the Policy will be implementation.

CERF is encouraged by the Commission's draft Policy, the hard work and outreach of Commission staff, and the Commission's timeline for adoption of the Policy. However, CERF is hopeful the Commission will prioritize implementation of specific environmental justice goals within its Five-Year Strategic Plan update and in its review of permits and LCPs – especially in the context of expanding coastal access to traditionally underserved communities.

Thank you in advance for your consideration of our comments.

Sincerely,

Coastal Environmental Rights Foundation

Livia B. Beaudin
Legal Advisor

From: Rene Aiu [mailto:aiurene@gmail.com]

Sent: Wednesday, November 07, 2018 2:30 PM

To: Selvaraj, Sumi@Coastal

Cc: EnvironmentalJustice@Coastal

Subject: Re: Updates on Coastal Commission's Draft Environmental Justice Policy and Final Days for Public Comment

Here are my comments on the policy draft:

1) For the environmental justice policy to be meaningful and relevant, environmental justice would need to have equal weight in the decision-making rulings of the Commission as the other factors as public access and environmental impact, etc. To do this, more specifics on what factors would need to be evaluated in order to determine if environmental justice was an issue of any permit. What are the key essential components that would impact environmental justice? How would one substantiate that environmental justice was being effected?

The concept is relevant today. I applaud the Commission and staff for pushing this issue forward.

2) Participation in the Coastal Commission's procedures and process require not only access but knowledge about projects, permits and issues that might affect them. This is not an area easy to navigate as many issues remain "hidden" or obscured within local processes and when brought up to the Coastal Commission review may be too late in the process for the public to impact effectively. For public participation in coastal development and protection to be effective and relevant, Local Coastal Plans and Public Works Plans all need to be maintained and reasonably updated for any Coastal Commission decisions to be knowledgeable. Many communities are frustrated by "piecemeal" planning tactics which prevent the public and Coastal Commission from making good decisions. This is based upon my experience, though limited to Ventura County. This is the stage were public participation can be most relevant and access most open.

If the environmental justice policy is to be effective and relevant, it must start with an open and transparent plan for each appropriate area of the California coast. Without a current plan for an entire area, it will be difficult for environmental justice to occur.

Rene Aiu

From: Therese Kollerer [mailto:hounds.mama@yahoo.com]
Sent: Wednesday, November 07, 2018 3:30 PM
To: EnvironmentalJustice@Coastal
Subject: Environmental Justice Policy

Dear California Coastal Commission:

As you articulate your Environmental Justice Policy, I urge you to consider that the very populations and communities that may need your extra consideration in this regard may not have the resources to identify and present their case to the California Coastal Commission. The CCC may need to have internal staff devoted to being ombudsmen for these groups.

I concur with comments made in person by Kathy Biala and others from Citizens for Just Water of Marina, CA, at the November 7, 2018 meeting of the CCC regarding Environmental Justice Policy considerations.

Sincerely,
Therese Kollerer

From: Cynthia Hawley [mailto:cynthiahawley@att.net]
Sent: Wednesday, November 07, 2018 4:45 PM
To: EnvironmentalJustice@Coastal
Subject: Home Front Morro Bay comments on Draft Environmental Justice Policy

Attached please find additional comments on the Draft Environmental Justice Policy submitted by Home Front Morro Bay

Thank you,

Cynthia Hawley

Cynthia Hawley, Attorney

P.O. Box 697

Morro Bay, CA 93443

cynthiahawley@att.net

Phone: (805) 776-5102

Facsimile: (805) 776-5103

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COMMENTS ON THE COASTAL COMMISSION'S
DRAFT ENVIRONMENTAL JUSTICE POLICY

By Cynthia Hawley on behalf of
HOME FRONT MORRO BAY

November 7, 2018

Home Front Morro Bay requests and urges two important changes to the language of the Coastal Commission's Draft Environmental Justice Policy. We request these changes because the phrases are incorrect and would provide grounds for courts not to uphold consideration of environmental justice in actions on coastal development permits.

First Home Front requests an amendment to the statement that "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."

The claim that the Coastal Act is "an inherently equitable law, designed to protect California's coast...." is incorrect. The equal rights to protection of coastal resources and to access and use of coastal resources are provided and secured by the California Constitution and the legally enforceable policies and statutes within the Coastal Act and the Local Coastal Programs. These are the laws that were designed and enacted, and that can be enforced to protect coastal resources.

"Equitable law", or law in equity, is, justice according to fairness as construed and imposed by the court.

The Coastal Act does not anywhere state that it is "an inherently equitable law", and the statement dangerously misconstrues the Coastal Act which is made up of policies, procedural and substantive statutes, and regulations, and is further carried out by Local Coastal Programs and implementing ordinances on which the courts must rule. The Coastal Act is statutory law, not "inherently equitable law".

This discrimination is important because this statement, as is, could be used in litigation to encourage the court to rule in equity – instead of enforce the Coastal Act and Local Coastal Programs – based on his or her interpretation of what is equitable or fair under the circumstances. This happened in Morro Bay with the result that the Court ruled in equity, rather than under the Coastal Act and property law, to allow the total elimination of a popular public easement path to the beach established over 60 years ago. While the developer was required to build a replacement trail of questionable long-term stability, the public easement was extinguished entirely from the property based on equitable law.

Construing the Coastal Act as “equitable law” is erroneous, could result, and has resulted in, harms to public access, amounts to an invitation to undermine the Coastal Act through judge-made precedents, and the statement is not necessary to get the message across. Home Front Morro Bay request that the Commission amend this sentence to read:

“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 addition, the Coastal Act is not an “aspirational vision” by any means. Again, it is the law. And now the Coastal Commission and local agencies are empowered by the legislature to “consider environmental justice, or the equitable distribution of environmental benefits throughout the state when action of a coastal development permit.” This is not “aspirational” or a “vision”. It is the law and it gives the Coastal Commission and local agencies the broad power to “consider” environmental justice in the decision as to whether to issue coastal development permits.

Misconstruing the empowerment to consider environmental justice in a coastal development permit decision as an “aspirational vision” in this public document would provide the courts with false rationale to also misconstrue it and rule against enforcing not only Coastal Commission actions but decisions by local agencies.

Home Front Morro Bay suggests and requests this amendment:

In keeping with ~~that aspirational vision~~ the Coastal Act mandate to protect coastal resources and access and the legislative authority to consider Environmental Justice when acting on coastal development permits, the Commission as an agency is committed to applying this new authority to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone, …….”

Thank you for your work and for your attention to these important language changes.

From: Merri Lopez-Keifer [mailto:lopezkeifer@gmail.com]
Sent: Wednesday, November 07, 2018 4:58 PM
To: EnvironmentalJustice@Coastal
Subject: SLR Comment Letter on CCC's Environmental Justice Policy

Dear Vice Chair Turnbull-Sanders, CCC Commissioners and CCC Staff:

Attached please find a comment letter from the San Luis Rey Band of Mission Indians supporting the Coastal Commission's Environmental Justice Policy.

If you have any questions regarding the attached document, please do not hesitate to contact me directly.

Respectfully,

Merri Lopez-Keifer
Chief Legal Counsel
San Luis Rey Band of Mission Indians
(925) 457-3395
lopezkeifer@gmail.com

The information in this e-mail message is intended for the confidential use of the addressees only. The information is subject to attorney-client privilege and/or may be attorney work product. Recipients should not file copies of this e-mail with publicly accessible records. If you are not an addressee or an authorized agent responsible for delivering this e-mail to a designated addressee, you have received this e-mail in error, and any further review, dissemination, distribution, copying or forwarding of this e-mail is strictly prohibited. If you received this e-mail in error, please notify us immediately at (925) 457-3395. Thank you.

SAN LUIS REY BAND OF MISSION INDIANS

1889 Sunset Drive • Vista, California 92081

760-724-8505 • FAX 760-724-2172

www.slrmissionindians.org

November 7, 2018

Effie Turnbull-Sanders, Vice Chair
California Coastal Commission
45 Fremont Street, Ste. 2000
San Francisco, CA 94118

VIA ELECTRONIC MAIL
environmentaljustice@coastal.ca.gov

**RE: COMMENTS ON THE CALIFORNIA COASTAL COMMISSION'S DRAFT
ENVIRONMENTAL JUSTICE POLICY**

Dear Vice Chair Turnbull-Sanders and Commissioners of the Coastal Commission:

The San Luis Rey Band of Mission Indians ("SLR" or "Tribe"), a Luiseño California Native American tribe traditionally and culturally affiliated with California's southern coastline from Camp Pendleton through northern San Diego County, has received and reviewed the California Coastal Commission's ("CCC's") most recent Draft Environmental Justice Policy (dated September 12, 2018).

SLR is satisfied with the CCC's Environmental Justice Policy and supports the CCC's adoption of the Environmental Justice Policy Statement as reflected in the Environmental Justice Policy Statement Memo dated September 12, 2018. It is clear that the CCC staff heard the Tribe's concerns for our sacred coastline, access to coastal properties for cultural and spiritual purposes and embraced an open-mindedness to our Traditional Ecological Knowledge. SLR looks forward to continuing to develop a positive and mutually respectful relationship with the CCC. And lastly, the San Luis Rey Band of Mission Indians acknowledges and appreciates the California Coastal Commission in its commitment to protect and preserve our sacred coastline and tribal cultural resources.

Respectfully,



Merri Lopez-Keifer
Chief Legal Counsel
San Luis Rey Band of Mission Indians

From: Buffy McQuillen <BMcQuillen@gratonrancheria.com>
Sent: Wednesday, November 7, 2018 5:20:52 PM
To: Anastacio-Roberts, Amber@Coastal
Subject: FIGR comment letter

Hi Amber, please see attached comment letter. Please let me know if you have any questions.

Sincerely,
Buffy McQuillen
Tribal Heritage Preservation Officer (THPO)
Native American Graves Protection and Repatriation Act (NAGPRA)
Federated Indians of Graton Rancheria
6400 Redwood Drive, Suite 300
Rohnert Park, CA 94928
Office: 707.566.2288; ext. 137
Cell: 707.318.0485
FAX: 707.566.2291
bmcquillen@gratonrancheria.com

Federated Indians of Graton Rancheria: Proprietary and Confidential
Confidentiality Notice: This transmittal is a confidential communication or may otherwise be privileged. If you are not the intended recipient, you are hereby notified that you have received this transmittal in error and that any review, dissemination, distribution or copying of this transmittal is strictly prohibited. If you have received this communication in error, please notify this office and immediately delete this message and all its attachments, if any.



Submitted Via Electronic Email: amber.anastacio-roberts@coastal.ca.gov

November 7, 2018

John Ainsworth, Executive Director
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Coastal Commission Draft Environmental Justice Policy Comment Letter

Dear Mr. Ainsworth,

The Federated Indians of Graton Rancheria's Tribal Heritage Preservation Office (THPO) has completed review of the *Coastal Commission Draft Environmental Justice Policy* and submits the following comments for your consideration.

- The Tribe supports the policy statement on page 12 of the September 12, 2018 Public Review Draft letter.
- The Statement of Principles supports a respectful approach for tribal concerns and acknowledges the genocide of Native Americans. We encourage the Commission to continue developing specific action steps to establish partnerships with Tribal Governments for access to sacred sites, and traditional gathering areas.
- Climate change is a significant issue which requires immediate action steps to protect the areas of cultural significance. We rely on traditional ecological knowledge and western science in managing our environmental systems. We encourage the Commission to support the use and application of Traditional Ecological Knowledge provided by tribal communities when available for project impact considerations.
- The Tribe encourages the Commission to establish within the project review process methods for analyzing environmental justice impacts with mitigation measures, monitoring and restrictions.

If you would like to discuss this further please contact our THPO, Buffy McQuillen at (707) 566-2288 or by email at bmcquillen@gratonrancheria.com who will facilitate further discussion and arrange for tribal consultation.

Sincerely,

Lorelle Ross, Vice Chairperson
Federated Indians of Graton Rancheria

From: Robert Garcia [mailto:rgarcia@cityprojectca.org]

Sent: Wednesday, November 07, 2018 5:42 PM

To: Bochco, Dayna@Coastal; Ainsworth, John@Coastal; Pederson, Chris@Coastal; Brownsey, Donne@Coastal; Vargas, Mark@Coastal; Sundberg, Ryan@Coastal; Peskin, Aaron@Coastal; Groom, Carole@Coastal; Howell, Erik@Coastal; Padilla, Stephen@Coastal; Faustinos, Belinda@Coastal; Mann, Zahirah@Coastal; Pendleton, Brian@Coastal; Urias, Bryan@Coastal; Escalante, Linda@Coastal; marciela.morales@coastal.ca.gov; Ward, Christopher@Coastal; Selvaraj, Sumi@Coastal; Haage, Lisa@Coastal; Christie, Sarah@Coastal; Sanchez, Jordan@Coastal; Schwartz, Noaki@Coastal

Subject: Coastal Justice and the Coastal Commission's Environmental Justice Policy Statement - 9/12/18 Public Review Draft

Dear Chair Bochco, Honorable Members of the Commission, Director Ainsworth, and Staff:

We submit these public comments to improve the California Coastal Commission ("CCC") Environmental Justice Policy Statement ("Draft Policy Statement") - 9/12/18 Public Review Draft ("Draft"). Our purpose is to promote equal access to the coastal zone and beaches for all, in compliance with state and federal equal opportunity, antidiscrimination, and environmental justice laws and policies.

Thank you for this opportunity to address these concerns. We applaud CCC's efforts to improve the original March 2017 draft. We will not dwell here on the strengths of current Draft. We are eager to meet with Commissioners and Staff again to discuss the following matters to achieve coastal justice for all.

The following is a summary of our concerns:

1. California equal opportunity and antidiscrimination law under Section 11135 et seq. applies to all programs and activities administered by CCC, and by recipients of CCC financial assistance. Protections, prohibitions, and sanctions under Section 11135 are in addition to any others imposed by law. Section 11135 is not limited only to staff and work force requirements, as the Draft Policy Statement incorrectly implies.
2. The Draft Policy Statement ignores compliance with federal equal opportunity and antidiscrimination laws, including Title VI of the Civil Rights Act of 1964 and its regulations. Those federal laws apply independently of the cited state laws.
3. The cited state and federal laws are mandatory. These laws are not merely "aspirational." It is not enough for CCC to be "committed to consideration" of those laws, as the Draft Policy Statement states.
4. The cited state and federal laws apply over and above the definition of "environmental justice" in the Coastal Act Section 30013 and Government Code Section 65040.12(e).
5. We summarize best practices and our recommendations. Please distribute these comments to all Commissioners.

Respectfully submitted,

Robert García, Founding Director-Counsel, The City Project

Yvonne Gonzalez Duncan, State Director, California LULAC (League of United Latin American Citizens)

Mark Magaña, Executive Director, GreenLatinos

Robert Bracamontes (Bob Black Crow, Yu-va'-tal 'A'lla-mal, Acjachemen Nation, Juaneno Tribe)



1055 Wilshire Blvd., Suite 1660 Los Angeles, CA 90017-2499

T: (213)977-1035

F: (213)977-5457

www.cityprojectca.org

November 7, 2018

Chair Dayna Bochco
Honorable Commissioners
Executive Director John Ainsworth
California Coastal Commission
Via email to Commissioners and Staff

RE: Coastal Justice and the Coastal Commission's Environmental Justice Policy Statement - 9/12/18 Public Review Draft

Dear Chair Bochco, Honorable Members of the Commission, Director Ainsworth, and Staff:

1. Overview

We submit these public comments to improve the California Coastal Commission ("CCC") Environmental Justice Policy Statement ("Draft Policy Statement") - 9/12/18 Public Review Draft ("Draft"). Our purpose is to promote equal access to the coastal zone and beaches for all, in compliance with state and federal equal opportunity, antidiscrimination, and environmental justice laws and policies.

Thank you for this opportunity to address these concerns. We applaud CCC's efforts to improve the original March 2017 draft. We will not dwell here on the strengths of current Draft. We are eager to meet with Commissioners and Staff again to discuss the following matters to achieve coastal justice for all.

The following is a summary of our concerns:

1. California equal opportunity and antidiscrimination law under Section 11135 et seq. applies to all programs and activities administered by CCC, and by recipients of CCC financial assistance. Protections, prohibitions, and sanctions under section 11135 are in addition to any others imposed by law. Section 11135 is not limited only to staff and work force requirements, as the Draft Policy Statement incorrectly implies.
2. The Draft Policy Statement ignores compliance with federal equal opportunity and antidiscrimination laws, including Title VI of the Civil Rights Act of 1964 and its regulations. Those federal laws apply independently of the cited state laws.
3. The cited state and federal laws are mandatory. These laws are not merely "aspirational." It is not enough for CCC to be "committed to consideration" of those laws, as the Draft Policy Statement states.
4. The cited state and federal laws apply over and above the definition of "environmental justice" in the Coastal Act Section 30013 and Government Code Section 65040.12(e).

We summarize best practices and our recommendations below, as we have consistently raised these concerns before in meetings, conversations, and written submissions to CCC Commissioners and Staff beginning in 2016 and earlier. Please distribute these comments to all Commissioners.

2. The Draft Policy

The actual Draft Policy Statement is one paragraph and states as follows:

*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 natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities shall not be denied on the basis of race, ethnicity, gender, 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 **consideration of environmental justice principles, as the term "environmental justice" is defined in Government Code Section 65040.12(e)**, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with **Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity.***

Draft at pages 3, 12 (emphasis added).¹ The remainder of the Draft appears to be only commentary, and not part of the Draft Policy.

3. Coastal Justice and the Law

A principle purpose of the Coastal Act is to maximize public access and recreational opportunities along the beach and coastal zone for "*all the people*." (Pub. Res. Code §§ 30001.5, 30210 (emphasis added); Pub. Res. Code § 30013; *Remmenga v. Cal. Coastal Com* (1985) 163 Cal.App.3d 623, 629-630; *see also* Cal. Const., art. X, § 4.) The public trust doctrine protects coastal access, recreation, health, aesthetics, and ecology. (*National Audubon Society v. Superior Court* (1983) 33 Cal. 3d 419.)

Advocates and activists have long fought for coastal justice along the California coast. *See generally* GreenLatinos, California LULAC (League of United Latin American Citizens Robert Bracamontes (Bob Black Crow, Yu-va'-tal 'A'lla-mal, Acjachemen Nation, Juaneno Tribe) & The City Project, *Free the Beach! Coastal Access, Equal Justice, and Hollister Ranch* (The City Project Policy Report 2018), www.cityprojectca.org/blog/archives/45719; Robert García, Cesar de la Vega, and Erica Flores Baltodano, *Coastal Justice and the California Coastal Act: Equity Mapping and Analysis* (The City Project Policy Report 2016), www.cityprojectca.org/blog/archives/44071; Robert García & Erica Flores Baltodano, *Free the Beach! Public Access, Equal Justice, and the California Coast* (2005) 2 Stan. J. C.R. & C.L. 143, goo.gl/RVgbJ.² *See also* Spencer Robins, *The Long Battle over Coastal Access at Hollister Ranch* (KCETLink 2018) www.kcet.org/shows/earth-focus/projects/hollister-ranch-the-last-beach-in-southern-california. "Coastal justice" recognizes "access to the coastal zone is about equal justice and human dignity and freedom." *Id.*

¹ The Draft Policy Statement without explanation omits text from sections 30013 and 11135 (ancestry, medical condition, genetic information, marital status), and income from Section 30107.3 of the Coastal Act.

² The City Project has previously presented each of these written submissions to CCC Commissioners and Staff.

The Coastal Act as amended in 2016 underscores equal access, antidiscrimination, and environmental protections apply, as follows. Section 30013 provides:

[N]o person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, . . . color, . . . or disability, shall 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 pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

The 2016 Coastal Act amendments reiterate the language of Section 11135(a).³ (*See* Pub. Res. Code § 30013 (“In order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division.”).) Thus any program or activity that is conducted, operated, or administered by CCC, is funded directly by CCC, or receives any financial assistance from CCC is covered under sections 30013 and 11135.

Furthermore, protections, prohibitions, and sanctions under section 11135 et seq. are in addition to any others imposed by law. (Gov. Code § 11139.) In other words, Section 11135 protections apply independently of Section 30013.

In addition, Section 30107.3 of the Coastal Act provides: “‘Environmental justice’ means 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.”⁴ While the Draft Policy Statement focuses on “environmental justice,” that is not enough to satisfy Sections 30013, 11135, and 11139. The Draft does not provides standards to measure equity and progress and hold officials accountable for “environmental justice.” Sections 30013 and 11135 et seq. provide such standards, as discussed below.

The public has a right to fully participate in decisions affecting coastal planning, conservation, and development under the Coastal Act.⁵

Federal equal access laws and principles apply independent of the cited state laws. These laws include Title VI of the Civil Rights Act of 1964 and its regulations, as well as the President's Executive Order 12898 on environmental justice and health. *See generally* Robert García & Erica Flores Baltodano, *Free the Beach! Public Access, Equal Justice, and the California Coast* (2005) 2 Stan. J. C.R. & C.L. 143, goo.gl/RVgbJ. The Draft Policy Statement is silent on these laws. The final Policy Statement needs to address compliance with these federal laws.

³ Pub. Res. Code § 30013, added by Stats. 2016, Ch. 578, Sec. 1, effective Jan. 1, 2017.

⁴ Pub. Res. Code § 30107.3, added by Stats. 2016, Ch. 578, effective Jan. 1, 2017 (reiterating Gov. Code § 65040.12(e)).

⁵ “The Legislature . . . 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.” *Surfrider Fdn. v. Martins Beach* (2017), 221 Cal. Rptr. 3d 382, 393 (Ct. App. 1st Dist.), *quoting* Pub. Res. Code § 30006, *cert. denied*, Oct. 1, 2018, www.scotusblog.com/case-files/cases/martins-beach-1-llc-v-surfrider-foundation.

4. Discussion

CCC recognizes coastal injustice, climate change, and sea level rising disproportionately harm low income people, people of color, and Native Americans. Draft, p. 14.⁶ The final Policy Statement must fully address, in order to alleviate, this injustice.

California equal opportunity and antidiscrimination law under Section 11135 applies to all programs and activities administered by CCC, and by recipients of CCC financial assistance. Protections under 11135 et seq. are in addition to any others imposed by law. Gov. Code § 11139. Compliance with Section 11135 and 30013 is not limited only to staff and work force requirements and is not “aspirational.” The final Policy Statement must explicitly address this.

The cited state and federal laws apply over and above the definition of “environmental justice” in the Coastal Act section 30013 and Government Code Section 65040.12(e). The final Policy Statement must explicitly address this.

According to a Stanford Law School study, wealthy, white, senior residents enjoy greater coastal access compared to people of color and low-income people in California. There are roughly 25% more non-Hispanic white people and 30% more senior citizens compared to proportionate representation along the coast, and 52% fewer Hispanic or Latino people, 60% fewer Black or African American people, 57% fewer American Indians, and 18% fewer households below the poverty line.⁷

These coastal inequities are due in part to a continuing history, legacy, and pattern of discriminatory public and private beach, land use, and housing policies.⁸ Equal access to beaches, pools, and public waters is a compelling civil rights and environmental justice interest in California and beyond, and has been for decades. Coastal justice is not just about fun in the sun and surf; it's about equal justice, human dignity, and freedom. The Supreme Court struck down discriminatory public parks and beaches on those grounds in 1963. Civil rights workers held “wade ins” at beaches, “swim ins” at pools, and sits at lunch counters.⁹ In 2016, the “gang of 100” that demanded coastal justice from CCC included civil rights, environmental justice, health equity, education, housing, art, social justice, and other allies.¹⁰ This led to the 2016 coastal justice amendments to Coastal Act section 30013 discussed above.

⁶ CCC, *Sea Level Rise Policy Guidance: Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs and Coastal Development Permits* (2015) 59-60. Available at https://documents.coastal.ca.gov/assets/slr/guidance/August2015/0_Full_Adopted_Sea_Level_Rise_Policy_Guidance.pdf.

⁷ Dan R. Reineman et al., *Coastal Access Equity and the Implementation of the California Coastal Act*, 36 Stan. Env't L.J. 89 and 96, 105-08 (2016). Available at www-cdn.law.stanford.edu/wp-content/uploads/2017/11/reineman.pdf. *Accord*, García, de la Vega, & Flores Baltodano, *Coastal Justice and the California Coastal Act: Equity Mapping and Analysis*, supra. CCC should rely on US EPA EJASCREEN, which includes park and beach data based on race and ethnicity, and not CalEnviroScreen, which does not. Draft 9, 14.

⁸ See *Texas Dep't of Hous. & Comty. Affairs v. Inclusive Communities* (2015) 576 U.S. ___, 135 S. Ct. 2507, slip op. at 5-7; García & Baltodano, supra, at 154; Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (2017); Ira Katznelson, *When Affirmative Action Was White* (2005); Manuel Pastor, *State of Resistance* (2018) 5, 37-38 (segregation in California).

⁹ *Watson v. City of Memphis*, 373 U.S. 526 (1963). See, e.g., Andrew W. Kahrl, *The Land Was Ours: How Black Beaches Became White Wealth in the Coastal South* (2012); Andrew W. Kahrl, *Free the Beaches: The Story of Ned Coll and the Battle for America's Most Exclusive Shoreline* (2018); Andrew W. Kahrl, *America's segregated shores: beaches's long history as a racial battleground*, The Guardian (June 12, 2018), www.theguardian.com/world/2018/jun/12/americas-segregated-shores-beaches-long-history-as-a-racial-battleground.

¹⁰ Allies submitting public comments to CCC included Dean Robert Bullard, widely considered the “father of environmental justice,” Black Surfers Collective, the Native American Wishtoyo Foundation, Asian Pacific Policy and Planning Council, Venice Community Housing, Concerned Citizens of South LA, Diverse Environmental Leadership, Hispanic Access Foundation, Social and Public Arts Center, Anahuak Youth Sport Association, Sugar Law Center for Economic & Social Justice, Azul, Social Justice Consultants, GreenLatinos, The City Project, and mainstream environmentalists. The comments are available www.cityprojectca.org/blog/wp-content/uploads/2016/02/NGO-Ltr-Supporting-LesterFINAL_Logos.compressed-3.pdf.

While CCC has a documented history of refusing to consider environmental justice in its decision-making,¹¹ the Draft ignores that fact. The failure to implement cited state and federal laws would perpetuate this discriminatory history and pattern.

5. Best Practices and Recommendations

A 2017 committee report by the National Academies of Sciences, Engineering, and Medicine (NASEM) recommends implementing civil rights laws and strategies to alleviate environmental justice and health disparities. NASEM, *Communities in Action: Pathways to Health Equity* (2017).¹² Underestimating the concerns of people of color and low income people impedes alleviating inequities and broadening participation in environmental justice and environmental quality solutions, according to a 2018 study published by NASEM.¹³

The National Park Service Gaviota Coast study provides a best practice for CCC to draft and implement a final Policy Statement in compliance with equal opportunity, antidiscrimination, and environmental justice laws and policies. NPS emphasizes “coastal land below the mean high tide line, and the first three miles of ocean, are considered public trust resources, and thus belong to all the people of California. . . . [A]ccess and opportunities for people of all races, cultures and incomes” must be provided.¹⁴ The NPS Rim of the Valley study also provides a best practice for compliance and the final CCC statement.¹⁵

We have presented recommendations to CCC for compliance with equal opportunity, antidiscrimination, and environmental justice laws and policies. We fully incorporate those recommendations by reference here. See García, de la Vega, & Flores Baltodano, *Coastal Justice and the California Coastal Act: Equity Mapping and Analysis*, supra, at pages 2-4 (compliance, framework, data); GreenLatinos, California LULAC, Bracamontes & The City Project, *Free the Beach! Coastal Access, Equal Justice, and Hollister Ranch*, supra, at pages 9-10; García & Flores Baltodano, *Free the Beach! Public Access, Equal Justice, and the California Coast*, supra, at 203-08.

CONCLUSION

The City Project is eager to meet with Commissioners and Staff to achieve coastal justice for all, and compliance with state and federal equal opportunity, antidiscrimination, and environmental justice laws.

¹¹ Peter Douglas, the late CCC Executive Director, declared without legitimate basis that the Commission and Staff could not consider environmental justice: “[O]ur standard of review, your standard of action in this matter, is the [Local Coastal Program], and the statutory requirements for the Coastal Commission are the policies of Chapter 3, and the provisions of the Local Coastal Program, that is our standard, and neither of those include any considerations of environmental justice.” Coastal Commission McGrath power plant hearing transcript at 2009 04 09 b page 142 (using page numbers on upper right corner of each page). See also *id.* at pages 147-51, 168-70. The transcript obtained under a public record act request is on file with The City Project.

On the intentional discrimination and discriminatory impact standards, see generally GreenLatinos, California LULAC, Bracamontes & The City Project, *Free the Beach! Coastal Access, Equal Justice, and Hollister Ranch*, pages 8-9, supra, and authorities cited.

¹² www.nationalacademies.org/promotehealthequity. See pp. 11-12, 40-42, 102-105, 351-62, 464-69, 306-308, 360-62, 385-89, 429, 461-63.

¹³ Pearson et al., www.pnas.org/content/early/2018/10/23/1804698115; www.cityprojectca.org/blog/archives/45755.

¹⁴ Errata at 60. NPS, *Gaviota Coast Feasibility Study & Environmental Assessment* (2004) (NPS Study). The final, draft, errata, and transmittal letter are available at parkplanning.nps.gov/document.cfm?parkID=422&projectID=72730&documentID=80018.

¹⁵ NPS, *Rim of the Valley Corridor: Draft Special Resource Study and Environmental Assessment*, April 2015 (*Santa Monica Mountains*). Highlighted excerpts are available at www.cityprojectca.org/blog/wp-content/uploads/2015/05/NPS-ROTV-draft-study-April-relevant-excerpts-20150629.pdf.

Honorable CCC Commissioners and Staff

RE: Coastal Justice and the Coastal Commission's Environmental Justice Policy Statement

Page 6 of 6

Respectfully submitted,

Robert García, Founding Director-Counsel, The City Project

Yvonne Gonzalez Duncan, State Director, California LULAC (League of United Latin American Citizens)

Mark Magaña, Executive Director, GreenLatinos

Robert Bracamontes (Bob Black Crow, Yu-vá'-tal 'A'lla-mal, Acjachemen Nation, Juaneno Tribe)

From: Lynn Ross [mailto:lrthinkgreen@gmail.com]

Sent: Wednesday, November 07, 2018 5:54 PM

To: EnvironmentalJustice@Coastal

Subject: Comment: Remove your commentary that wood-burning fires are needed and what people expect.

Dear collaborators of the environmental justice report:

The attached PDF is a new and comprehensive book regarding the harmful effects of wood smoke.

It is a scientific review written for all to comprehend. You will find that the smoke from wood-burning beach fires or camp fires is unhealthy recreation, emitting thousands of different gases, as well as fine particulate matter, ultra-fine particulate matter, and 2.5 particulate matter. Yes, sitting by a wood-burning fire is an unhealthy recreation.

Coastal commission staff member Laurie Koteen has repeatedly stated, "No one would recommend sitting by a wood-burning fire because of all the chemicals and other constituents in it." She added that there is "loads of information" about it.

In December 2015, at their Coastal Commission meeting in Monterey, commissioners stated that wood-burning fires is an "unhealthy recreation." In fact, they voted against a wood-burning proposal for Carmel Beach, allowing the city to try a three-year propane-only pilot program to potentially use as a model for other local governments. We expect to re-try this program again, since we have a new mayor as of yesterday.

Mary Shallenberger had stated that her lungs were so compromised that she could not attend her own coastal commission events when there were bonfires. This does not make her an exception, but someone with a lung condition who can best exemplify the danger of breathing smoke. She stated at the Monterey coastal commission meeting that "smoke prevents access."

We should not have to later argue this obvious and proven scientific information before the commissioners. They and Jack Ainsworth have the book in hand as well, and no one can refute this science or the harm to people. No one can refute that smoke prevents access. I understand that there are a few staff members who are ardently promoting smoke, despite its harmful effects. They are not scientists, but land planners with an extreme personal agenda to embed wood-burning fires into your final draft. Please don't de-value your work.

It is reckless and irresponsible to promote something harmful, especially since opportunities to go to the beach would have to be specifically denied to those with medical-related health problems, such as asthma and COPD, if there was smoke from wood burning.

Your draft statements indicate that the Coastal Commission endorses smoke from wood-burning fires because people "expect" and "need" them. This is backward scientifically. Public policy is supposed to protect, not harm people.

You must remove this uninformed or misinformed information to be promulgated to the public as truth; that wood-burning is essentially harmless. Many people suffer from asthma, and cannot

get anywhere near smoke that you would promote to people. Propane fires allow people to enjoy the outdoors without causing smoke-induced, reactive medical incidents, including asthmatic attacks. According to the Monterey County Health Department, there are about 41,000 people in Monterey County with asthma.

The Coastal Commission should not be seen as backward in promoting something that is scientifically unsound and unsafe. It will not only cause embarrassment, but assuredly expose you to legal liability. The Coastal Commission should not knowingly and purposefully promote scientifically harmful gases and chemicals in smoke from wood-burning fires for people to breathe. In other words, acting like tobacco companies.

The most polluted region of Monterey County is a place where asthma is common, and where many people have not visited our beaches. What is your plan? That they should go to a smoke-filled beach? To deny them their legal right to go to the entire public beach during standard hours?

Sincerely,

Lynn Ross
Carmel, CA

THE HARMFUL EFFECTS OF WOOD SMOKE AND THE GROWTH OF RECREATIONAL WOOD BURNING



barbecue



chiminea



fire pit



pizza oven

ENVIRONMENT & HUMAN HEALTH, INC.

THE HARMFUL EFFECTS OF **WOOD SMOKE** AND THE GROWTH OF RECREATIONAL WOOD BURNING

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ENVIRONMENT & HUMAN HEALTH, INC.

1191 Ridge Road • North Haven, CT 06473

Phone: (203) 248-6582 • info@ehhi.org

www.ehhi.org

THE HARMFUL EFFECTS OF WOOD SMOKE AND

ENVIRONMENT AND HUMAN HEALTH, INC. Board Members

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Nancy O. Alderman, MES. President of Environment and Human Health, Inc.; Past member of the National Board of Environmental Defense; Recipient of the Connecticut Bar Association, Environmental Law Section's Clyde Fisher Award; and the New England Public Health Association's Robert C. Huestis/Eric Mood Award for outstanding contributions to public health in the environmental health area.

Andrea Gottsegen Asnes, MD, MSW. Associate Professor of Pediatrics at the Yale School of Medicine; Associate Director of the Yale Child Abuse Programs and Child Abuse Prevention Programs; Co-Director of the third year clerkship in Pediatrics; Associate Director of the MD/PhD Program.

Gaboury Benoit, PhD. Grinstein Professor of Environmental Chemistry at Yale University's School of Forestry and Environmental Studies; Director of the Hixon Center for Urban Ecology. Co-author of *The Land and Natural Development (L.A.N.D.) Code* and *New Strategies for America's Watersheds*.

D. Barry Boyd, MD. Clinical Professor of Medicine, Yale University School of Medicine; Oncologist at Greenwich Hospital and Affiliate Member of the Yale Cancer Center; Founder and Director of Integrative Medicine at Greenwich Hospital – Yale Health System.

David R. Brown, ScD. Public Health Toxicologist and Director of Public Health Toxicology for Environment and Human Health, Inc.; Past Chief of Environmental Epidemiology and Occupational Health at Connecticut's Department of Health; Past Deputy Director of The Public Health Practice Group of ATSDR at the National Centers for Disease Control and Prevention (CDC) in Atlanta, Georgia.

Thomas F. Harrison, Esq. Connecticut Environmental Lawyer; Past Assistant Attorney General in the New York State's Attorney General's office; Past Regional Counsel in the largest U.S. EPA Office, Region 5; Past Senior Corporate Council to the B.F. Goodrich Company; Past Partner at the Hartford law firm of Day Pitney LLP; Past Chairman of the Environmental Section of the Connecticut Bar Association.

Pinar H. Kodaman, MD, PhD. Assistant Professor of Obstetrics, Gynecology, and Reproductive Sciences, Division of Reproductive Endocrinology and Infertility, Yale University School of Medicine; Director of the Early Recurrent Pregnancy Loss Program at the Yale Fertility Center.

Sarah S. Mougalian, MD. Assistant Professor of Medical Oncology with a focus on Breast Medical Oncology, Smilow Cancer Center, Yale University School of Medicine. Recipient of many awards, including the Clifton Howe Award given for clinical excellence to a medical oncology fellow.

Hugh S. Taylor, MD. Anita O'Keeffe Young Professor of Obstetrics, Gynecology, and Reproductive Sciences; Professor of Molecular, Cellular, and Developmental Biology; Chair of Obstetrics, Gynecology, and Reproductive Sciences, Yale School of Medicine; Chief of Obstetrics and Gynecology, Yale-New Haven Hospital.

John P. Wargo, PhD. Tweedy-Ordway Professor of Environmental Health and Political Science at Yale University; Chair, Yale College Environmental Studies Major and Program; author of *Green Intelligence: Creating Environments That Protect Human Health* (Yale Press) and *Our Children's Toxic Legacy*.

THE HARMFUL EFFECTS OF **WOOD SMOKE** AND THE GROWTH OF RECREATIONAL WOOD BURNING

John Wargo, Ph.D.

Tweedy-Ordway Professor of Environmental Health and Political Science
Yale University

Nancy Alderman, MES

President
ENVIRONMENT AND HUMAN HEALTH, INC.

Linda Wargo, MES

EDITING AND GRAPHIC DESIGN
Jane M. Bradley, MALS
Medical/Science Writer
ENVIRONMENT AND HUMAN HEALTH, INC.

EDITING ASSISTANCE

Susan Addiss, MPH, MUrS
EDITOR
ENVIRONMENT AND HUMAN HEALTH, INC.

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I. Wood Smoke: Introduction



- Wood smoke poses a serious danger to human health. It is known to cause and exacerbate many pulmonary and cardiovascular diseases, and these illnesses are the primary causes of mortality in the U.S.
- Despite convincing scientific evidence of health hazards, most governments have failed to effectively regulate wood burning, and wood smoke now constitutes nearly 30% of airborne particle pollution in a number of urban areas during winter months.
- Human exposure to wood smoke appears to be increasing, as more people are burning wood within or near their homes. The use of wood for heating purposes increases along with fossil fuel prices, especially in forested parts of the country where wood is both accessible and inexpensive.
- During the past 25 years, outdoor residential fireplaces, fire pits, chimineas, cooking appliances, and wood boilers (used in the summer only to produce hot water and heat swimming pools) have become increasingly common. The dynamics of the exchange

During the past 25 years, outdoor residential fireplaces, fire pits, chimineas, cooking appliances, and outdoor wood boilers (used in the summer to produce only hot water and heat swimming pools) have become increasingly common.

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Emissions from wood burning, diesel fuel combustion, coal power plants, and cigarettes contain remarkably similar chemicals.

of wood smoke from outdoor burning with indoor concentrations of particulates and gases is misunderstood.

- The ability of very fine particles and gases to enter indoor environments from outdoor burning sources is well documented, and dependent upon indoor-outdoor air exchange rates. This means that those who routinely burn wood should be vigilant that they are not polluting their indoor environments to dangerous levels.
- Emissions from wood burning, diesel fuel combustion, coal power plants, and cigarettes contain remarkably similar chemicals. For areas already out of federal compliance with pollution limits from other sources of particles and volatile organic compounds, the additional contribution of wood smoke can produce dangerous conditions.
- Wood smoke from a single source normally creates a plume of visible pollution, also identifiable by its sweetness of smell. Satellite imagery with extraordinary sensitivity can easily track wood smoke many miles from its origin, along with the buildup of haze under still conditions near the source. If the source is within or near an urban block, condominium or townhouse cluster, hundreds of people may be exposed to elevated levels of particles and gases that can diminish lung function and threaten health.
- The U.S. Environmental Protection Agency has primary federal responsibility to regulate air quality, yet this agency has long-neglected the wood-burning problem, leaving it to state, local, and municipal governments.
- This disregard has led to a patchwork quilt of largely ineffective regulation by lower levels of government, and many communities have no health-protective requirements at all. Poorly funded state and local health departments are often responsible for establishing and regulating wood smoke emissions. Many expect the federal government to establish health-protective standards. When the federal government fails to do so, states and local governments must assume the responsibility as an “unfunded mandate.”

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- Effective regulation might focus on appliance emission standards; maximum health-protective air pollution levels of particles and gases at the user's property boundary; a maximum number of wood-burning devices allowable within buildings, neighborhoods, or cities; and prohibitions against burning during still weather conditions when air pollution can increase rapidly near the ground. The absence of effective legal protection leaves most individuals to fend for themselves in attempts to persuade neighbors to use cleaner sources of fuel such as natural gas, and more efficient burning appliances for heating and cooking, both indoors and outdoors.
- There is some good news. Mandatory wood smoke reduction programs in California have resulted in significant reductions in ambient PM_{2.5} concentrations and a decrease in measured health effects. This is consistent with a large body of data demonstrating that as particulate air pollution declines, public health improves.¹ A number of state and local governments have prohibited burning during still weather patterns, or certain times of the day.
- Decades of research demonstrate that particles with a diameter of 2.5 micrometers or less can enter the respiratory tract. Small particles created by burning wood remain airborne for longer periods of time than larger particles, meaning that they remain available for human inhalation. Small particles can have a strongly negative effect on human health, causing and exacerbating lung diseases, triggering cardiovascular events, cancers, and premature deaths. Health loss can occur at air pollution levels well below regulatory standards.
- **Long-term exposure** is associated with reduced lung function, chronic bronchitis, and even premature death.² Long-term exposure to fine particles (PM_{2.5}) is linked to atherosclerosis (a condition that underlies many cardiovascular diseases), adverse birth outcomes, and childhood respiratory diseases. Additional studies suggest that long-term exposure to PM_{2.5} also increases risks of diabetes, neurodevelopmental abnormalities, and diminished cognitive function.³ Lung cancer is also a risk of long-term exposure to wood smoke.⁴



Small particles can have a strongly negative effect on human health, causing and exacerbating lung diseases, triggering cardiovascular events, cancers, and premature deaths. Health loss can occur at air pollution levels well below regulatory standards.

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Outdoor fireplaces can cause dangerous exposures, especially under still, damp conditions and temperature inversions when smoke continues to concentrate near the ground.

- **Short-term exposure** to wood smoke aggravates many types of lung diseases, can cause asthma attacks and acute bronchitis, and may increase susceptibility to respiratory infections.
- Low-level exposure to wood smoke, regardless of its origin, can reduce pulmonary function and lower blood oxygen concentrations. Recent studies show reduced lung function later in life following childhood exposure to wildfire smoke.⁵ Studies also show a higher incidence of breast cancer in women who burn synthetic wood,⁶ and shortened lifespans in women with breast cancer who are exposed to fine particles found in wood smoke.⁷
- Short- and long-term exposures to PM2.5 decrease life expectancy.⁸ A 2017 study of more than 60 million U.S. Medicare beneficiaries found that, for every increase in pollution concentration of 10 $\mu\text{g}/\text{m}^3$ in outdoor PM2.5 (measured as an annual average), mortality increased by 7%. The study included populations from small cities and rural areas. The authors reported that long-term exposure to PM2.5 is associated with an increased risk of death, even at levels below the current regulatory standards.⁹
- The burning of firewood and trash is one of the largest contributors to PM2.5 in many rural, semi-rural, and suburban communities in the U.S.
- Outdoor fireplaces can cause dangerous exposures, especially under still, damp conditions and temperature inversions when smoke continues to concentrate near the ground.
- The history of second-hand cigarette smoke regulation demonstrates that local and state policy efforts are likely to be more successful than federal initiatives. Local and state regulations raised public awareness regarding the health risks of second-hand smoke to non-smokers, increasing support for policy measures to reduce these risks, and changing attitudes and norms regarding the social acceptability of smoking.

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- Local burn-free zones, especially in densely populated environments, could dramatically reduce pollution, exposures and health risks. Wood burning in most societies is viewed as a natural practice to create heat, light, cook food, heat water, and provide a sense of security. Fireplaces, woodstoves, and both indoor and outdoor cooking appliances are often the center of social life and relaxation.
- Wood burning in residential settings has long enjoyed a positive cultural image in the public mind. This favorable impression was reinforced during recent decades of fossil fuel price increases, and by consumer perception that wood burning is both natural and environmentally sustainable.
- The growing scientific consensus that wood smoke causes serious and widespread human illness is disbelieved by many who rely on wood burning for heat or its social comforts at relatively small costs compared with fossil fuels. They believe they have a legitimate right to continue a traditional and natural practice spanning thousands of years. Customary or traditional patterns of wood burning help to explain constituents' resistance to new regulations, and legislators are especially sensitive to their constituents' concerns.

Wood-burning in most societies is viewed as a natural practice to create heat, light, cook food, heat water, and provide a sense of security. Fireplaces, woodstoves, and both indoor and outdoor cooking appliances are often the center of social life and relaxation.

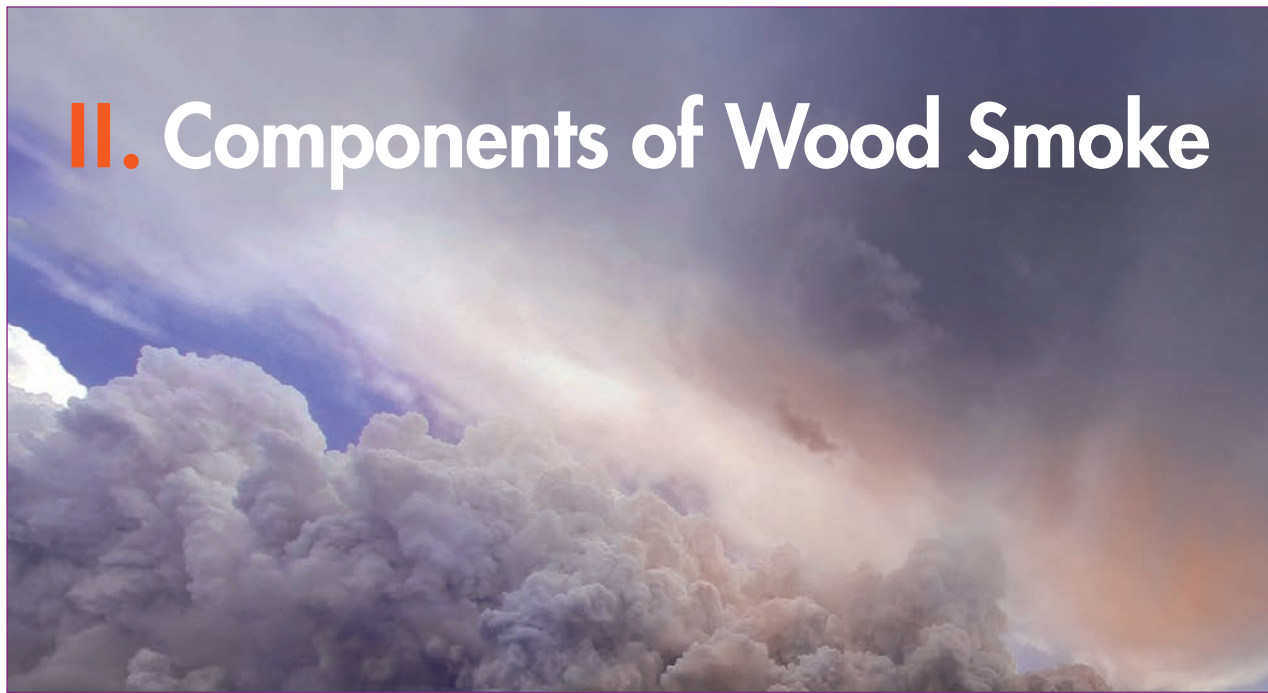
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The report explores efforts in Allegheny County, Pennsylvania,, and in Connecticut to control wood-smoke exposures. It is important to note that Allegheny County has some of the highest levels of particulate air pollution in the U.S.

- This report provides an extensive review of the health effects associated with human exposure to wood smoke. At the present time, there are no accurate estimates of the current number of appliances, frequency of use, or amount of wood burned by geographic location because the data do not exist.
- This report examines state and local government efforts to reduce wood-smoke emissions. As examples, the report explores efforts in Allegheny County, Pennsylvania, and in Connecticut to control wood-smoke exposures. It is important to note that Allegheny County has some of the highest levels of particulate air pollution in the U.S. The report ends with recommendations to reduce exposures from wood-smoke emissions for all levels of government, as well as for individuals.
- The research presented in this report concludes that the health risks associated with wood-smoke exposure are serious. Finally, the report suggests a variety of policy and behavioral changes that could significantly reduce human exposures and health loss from inhaling wood smoke.

II. Components of Wood Smoke



- Wood smoke contains thousands of chemicals, many with documented adverse human health effects. Chemicals include gases such as carbon monoxide (CO), nitrogen dioxide (NO₂), and ozone (O₃). Wood smoke contains particulate matter (PM) and toxic air pollutants, including benzene, formaldehyde, acrolein and polycyclic aromatic hydrocarbons (PAHs).
- The specific chemicals in wood smoke depend on the type of burning appliance, whether wood stove, fireplace, or fire pit. Other factors include the burn rate, type of wood, and moisture content. The appliance used and type of wood burned have the largest effect on the composition of emissions from wood combustion.¹⁰
- Components of wood smoke include at least five chemical groups classified as known human carcinogens by the International Agency for Research on Cancer (IARC). Wood smoke contains additional chemicals categorized by IARC as probable or possible human

Components of wood smoke include at least five chemical groups classified as known human carcinogens by the International Agency for Research on Cancer (IARC). Wood smoke contains additional chemicals categorized by IARC as probable or possible human carcinogens, and at least 26 chemicals listed by the USEPA as hazardous air pollutants.

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carcinogens, and at least 26 chemicals listed by the USEPA as hazardous air pollutants.¹¹

- The chemical composition of wood smoke is extremely complex.¹² Table 1 lists a handful of the chemicals of concern found in wood smoke that have been linked to cardiovascular and pulmonary diseases, immune system disorders, cancer and/or other diseases.

Table 1: Major Hazardous Pollutants in Wood Smoke

Compound	Cardiovascular	Pulmonary	Cancer	Immune	Other
1,3 butadiene*			•		•
PAHs (20+)*			•		
Benzene*			•		•
Acrolein*	•	•	?	•	
Formaldehyde*			•		
Dioxin			•		
Particulate Matter	•	•			

*Hazardous Air Pollutant

Particulate Matter

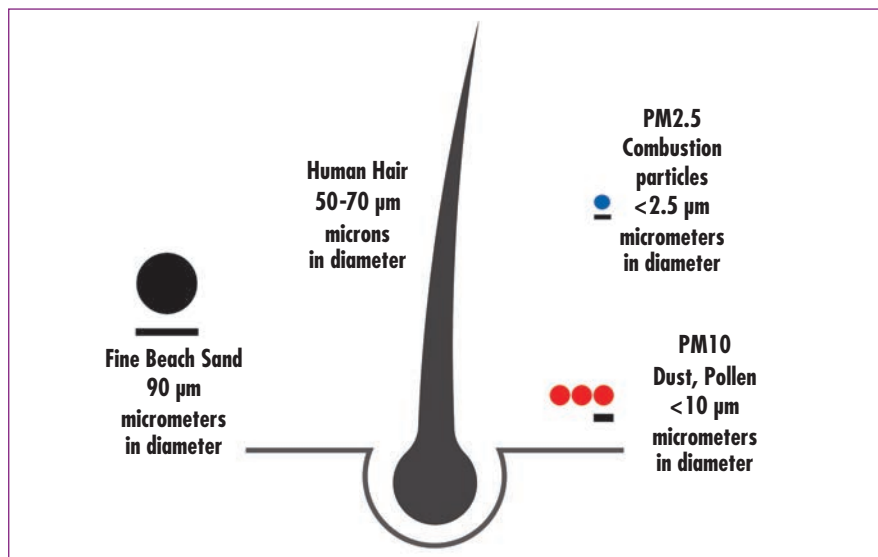
- Particulate matter, or PM, is a mixture of solid and liquid droplets suspended in the air. PM is regulated according to size by the National Ambient Air Quality Standards (NAAQS) set by USEPA.
- PM10 consists of coarse particles smaller than 10 µm in diameter, while PM2.5 is made up of finer particles that are generally 2.5 µm or smaller in diameter. Ultrafine particles, or UFP, are not currently regulated by USEPA and have diameters less than 0.1 µm.

PM2.5

- Fine particles are so small they can pass through the nose and throat and enter the lungs. Once inhaled, these fine particles can cause serious health effects, especially to those with heart or lung

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Figure 1: PM Size Comparison



Source: <https://www.airnow.gov/index.cfm?action=aqibasics.particle>

diseases. Children, older adults and people with diabetes are also affected by fine particles.

- Researchers at Harvard found that both short- and long-term exposure¹³ to PM2.5 was associated with mortality at levels below current standards.¹⁴

Sources of PM2.5 Pollution

- Burning firewood and trash are among the largest sources of fine particle pollution in many parts of the country.¹⁵ According to USEPA, residential wood smoke contributes more than 345,000 tons of PM2.5 into the air throughout the country each year.¹⁶
- A recent study in the northwest U.S. found that residential wood burning was responsible for 31% of PM2.5 in Seattle; for 58% in Portland; for 86% in Klamath Falls; and for 92.7% in Lakeview, Oregon. At 10 monitoring sites in the study, the average December and January contribution of residential wood burning to PM2.5



Burning firewood and trash are among the largest sources of fine particle pollution in many parts of the country.

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Wood burning emits about four times the amount of PM2.5 than all the region's power plants in Southern California combined.

levels ranged from 11.4% to 92.7%. The highest percentages of wood smoke PM2.5 occurred in smaller towns where there were fewer other sources of PM2.5.¹⁷

- In Connecticut, wood smoke particulate matter has been found to contribute as much as 100% of the hourly and 74% of the daily contribution to the total PM2.5.¹⁸ In Westport, Connecticut, wood heating contributes 69% of PM2.5 in the fall.¹⁹
- A study of five rural Montana valley communities found that residential wood stoves were the largest source of PM2.5, ranging from 56% to 77% of measured wintertime PM2.5 pollution.²⁰
- Wood burning is the largest source of annual PM2.5 pollution in the San Francisco Bay Area, contributing 25% of the area's PM2.5 pollution, followed by exhaust from gasoline vehicles (14%) and diesel vehicles (8%).
- On one street in Atlanta, Georgia, residential wood burning contributes an average of 50% of particulate emissions in winter, compared to an average of 33% for gasoline vehicles. Wood burning emits about four times the amount of PM2.5 as all of the Southern California region's power plants combined.²¹

PM2.5 Federal Regulations

- The Clean Air Act requires USEPA to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment.
- The NAAQS were established for PM2.5 in 1997, based on evidence that fine particle pollution can cause premature deaths, as well as harmful effects on the cardiovascular and respiratory systems. The current primary annual NAAQS for PM2.5 is 12 $\mu\text{g}/\text{m}^3$ and the 24-hour NAAQS is 35 $\mu\text{g}/\text{m}^3$ (see Table 2).²²

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Table 2: National Ambient Air Quality Standards for PM2.5

Date	Primary/Secondary	Averaging Time	Level $\mu\text{g}/\text{m}^3$	Calculation
1997	Primary and Secondary	24-hour	65	98th percentile, averaged over 3 years
1997	Primary and Secondary	Annual	15	Annual arithmetic mean, averaged over 3 years
2006	Primary and Secondary	24-hour	35	98th percentile, averaged over 3 years
2006	Primary and Secondary	Annual	15	Annual arithmetic mean, averaged over 3 years
2012	Primary	Annual	12	Annual arithmetic mean, averaged over 3 years
2012	Secondary	Annual	15	Annual arithmetic mean, averaged over 3 years
2012	Primary and Secondary	24-hour	35	98th percentile, averaged over 3 years

Note: Primary standards protect public health, including the health of sensitive populations, such as asthmatics, children, and older adults. Secondary standards protect the public welfare, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

“Small particulate pollution [has] health impacts even at very low concentrations — indeed no threshold has been identified below which no damage to health is observed.”

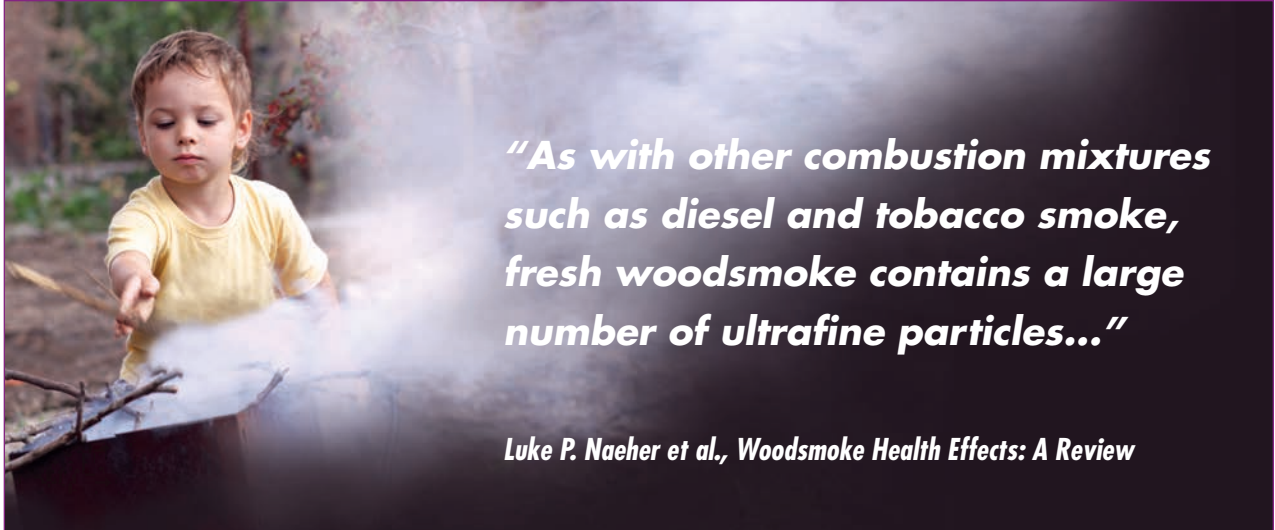
Source: <http://www.who.int/mediacentre/factsheets/fs313/en/>

- Although USEPA has set regulatory standards for PM2.5, recent data suggest that there is no safe level of exposure.²³ A study of over 300,000 people in nine European countries found some lung cancer risk at every level of particulate matter and confirmed that the higher the PM level, the greater the risk. Every increase of five $\mu\text{g}/\text{m}^3$ of PM2.5 drove the risk of lung cancer up by 18%.²⁴

Ultrafine Particles Smaller than PM2.5

- Wood smoke contains ultrafine particles that may be even more dangerous than PM2.5. These ultrafine particles (UFPs) penetrate deep into the respiratory tract, and have not only been detected in the lungs, but also in the liver, kidneys, heart, and brain.²⁵

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“As with other combustion mixtures such as diesel and tobacco smoke, fresh woodsmoke contains a large number of ultrafine particles...”

Luke P. Naeher et al., Woodsmoke Health Effects: A Review

Wood smoke contains ultrafine particles (UFPs) that may be even more dangerous than PM2.5. These particles penetrate deep into the respiratory tract, and have not only been detected in the lungs but also in the liver, kidney, heart, and brain.

- The effects of ultrafine particles on the respiratory system are not well studied,²⁶ but a recent review suggests a causal relationship between short-term exposures to UFPs and cardiovascular and respiratory effects, including changes in lung function and pulmonary inflammation.²⁷
- The ultrafine component of PM might be responsible for many observed health effects of PM2.5 and PM10 for three reasons: (1) their small diameter enables UFPs to penetrate deep into the lungs more easily than larger particles; (2) UFPs are cleared less efficiently from the respiratory tract than larger particles and are transported from the lungs to the bloodstream and into other organ systems; and (3) UFPs have a greater surface area compared to larger particles, thus providing a larger area of potentially toxic chemicals or metals to be absorbed by the lungs and other organs.²⁸
- UFPs are not regulated as criteria pollutants, and are therefore not monitored at most air pollution monitoring stations in the U.S. Without a national network of UFP monitors to assess UFP ambient concentrations in the U.S., little is known about ambient UFP concentrations, and important information is lacking to support health studies.²⁹

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Polycyclic Aromatic Hydrocarbons (PAHs)

- PAHs are constituents of fine particles³⁰ produced from incomplete combustion of organic materials. Natural sources of PAHs include wildfires and volcanos, while man-made sources of PAHs sources are smoke, automobile emissions, and cigarette smoke.
- Regions of the country with dense use of wood stoves and fire-places have elevated levels of PAHs in ambient air.³¹ The American Conference of Governmental Industrial Hygienists (ACGIH) has concluded that breathing smoke from open fireplaces is a major route of exposure to PAHs for the general population.³²
- Residential wood burning is the largest source of PAHs in the U.S.³³ Factors that influence emissions of PAHs include the type of wood burned, as well as combustion conditions such as temperature, moisture, availability of oxygen, and completeness of combustion.³⁴
- Higher PAH emissions from wood burning have been found at higher wind speed and lower flaming rate. Smoldering combustion is estimated to emit up to five times more PAHs than flaming combustion.³⁵
- PAHs are regulated as Hazardous Air Pollutants (HAPs), and seven PAHs are classified as probable human carcinogens.³⁶ They are benzo[a]pyrene, benz[a]anthracene, chrysene, benzo[b]-fluoranthene, benzo[k]fluoranthene, dibenz[a,h]anthracene, and indeno[1,2,3-cd]pyrene.
- The carcinogenic effects of PAHs are due to their ability to bind to DNA. Many studies show a correlation between levels of PAH-DNA adduct formation in different organs and PAH doses.³⁷ A DNA adduct is a segment of DNA bound to a cancer-causing chemical. This process could be the start of a cancerous cell, or carcinogenesis.



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Today, synthetic logs are manufactured from nut shells, fruit pits, coffee grounds, paper, plant oils, and small amounts of various chemicals that may be blended with biowax, a vegetable paraffin, made from soy or palm oil or wood resins. Petroleum-based paraffin wax is still the most common wax used in synthetic logs.

- Several studies report that higher PAH levels and a wider range of specific PAH compounds are found in synthetic log emissions compared to real wood emissions.³⁸
- Higher concentrations of chrysene, a documented tumorigenic PAH, have also been found in synthetic log emissions.³⁹ A study of the organic compounds emitted in smoke from burning pine, oak, and synthetic logs in residential fireplaces in the Los Angeles area showed that the smoke from synthetic logs had the highest total PAH emission rate and the most diverse types of PAHs.⁴⁰
- Manufacturers of synthetic logs claim that their logs emit fewer PAHs than wood. Duraflame®, the leader in the synthetic log market,⁴¹ says its logs produce “80 percent less emissions than a typical wood fire.”⁴² They cite an 11-year-old study that found lower levels of PM and PAHs in synthetic wood logs.⁴³ The manufacturer of Goodwood All-Wood Firelogs, which are made of wood chips, shavings and sawdust without the use of petroleum or chemical binders, claims that its products emit 25-50% fewer particulates than regular firewood.⁴⁴
- Petroleum-based synthetic logs have been on the market since the 1960s, when Duraflame® created a fire log by blending sawdust with petroleum wax. Today, synthetic logs are also manufactured from nut shells, fruit pits, coffee grounds, paper, plant oils, and small amounts of various chemicals that may be blended with biowax, a vegetable paraffin, made from soy or palm oil or wood resins. However, petroleum-based paraffin wax is still the most common wax used in synthetic logs.
- Both the burning of real wood and synthetic logs are sources of PAH exposure. Research published in 2014 showed that women who burn synthetic logs over many years are more likely to have breast cancer than those who do not burn them. The women who burned synthetic logs and developed breast cancer were more likely to have at least two genetic variants. The authors of the

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study argue that the increase in breast cancer risk observed with synthetic log burning may be biologically plausible, citing reports documenting higher levels of certain PAHs in synthetic logs.⁴⁵

VOCs and Other Organic Contaminants

- Wood smoke contains numerous volatile organic compounds (VOCs) and organic contaminants.

1,3-butadiene

- Sources of 1,3-butadiene include industry emissions, cigarette smoke, wood smoke, and the smoke of wood fires. The International Agency for Research on Cancer (IARC), the National Toxicology Program (NTP), and the USEPA all classify 1,3-butadiene as a human carcinogen.
- Wood burning has been found to increase personal exposure to 1,3-butadiene, as well as indoor levels of 1,3-butadiene. The type of wood-burning appliance and burning time are significant factors for indoor levels of 1,3-butadiene. The Agency for Toxic Substances and Disease Registry (ATSDR) recommends reducing the risk of exposure to 1,3-butadiene by minimizing the amount of smoke released during wood burning.⁴⁶

Benzene

- Benzene, a major component of wood smoke, is regulated as a hazardous air pollutant. Benzene is a known human carcinogen, classified as Group 1 by the IARC. In occupational settings, long-term inhalation exposure to benzene can cause various disorders in the blood, including reduced numbers of red blood cells and aplastic anemia.
- Reproductive effects have been reported for women exposed to high levels of benzene by inhalation. Adverse effects on the developing fetus have been observed in animal tests.⁴⁷ Domestic wood burning contributes to indoor levels of benzene, especially



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Formaldehyde is linked to throat, nose, and blood cancers. People with asthma may be more sensitive to exposure to formaldehyde and repeated prolonged exposures have been linked to asthma attacks.

from inefficient flame combustion.⁴⁸ Hardwood burned in a wood stove emits one gram of benzene per kg of wood burned,⁴⁹ and even higher levels of benzene have been found inside wood-burning homes.⁵⁰ In Klamath Falls, Oregon, wood stoves are estimated to emit eight tons of benzene during the wood-burning season.⁵¹

Aldehydes

- Aldehydes in wood smoke include acetaldehyde, a probable carcinogen, formaldehyde, a probable human carcinogen, and acrolein, a lung cancer agent.⁵² Formaldehyde is linked to throat, nose, and blood cancers.⁵³ People with asthma may be more sensitive to exposure to formaldehyde,⁵⁴ and repeated prolonged exposures have been linked to asthma attacks.⁵⁵
- Acrolein damages and inhibits DNA repair in lung cells; it interferes with the immune response in the respiratory tract;⁵⁶ is associated with increased cardiovascular disease;⁵⁷ and it suppresses the immune system.⁵⁸ Acrolein is implicated in demyelinating diseases such as multiple sclerosis.⁵⁹ Demyelinating diseases are diseases of the nervous system in which the myelin sheath of neurons is damaged.

Dioxins

- Dioxins are extremely toxic, mutagenic, and linked to the suppression of the human immune system. Dioxins are persistent, toxic and bio-accumulative chemicals and are transported over long distances from the source of emission. Forest fires, backyard trash burning, and medical waste incinerators are the top three air sources of dioxin emissions in the U.S.⁶⁰
- In the San Francisco Bay region, emissions from woodstoves and fireplaces contribute up to 40% of the dioxins emitted into the air.⁶¹ In Fresno, California, wood burning was shown to be the primary source of dioxins in the environment.⁶² If wood with preservatives is burned in domestic stoves and fires, studies have found a significant increase in dioxin formation.⁶³

III. Health Risks from Wood-Smoke Exposure

- Wood smoke produces fine and ultrafine particulate matter and many different volatile gases. Inhaling fine particles can induce and exacerbate lung diseases including asthma, as well as diseases of the brain and cardiovascular system.
- Fine particle air pollution is often from multiple sources, but in many regions in the U.S., wood burning is the single largest source during colder months.

Fine particle air pollution is often from multiple sources, but in many regions in the U.S., wood burning is the single largest source during colder months.

Lung Diseases

Chronic Obstructive Pulmonary Disease (COPD)

- COPD is a leading cause of illness and mortality worldwide.⁶⁴ While smoking has been associated with risk of COPD since the 1950s,⁶⁵ results from a growing number of published studies demonstrate that risk factors other than smoking are strongly associated with COPD, including both indoor and outdoor pollutants.
- Studies show that COPD is common among those who have never smoked. Worldwide, between 25% and 45% of patients with COPD have never smoked.⁶⁶

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- Wood-smoke exposure in the U.S. is associated with a risk of developing COPD.⁶⁷ Among women and smokers exposed to wood smoke, the prevalence of COPD is especially high, and the risk of developing the disease is significantly increased.⁶⁸
- The prevalence of COPD in individuals exposed to wood smoke increases significantly as the duration of wood-smoke exposure lengthens. Researchers recently suggested that wood-smoke COPD should be considered a distinct disease.⁶⁹ COPD associated with wood-smoke exposure (W-COPD) differs from COPD associated with tobacco smoking (T-COPD) and is related to obstruction of the airways, rather than emphysema.⁷⁰

Asthma

- Breathing smoke from wood-burning devices can cause asthma attacks and other respiratory illnesses.⁷¹ The Centers for Disease Control and Prevention (CDC) estimate that 24 million people (8%) in the U.S. have asthma.⁷² It is one of the most prevalent chronic diseases among children worldwide.⁷³
- Fine particulate matter is a risk factor for worsened asthma⁷⁴ and has been associated with higher morbidity and mortality in patients

Figure 2: Asthma Triggers



with asthma.⁷⁵ Wood smoke, in particular, exacerbates asthma symptoms with higher rates of asthma in areas where wood burning takes place over a sustained period.⁷⁶

- A study of children with mild asthma reported associations between measures of airway inflammation and decreased lung function with measures of increased wood-smoke exposure.⁷⁷ Exposure to particulate matter (PM) increases the risk of developing asthma, and even low levels of PM2.5 exposure increase asthma symptoms.
- A large nationwide study found an association between air pollution and an increased risk of asthma symptoms in non-asthmatic women and an association with asthma development in women.⁷⁸ Also found was an association between air pollution and the development of asthma in that group.⁷⁹
- Physicians managing asthma recognize that exposure to wood smoke, indoors or outdoors, can narrow airways and cause asthma to flare up, but many patients are unaware of the relationship between wood smoke and asthma. Asthma experts consider smoke from campfires to be among the “surprising” allergy triggers.⁸⁰

A large nationwide study found an association between air pollution and an increased risk of asthma symptoms in non-asthmatic women. Also found was an association between air pollution and the development of asthma in that group.

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Heart Diseases

Reducing exposure to fine particle pollution has been shown to be associated with decreases in cardiovascular mortality, yet over 90% of patients with cardiovascular disease are not informed of health risks related to fine particle pollution.

- Cardiovascular disease accounts for the greatest number of deaths in the U.S. One in three Americans has heart or blood vessel disease.
- Both short-term and long-term exposures to increased concentrations of fine particle pollution increase the risk of cardiovascular mortality and decrease life expectancy.
- Reducing exposure to fine particle pollution has been shown to be associated with decreases in cardiovascular mortality, yet over 90% of patients with cardiovascular disease are not informed of health risks related to fine particle pollution.
- For a person with cardiovascular disease, exposure to unhealthy levels of particle pollution can cause serious problems, including heart attacks, in a short period of time.⁸¹ Exposure to fine and ultrafine combustion-derived PM is well-recognized as a risk factor for cardiovascular disease.⁸²

Table 3: Fine Particles and Cardiovascular Health Effects

Cardiovascular mortality
Ischemic stroke
Acute coronary syndrome
Exacerbation of heart failure
Increased ventricular arrhythmias
Systemic blood pressure elevation

Source: USEPA. <https://www.epa.gov/particle-pollution-and-your-patients-health/course-outlinekey-points>

- Burning wood smoke produces fine particles and increases the risk for heart attacks, strokes, heart disease, and congestive heart failure.⁸³ Numerous epidemiologic and observational studies document effects of fine particles on the cardiovascular system in populations.⁸⁴
- The American Heart Association warns that even very short-term exposure to PM2.5 (a few hours to weeks) can trigger cardiovascular disease–related mortality and nonfatal events (e.g., heart attacks, heart failure, arrhythmias, and strokes).⁸⁵
- Research on populations exposed to wildfire smoke suggests that PM2.5 may act as a triggering factor for acute coronary events during wildfire episodes.⁸⁶
- Studies from across the world have consistently shown that long-term exposures to fine PM are associated with myocardial ischemia and infarctions, heart failure, arrhythmias, strokes and increased cardiovascular mortality.⁸⁷
- A 2017 study of over 60,000 residents in Hong Kong adds to the evidence base that long-term residential PM2.5 exposure increases the risk of stroke in older people.⁸⁸



Research on populations exposed to wildfire smoke suggests that PM2.5 may act as a triggering factor for acute coronary events during wildfire episodes.

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According to the EPA's most recent National Air Toxics Assessment, residential wood heating accounted for 50% of all "area source" air toxic cancer risks nationwide in 2011.

Cancer

- According to the EPA's most recent National Air Toxics Assessment, residential wood heating accounted for 50% of all "area source" air toxic cancer risks nationwide in 2011. That means that the air toxics from residential wood heating accounted for as much cancer risk as all the other smaller sources that often exist in multiple sites in a community, like gas stations and dry cleaners.⁸⁹
- Cancer classifications by the International Agency for Research on Cancer (IARC) demonstrate the potential for exposure to wood smoke to cause cancer: indoor emissions from household combustion of wood are *probably carcinogenic to humans* (Group 2A);⁹⁰ outdoor air pollution is carcinogenic to humans (Group 1); and PM pollution is carcinogenic to humans (Group 1) and causes lung cancer, with the risk of lung cancer increasing with increased levels of exposure to PM and air pollution.⁹¹

Table 4: IARC Cancer Classifications

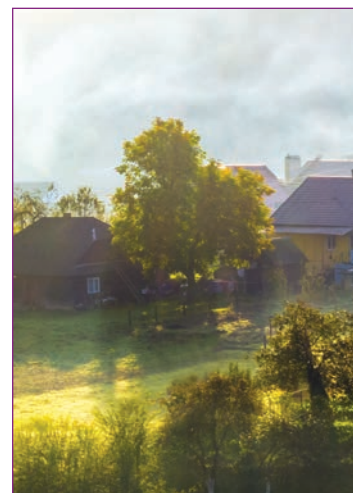
Group 1	Carcinogenic to humans
Group 2A	Probably carcinogenic to humans
Group 2B	Possibly carcinogenic to humans
Group 3	Not classifiable as to its carcinogenicity to humans
Group 4	Probably not carcinogenic to humans

Source: <http://monographs.iarc.fr/ENG/Classification/>

- The cancer-causing potential of several polycyclic aromatic hydrocarbons (s) in wood smoke warrant further concern. Benzo[a]pyrene (Group 1), Benz[a]anthracene (Group 2A), and dibenz[a,h]anthracene (Group 2A) are some of the most potent carcinogens detected in wood smoke. Five other PAHs found in wood smoke are also possibly carcinogenic to humans (Group 2B).⁹²

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- Wood burning is the largest source of PAHs in the U.S.,⁹³ and has been shown to be the top contributor to the air's mutagenicity (likely to cause mutations in DNA, including cancer).
- Levels of B(a)P and several other PAHs are significantly higher (three- to five-fold) in homes with wood combustion appliances compared to homes without them.⁹⁴
- Carcinogenic PAHs have been detected at significant concentrations in a residential neighborhood where wood is burned, contributing 49% of the total PAHs in ambient air.⁹⁵
- Two other IARC Group 1 human carcinogens, 1,3-butadiene and benzene, are detected in wood smoke. Residential wood combustion has been shown to increase personal exposure to 1,3-butadiene as well as indoor levels of 1,3-butadiene and benzene.⁹⁶
- Arsenic, another possible component in wood smoke, is also classified as a Group 1 carcinogen.⁹⁷ Burning wood treated with chromated copper arsenate (CCA) in fireplaces, woodstoves, or trash releases arsenic in smoke and ash.⁹⁸
- In the 1980s, arsenic in wood smoke was found to be the cause of neurological and medical illness in a family of eight people living in rural Wisconsin,⁹⁹ and it has been measured in wood smoke in the ambient air in Seattle.¹⁰⁰
- Open burning of CCA-treated wood has been found to emit the more toxic trivalent form of arsenic in particle sizes that are most respirable.¹⁰¹ CCA was used to protect wood from rot and insects in many residential wood structures for decades, until pressure-treated lumber for most residential uses was phased out at the end of 2003.



Carcinogenic PAHs have been detected at significant concentrations in a residential neighborhood where wood is burned, contributing 49% of the total PAHs in ambient air.

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An analysis of seven epidemiologic studies concluded that predominant wood users in North American and European countries experienced higher risk of lung cancer.

Lung Cancer

- Lung cancer is the most common form of cancer in the world and is the number one cancer killer of both men and women in the U.S. Although most lung cancer occurs in smokers, 25% of worldwide lung cancer occurs in those who never smoked.¹⁰²
- Recent studies show increasing rates of lung cancer in people who have never smoked, mostly in females.¹⁰³ There are wide-ranging geographic incidence and risk factors among this group, including asbestos, air pollution, radon, arsenic compounds, cadmium, chromium, ionizing radiation, and wood-smoke exposure.¹⁰⁴
- An association between outdoor air pollution and lung cancer has been suspected for more than a half century. In 2013, IARC classified outdoor air pollution and the PM component of outdoor air pollution as Group 1 carcinogens, based on consistent evidence of an association between the long-term average concentration of PM_{2.5} in outdoor air and lung cancer incidence or mortality.¹⁰⁵ IARC reported that the risk of lung cancer increases as the particle levels rise.¹⁰⁶
- Wood-smoke exposure is considered a risk factor for the development of lung cancer.¹⁰⁷ For decades, studies have found increases in the risk of lung cancer in women who burn wood inside their homes, mostly in poor rural areas,¹⁰⁸ with cancer linked to wood-smoke exposure.¹⁰⁹
- More recently, an analysis of seven epidemiologic studies concluded that predominant wood users in North American and European countries experienced higher risk of lung cancer.¹¹⁰
- Other residues in wood are known to cause lung cancer. Wood dust is a human carcinogen and a risk factor for lung cancer;¹¹¹ wood byproducts such as benzene, 1-butadiene, formaldehyde and acetaldehyde, are well-known carcinogens;¹¹² wood smoke contains PAHs; and the most significant health effect from inhalation exposure to PAHs is an excess risk of lung cancer.¹¹³



Breast Cancer

- A recent and growing body of evidence suggests that exposure to fine and ultrafine particles may be linked to breast cancer. Hundreds of papers support the link between exposures to environmental contaminants and the increasingly high incidence of breast cancer.
- Polycyclic aromatic hydrocarbons (PAHs) are included in a list of a wide variety of toxicants that can lead to increased risk for development of breast cancer. Wood smoke contains PAHs, which have been shown to increase risk for breast cancer through a variety of mechanisms. PAHs have been found to increase breast cancer risk in epidemiological studies.¹¹⁴
- Women are exposed to PAHs from multiple sources, including cigarette smoke, diet, and indoor and outdoor air pollution, but residential wood burning is the most significant source of PAHs in many areas of the world, including the U.S.¹¹⁵
- Like other environmental chemicals associated with breast cancer risk, PAHs are lipophilic and are stored in breast fat tissue.¹¹⁶

A recent and growing body of evidence suggests that exposure to fine and ultrafine particles may be linked to breast cancer. Hundreds of papers support the link between exposures to environmental contaminants and the increasingly high incidence of breast cancer.



The Long Island Breast Cancer Study Project

The Long Island Breast Cancer Study began in 1993, with funding provided by the National Cancer Institute and the National Institute of Environmental Health Sciences (NIEHS). The finding of an association between environmental exposures (including exposure to PAHs) and an increased risk of breast cancer require additional population studies for confirmation.

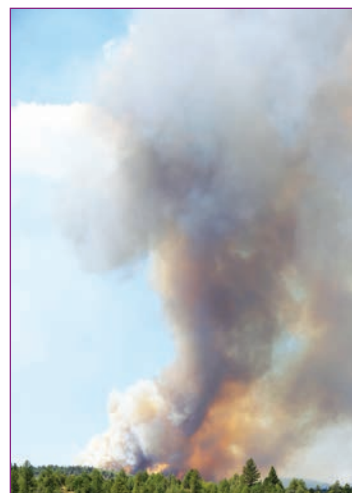
Decades of epidemiological research suggest that PAHs are linked to breast cancer risk. Like other environmental chemicals associated with breast cancer risk, PAHs are lipophilic and are stored in breast fat tissue.

PAHs can also bind to DNA in breast tissue.¹¹⁷ DNA adducts result when segments of DNA bind to cancer-causing chemicals. PAH-DNA adducts have been associated with breast cancer incidence.¹¹⁸

- The use of an open fireplace has been associated with higher DNA adduct levels,¹¹⁹ which have been related to breast carcinogenesis.¹²⁰ Benzo[a]pyrene (BaP) has been shown to cause breast cancer in rodents,¹²¹ and cumulative BaP contributes to breast cancer metastasis.¹²² The main source of atmospheric BaP in some areas, including the Great Lakes Region, is residential wood burning.¹²³
- Decades of epidemiological research suggest that PAHs are linked to breast cancer risk.¹²⁴ Two recent studies suggest that some types of wood burning may increase this risk.
- Women in the Long Island Breast Cancer Study Project who burned synthetic logs instead of real wood logs in their woodstoves or fireplaces, were more likely to have breast cancer than those who did not burn synthetic logs.

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- Most affected were women who burned synthetic logs in their home for more than seven years and those with genetic variations that may make them more susceptible to PAHs.¹²⁵ Women with the highest level of PAH-DNA adducts had a 50% increased risk of breast cancer.¹²⁶
- The NIEHS Sister Study recruited more than 50,000 women across the continental U.S. and Puerto Rico who were between the ages of 35 and 74, and whose sister had breast cancer. Women in the Sister Study who had a wood-burning stove/fireplace in their longest adult residence had a slightly increased breast cancer risk.
- Women who used an indoor wood-burning stove/fireplace at least once a week had a greater risk of breast cancer than those who did not have a wood-burning stove/fireplace.¹²⁷
- Several studies warn that exposure to high levels of particulate matter (PM) may have deleterious effects on the length of survival among females with breast cancer. Studies have shown that residential wood smoke is a significant contributor to PM emissions.
- One study focused on survival among women with breast cancer in the U.S. Women with breast cancer who lived in areas with higher levels of atmospheric particulate matter were shown to have significantly shorter length of survival than those living in areas with lower exposures. The results of the study suggest that exposure to higher PM levels was associated with early mortality among female breast cancer cases.¹²⁸
- In several other countries, particularly Japan, PM_{2.5} levels have been significantly associated with mortality for women with breast cancer.¹²⁹



Several studies warn that exposure to high levels of particulate matter (PM) may have deleterious effects on the length of survival among females with breast cancer.

Stomach and Intestinal Cancer from Smoked Foods

- The World Cancer Research Fund/American Institute for Cancer Research recommends limiting the consumption of smoked meat.¹³⁰

Figure 3: Cancer Risks Associated with Smoked Foods

Smoked Foods: Cancer Risks

Wood-smoked foods contain a large number of PAHs. For more on high levels of PAHs in traditional smoked salmon in Alaska, see <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3567306/figure/F1/>



During grilling and smoking, PAHs form when fat and juices from the meat drip into the wood fire, creating flames and smoke that adhere to the surface of the meat. Wood-smoked foods contain a large number of PAHs.

- Decades of epidemiological studies link the consumption of smoked foods with various cancers. Recent studies suggest that grilled, barbecued, and smoked meat intake may also be associated with breast cancer incidence.¹³¹
- A 2017 study funded by the National Cancer Institute involving 1500 women found that smoked meat may increase mortality after breast cancer is diagnosed. The study, the first to examine the associations between smoked meat and mortality after breast cancer, concluded, “a link between dietary sources of PAH and breast cancer prognosis is biologically plausible and epidemiologically consistent.”¹³²
- Grilled and smoked meat intake is a source of PAHs, including benzo[a]pyrene, chrysene, and fluoranthene.¹³³ During grilling and smoking, PAHs form when fat and juices from the meat drip into the wood fire, creating flames and smoke that adhere to the surface of the meat.¹³⁴ Wood-smoked foods contain a large number of PAHs.¹³⁵

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- Levels of carcinogenic PAHs in traditionally smoked salmon over burning wood in teepees in Alaska were up to 430 times higher than those measured in commercial products.¹³⁶

Diabetes

- Growing evidence suggests that type 2 diabetes has an autoimmune component¹³⁷ and that diabetics are particularly vulnerable to the acute effects of particle air pollution.¹³⁸
- A study found that exposure to PM_{2.5} increased blood glucose and induced inflammation and insulin resistance in animals, providing a potential biological explanation for a link between PM and diabetes.¹³⁹
- A recent literature review of over 20 studies concluded that exposure to air pollutants (including PM) was significantly associated with insulin resistance and increased incidence of type 2 diabetes.¹⁴⁰



Growing evidence suggests that type 2 diabetes has an autoimmune component and that diabetics are particularly vulnerable to the acute effects of particle air pollution.

Table 5: Facts about Diabetes in the United States

30.3 million people have diabetes (9.4% of the U.S. population)
Diagnosed – 23.1 million people
Undiagnosed – 7.2 million (23.8% of people with diabetes)

Source: National Diabetes Statistics Report, 2017 Estimates of Diabetes and Its Burden in the United States

- In the last five years, dozens of studies have reported a positive association between long-term exposure to ambient PM and risk for type 2 diabetes.¹⁴¹
- A recent study in China is the largest yet to explore the association between long-term PM_{2.5} exposure and type 2 diabetes. It showed that long-term exposure to PM_{2.5} was positively associated with significant increases in diabetes prevalence.¹⁴²

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The central nervous system is sensitive to chemicals in wood smoke. Fine particle air pollution can enter the brain via the circulatory system, carrying a number of toxic molecules that contribute to central nervous system diseases.

Central Nervous System Effects and Cognitive Decline

- The central nervous system is sensitive to chemicals in wood smoke. Fine particle air pollution can enter the brain via the circulatory system, carrying a number of toxic molecules that contribute to central nervous system diseases.¹⁴³
- Deficits in learning and memory, as well as in attention-related behaviors, have been reported in both children and adults exposed to particle air pollution.¹⁴⁴
- Exposure to particle pollution also has been associated with decreased cognitive function in older men,¹⁴⁵ accelerated cognitive decline in older women,¹⁴⁶ and Parkinson's disease hospitalizations among Medicare enrollees.¹⁴⁷ Even short-term exposure to air pollution (including PM_{2.5}) increased the progression of Parkinson's disease in humans.¹⁴⁸
- In 2016, a large study found statistically significant associations between long-term PM_{2.5} exposures and dementia, Alzheimer's and Parkinson's disease in Northeastern U.S. cities.¹⁴⁹
- In 2017, another study found that living where PM_{2.5} exceeded EPA's standard increased risks for cognitive decline and dementia in older women by 81% and 92%, respectively. The study included thousands of 65- to 79-year-old healthy women from 48 states. The adverse effects were stronger in women who had a genetic variation that increases the risk for Alzheimer's disease.¹⁵⁰

Mortality

- Ambient PM_{2.5} was the fifth-highest ranking global cause of death in 2015.¹⁵¹ Associations between PM_{2.5} and increased mortality have been found in both healthy and ill people.¹⁵²

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- In the U.S., both short-term and long-term exposure to low levels of PM_{2.5} increase mortality in older people. A 2016 New England study found that people over 65 had a higher risk of premature death from short and long-term exposure to PM_{2.5} pollution.
- During the New England 2016 study, the USEPA daily standard for PM_{2.5} was almost never exceeded, demonstrating that air pollution standards in the U.S. do not protect human health.¹⁵³

Toxicity of Wood Smoke

- The toxicity of emissions from wood burning depends on wood type, combustion appliance, and specific combustion conditions such as wood moisture content and burn temperatures.¹⁵⁴
- Incomplete combustion produces more toxic chemicals and carbon particles than higher temperature fires.¹⁵⁵ When combustion is less complete, the PM contains more black carbon and volatile organic compounds, or gases.¹⁵⁶ PM derived from low-temperature combustion conditions has been shown to be more toxic to cells than PM derived from higher temperature burns.¹⁵⁷
- While PAH emission levels in slow-burning conditions are generally higher than those in fast-burning conditions,¹⁵⁸ substantially *higher PAH emissions* have been found during air-starved combustion in both wood and pellet stoves.¹⁵⁹
- A comparison of emissions from a wood and a pellet stove found that the highest total organic PM emissions occurred when an additional wood log was placed on glowing embers during low-temperature burns.¹⁶⁰

Wood Smoke vs. Other Combustion Sources

- Emissions from burning wood have many of the same physical and chemical characteristics as other combustion sources.



During the New England 2016 study, the US EPA daily standard for PM_{2.5} was almost never exceeded, demonstrating that the air pollution standards in the U.S. do not protect human health.

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Health effects of ambient PM exposure from residential wood combustion can be assumed to resemble those of open biomass burning—including forest, brush and peat fires — because of the similar fuels.

However, unlike sources of fossil fuel that burn under controlled conditions, wood burns differently under different conditions, including the type of wood, how long the wood has dried, and the water content of the wood. In addition, wood is burned in a wide variety of appliances and for varying periods of time.¹⁶¹

Wildfire Smoke Exposures

“Health effects of ambient PM exposure from residential wood combustion can be assumed to resemble those of open biomass burning — including forest, brush and peat fires — because of the similar fuels.”

Source: WHO. Residential heating with wood and coal: health impacts and policy options. 2015.

- Wildfires are the leading source of formaldehyde and acrolein emissions in the U.S.¹⁶² Nationwide, formaldehyde is one of the top three key pollutants in the air that contribute most to overall cancer risks (the others are benzene and acetaldehyde).¹⁶³
- Studies of populations exposed to wildfire smoke have found that those with respiratory or cardiovascular diseases, as well as older adults and children, may experience more severe short-term and chronic symptoms from wood-smoke exposure.
- Children are particularly sensitive to wood smoke because their lungs are still developing. This makes them more susceptible to the loss of pulmonary function than adults are.
- Adolescent monkeys exposed during the first three months of their lives to a prolonged period of smoke from California wildfires experienced significant immune and respiratory changes, as well as reduced lung function.¹⁶⁴
- These findings are consistent with those of multiple studies that link long-term childhood exposure to air pollution with deficits

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in lung function in children.¹⁶⁵ In addition to respiratory problems, researchers found lower birth weight for babies following wildfires in California¹⁶⁶ and the Brazilian Amazon.¹⁶⁷

- Data from areas where wildfires have occurred show large increases in cardiovascular and respiratory illnesses and higher mortality rates. A recent review of over 50 epidemiological studies links wildfire smoke exposures to increased overall mortality rates.¹⁶⁸
- In 2015, agricultural fires in Southeast Asia resulted in more than 100,000 adult deaths across Indonesia, Malaysia, and Singapore brought on by breathing high levels of PM2.5.¹⁶⁹
- Multiple studies confirm a relationship between wildfire exposure and increased physician visits,¹⁷⁰ emergency department visits,¹⁷¹ and hospitalizations for asthma and COPD.¹⁷²

Cigarette Smoke Inhalation, Both Active and Involuntary

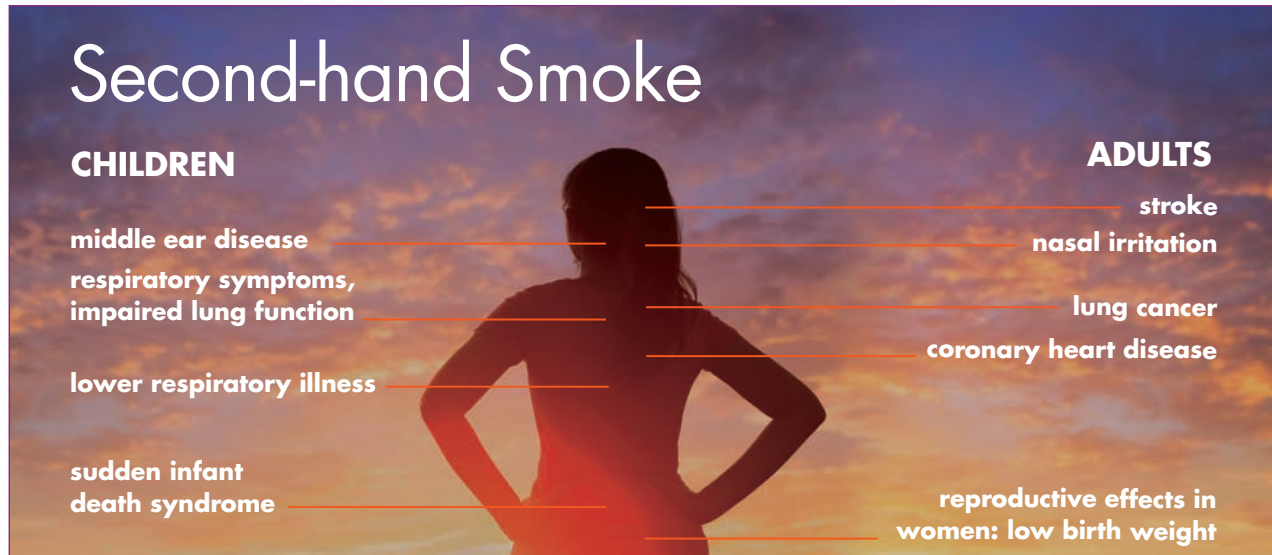
- There are about 600 ingredients in cigarettes. When burned, they create over 7,000 chemicals. At least 69 of these chemicals are known to cause cancer.¹⁷³ Wood smoke contains many of the same toxic and carcinogenic substances as cigarette smoke.
- Chemical components in tobacco smoke with the greatest potential for toxic effects are 1,3-butadiene, acrolein, acetaldehyde and PAHs.¹⁷⁴ These chemicals are also components of wood smoke. However, burning wood generates substantially higher concentrations of many hazardous molecules when compared with burning cigarettes.¹⁷⁵
- Like second-hand cigarette smoke, wood smoke causes numerous health problems in infants and children, including more frequent and severe asthma attacks, respiratory infections, ear infections, and sudden infant death.¹⁷⁶



Data from areas where wildfires have occurred show large increases in cardiovascular and respiratory illnesses and higher mortality rates. A recent review of over 50 epidemiological studies links wildfire smoke exposures to increased overall mortality rates.

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Figure 4: Health Effects Linked to Second-hand Smoke Exposure



Source: CDC, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/

The U.S. Centers for Disease Control and Prevention (CDC) has concluded that there is no risk-free level of exposure to second-hand smoke. Likewise, there is no risk-free level of exposure to particulate matter in wood smoke.

- Short-term exposure to PM can compromise the lung's immune defense against infectious agents, increasing susceptibility to infectious disease.¹⁷⁷ With the exception of sudden infant death, all of the health effects in Figure 4 are associated with exposure to chemicals in wood smoke.
- In an affluent region in Western Europe, where infant mortality is low, days with higher PM air pollution are associated with increased infant mortality.¹⁷⁸
- The U.S. Centers for Disease Control and Prevention (CDC) has concluded that there is no risk-free level of exposure to second-hand smoke. Likewise, there is no risk-free level of exposure to particulate matter in wood smoke.
- Thus, breathing any smoke creates a threat to health, and the most vulnerable are susceptible to worsening health following even low-level exposures.

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Vehicle Emissions

- Wood smoke has higher concentrations of polyaromatic hydrocarbons (PAHs) than found in vehicle exhaust. This leads some researchers to conclude that wood smoke has “a higher mutagenic and carcinogenic potential” than does traffic exhaust.^{179, 180}
- Exhaust from vehicles contains numerous dangerous chemicals, many of which are also found in wood smoke. Known human carcinogens in wood smoke include PAHs, benzene, and formaldehyde, among others.
- The International Agency for Research on Cancer (IARC) has classified both wood smoke and diesel exhaust as carcinogens. Their chemical composition is similar.
- Like wood smoke, diesel exhaust is the result of incomplete combustion. The gaseous fraction of both contain volatile organics, formaldehyde and other aldehydes, 1,3-butadiene, and

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Wood smoke particulate matter generates more DNA damage than traffic-generated particulate matter per unit mass in human cell lines.

PH Danielson, et al. Oxidative stress, DNA damage, and inflammation induced by ambient air and wood smoke particulate matter in human A549 and THP-1 cell lines



Source: <https://woodsmokepollution.org/toxins.html>

The smallest particles in wood smoke have the ability to penetrate into the smallest airways of the lungs. Both diesel exhaust and wood smoke are an important source of small fine and ultrafine particles that are the most detrimental to cardiovascular health.

- Diesel exhaust releases particles at a greater rate than gasoline-fueled vehicles, on an equivalent fuel energy basis. Exposure to diesel exhaust has been associated with an increased risk of lung cancer in both human and animal studies.¹⁸¹ Almost all of the diesel particle mass is PM10 or less, and about 95% percent of these particles are less than 2.5 microns in diameter.¹⁸²
- The smallest particles in wood smoke have the ability to penetrate into the smallest airways of the lungs. Both diesel exhaust and wood smoke are an important source of small fine and ultrafine particles that are the most detrimental to cardiovascular health.¹⁸³

Coal Burning

- Wood smoke contains many of the same chemicals as the emissions from coal burning. Both are major sources of ambient air pollution. The dangers of heating homes with coal were gradually recognized over centuries, and the 1952 Great Smog of London caused by household coal burning resulted in major policy responses to coal burning.¹⁸⁴

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- Wood burning has not received the same attention as coal, although it is also a major source of ambient air pollution in nearly all parts of the world where wood is available.
- WHO reports that 3.7 million premature deaths from exposure to ambient particulate air pollution occurred in 2012, including 94,000 in Canada and the U.S. The use of burning wood for heating homes is a contributor to outdoor air pollution.¹⁸⁵

Table 6: Pollutants in Wood Smoke, Tobacco Smoke, and Diesel and Coal Emissions

Pollutant	Wood Smoke	Tobacco Smoke	Diesel Emissions	Coal Emissions
Carcinogens				
Benzene*	•	?	•	•
Dioxin*	•	•	•	?
1,3-butadiene*	•	•	•	•
Formaldehyde**	•	•	•	•
Lead**	•	?	?	•
PAHs***	•	•	•	•
Green House Gases				
Carbon Dioxide	•	•	•	•
Methane	?	?	•	•
Nitrogen Oxides	•	•	•	•
Other				
Acrolein	•	•	•	•
Acetaldehyde	•	•	•	•
Carbon Monoxide	?	?	•	•
PM2.5	•	•	•	•

*Known human carcinogen **Probable human carcinogen ***There are over 100 different PAHs; seven PAHs are probable human carcinogens



Wood burning has not received the same attention as coal, although it is also a major source of ambient air pollution in nearly all parts of the world where wood is available.

Populations at Greatest Risk

Pregnant Women, Infants, and Young Children



Compared to adults, children inhale a relatively larger amount of air pollutants because of their smaller body size, and they inhale at a higher respiratory rate than adults.

- Over three million children in the U.S. are estimated to live in homes with lower air quality from wood smoke.¹⁸⁶ Young children are especially sensitive to the chemicals emitted from wood smoke.¹⁸⁷
- Compared to adults, children inhale a relatively larger amount of air pollutants because of their smaller body size, and they inhale at a higher respiratory rate than adults.¹⁸⁸
- Exposure to PM affects lung development, including reversible deficits in lung function, chronically reduced lung growth rate, and deficits in long-term lung function.¹⁸⁹
- A significant increased risk of low birth rate and preterm birth have been found in studies on maternal PM_{2.5} exposure.¹⁹⁰ Lower birth weights for babies occurred following wildfires in Southern California¹⁹¹ and agricultural burning in the Amazon.¹⁹²
- Pediatricians are raising awareness of the environmental health risks of wood smoke for children in developed countries. Community wood-smoke exposure is consistently associated with adverse pediatric respiratory health, according to a 2017 review of 36 studies in developed countries. The research focused on respiratory outcomes, but not cardiovascular or neurocognitive health.¹⁹³
- Living in a smoky neighborhood has been associated with emergency department visits in the first three years of life.¹⁹⁴ Ambient exposure to wood smoke during childhood has been associated with bronchitis,¹⁹⁵ ear infections in infants,¹⁹⁶ and reduced lung function in children ages 6-13 years old.¹⁹⁷

Older Adults and Those with Lung and Heart Diseases and Diabetes

- Wood smoke produces fine particles and increases the risk for heart attacks, strokes, heart disease, and congestive heart failure.¹⁹⁸ About half of Americans (47%) have risk factors for heart disease.¹⁹⁹ People with diabetes are more likely to have underlying cardiovascular disease, though they might not know it. Diabetics are particularly vulnerable to the acute effects of particle air pollution.²⁰⁰
- Breathing in wood smoke can exacerbate Chronic Obstructive Pulmonary Disease (COPD) and worsen lung diseases. The CDC estimates that 15 million people in the U.S. have been diagnosed with COPD, and many more likely have COPD but are not aware of it.²⁰¹ About one in 10 children and one in 12 adults in the U.S. has asthma, and the numbers are increasing every year.²⁰²
- The percentage of Americans ages 65 and older is large and growing. By 2060, the 65-and-older age group's share of the total population will rise to nearly 24% from 15%.²⁰³ In 2015, nearly 30% of adults 65+ on Medicare were treated for ischemic heart disease and 11% were treated for COPD.²⁰⁴

Women with Breast Cancer

- Wood smoke contains PAHS, shown to both increase the risk for breast cancer²⁰⁵ and to be associated with mortality for women with breast cancer. Women with breast cancer living in the U.S. in areas with higher levels of PM have been shown to have significant shorter survival rates than those living in areas with lower exposures.²⁰⁶ In several other countries, PM2.5 levels have been significantly associated with mortality in women with breast cancer.²⁰⁷
- Breast cancer is the most common cancer diagnosed among U.S. women, excluding skin cancers. Breast cancer is the second leading cause of cancer death among women, exceeded only by lung cancer. Women living in the U.S. have a one in eight lifetime risk of being diagnosed with breast cancer.²⁰⁸



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Source: <https://woodsmokepollution.org/wood-smoke-is-pm.html>

The USEPA reports that an estimated 70% of smoke from a chimney can actually re-enter that home or a neighbor's home. A 2014 California study found that a home provides little shielding from outdoor wood smoke. The study showed that 78% of black carbon particles from the outside smoke ended up inside neighboring homes.

Wood-Burning Neighborhoods

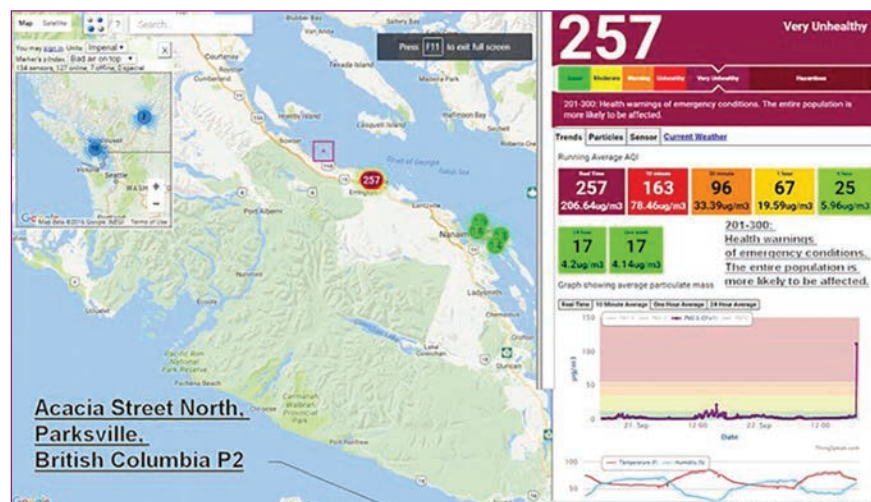
- Combustion of wood in densely populated residential areas is a major source of PM2.5 pollution in many communities.
- According to the World Health Organization (WHO), “Combustion of wood in residential areas and often under cold, calm meteorological conditions can nonetheless lead to high exposure compared to other pollution sources, owing to the principle of intake fraction.”²⁰⁹ The intake fraction is the proportion of released emissions inhaled by residents.
- The USEPA reports that an estimated 70% of smoke from a chimney can actually re-enter that home or a neighbor's home.²¹⁰ A 2014 California study found that a home provides little shielding from outdoor wood smoke. The study showed that 78% of black carbon particles from the outside smoke ended up inside neighboring homes.²¹¹

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- Another study that used personal monitors showed that exposure to the damaging effects of black carbon from wood smoke infiltrated neighborhood homes.²¹²
- Smoke from outdoor wood burning from a fire pit can seep into neighboring homes. A very unhealthy level of wood smoke was detected inside a home when a neighbor was burning wood in a fire pit. The result was a doubling of PM2.5 levels in the home. With even short-term exposures, there are increases in hospitalizations and death rates.²¹³
- The amount of outdoor wood smoke that seeps into homes from neighboring fireplaces or from outdoor wood fires depends on a number of factors, including the home's age, construction, and condition. It also depends on the wood smoke particle size, meteorological conditions, and the rate at which outdoor air enters the home.²¹⁴



Figure 5: PM2.5 Levels Measured Inside A Home Near A Wood Burning Fire Pit in British Columbia



Smoke from outdoor wood burning from a single fire pit can seep into neighboring homes. A very unhealthy level of wood smoke was detected inside a home when a neighbor was burning wood in a fire pit. The result was a doubling of PM2.5 levels in the home. With even short-term exposures, there are increases in hospitalizations and death rates.

Source: Results measured using a PurpleAir Sensor, <http://www.purpleair.org>
See <https://woodsmokepollution.org/recreational-fires.html>

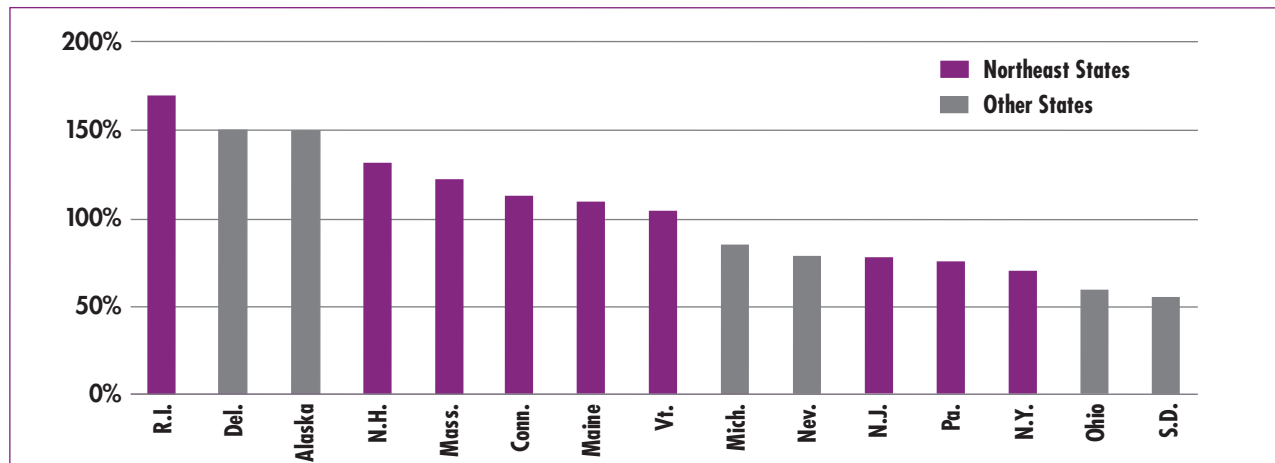
IV. Regulating Wood Smoke

Despite scientific evidence clearly demonstrating the health effects associated with wood smoke, there has been an increase in the number of households in the U.S. that burn wood.

- Despite scientific evidence clearly demonstrating the health effects associated with wood smoke, there has been an increase in the number of households in the U.S. that burn wood. Increasing energy prices and an emphasis on renewable fuel have resulted in a rising number of households burning wood over the past two decades.
- The increase in wood as the main source of household heating is most notable in the Northeast. As shown in Figure 4 on the next page, all nine states in New England and the Middle Atlantic saw at least a 50% jump from 2005 to 2012 in the number of households that rely on wood as the main heating source.²¹⁵
- As more people heat with wood, communities are struggling with ways to improve air quality. Wood-smoke problems are magnified in valleys prone to wintertime temperature inversions, where polluted air is trapped near the ground. In rural Montana communities²¹⁶ and in Fairbanks, Alaska,²¹⁷ for example, residential wood smoke contributes up to 80% of winter PM_{2.5}.

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Figure 6: Increase in Homes Using Wood as Main Heating Source (2005-2012)



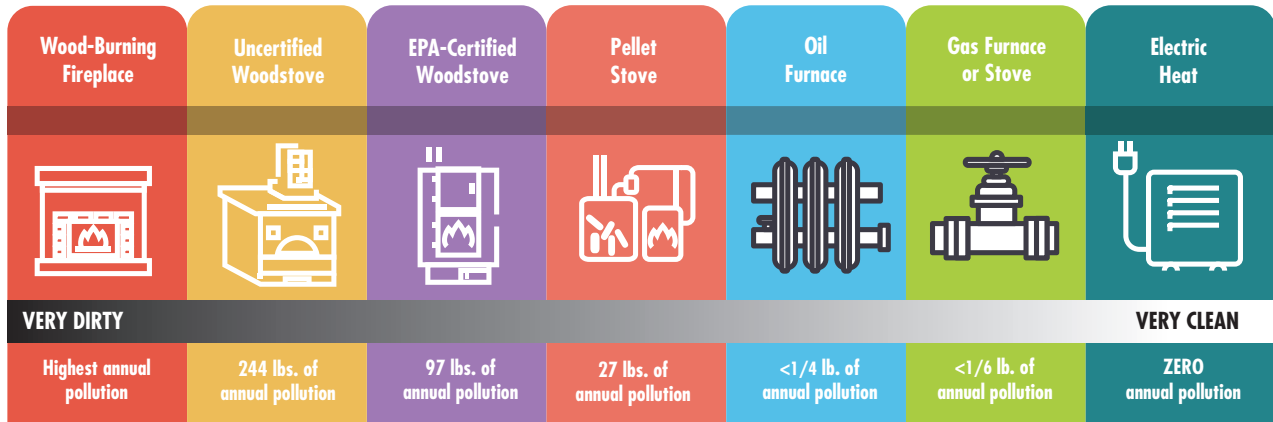
Source: <https://www.eia.gov/todayinenergy/detail.php?id=15431#>

- Wood smoke also contributes to air pollution in urban settings in the U.S. In San Jose, CA, Atlanta, GA, and Seattle, WA, wood burning contributes up to 30% of winter PM_{2.5}.²¹⁸
- Burning wood in campfires, bonfires, chimineas, backyard fire pits, and burn barrels is considered “open burning,” defined by EPA as smoke that enters the air directly, without first going through a chimney, flue, vent, or other similar path. Open burning includes recreational burning, which is generally defined as an outdoor fire burned for warmth or ambiance, as well as burning brush or other land-clearing debris.
- Open burning in outdoor fireplaces, chimineas, fire pits, wood-burning barbecues, and smokers is growing in popularity despite data that demonstrate health effects associated with wood smoke. According to a 2017 survey, outdoor fire pits/fireplaces are the most popular outdoor home design element.²¹⁹ These devices emit smoke low to the ground, directly in our breathing zone. Stagnant conditions and winter temperature inversions can result in wood smoke hanging close to the ground, easily penetrating nearby homes.

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Figure 7: Relative Emissions of Fine Particles



Source: Puget Sound Clean Air Agency, www.pscleanair.org

Open burning in outdoor fireplaces, chimineas, fire pits, wood-burning barbecues, and smokers is growing in popularity despite data demonstrating health effects associated with wood smoke.

Air Quality Index (AQI) Alerts

- Most of the authority to regulate air pollution comes from the federal Clean Air Act (CAA). Section 110(a)(1) of the CAA requires states to regulate sources of air pollution through a state plan that provides an implementation, maintenance and enforcement plan regarding the federal air quality standards.
- The National Ambient Air Quality Standards (NAAQS) are used to notify the public when there are high levels of pollutants in the air. The Air Quality Index (AQI) is also used, and a value of 100 on the AQI generally corresponds to the NAAQS for air pollutants. When AQI values are above 100 the air quality is considered to be unhealthy. For PM_{2.5}, an AQI over 35 $\mu\text{g}/\text{m}^3$ for 24 hours is considered to be in the unhealthy category.
- In parts of California, regional Air Districts issue a “Winter Spare the Air Alert,” which prohibits wood burning indoors and outdoors when the PM_{2.5} 24-hour average is 35 $\mu\text{g}/\text{m}^3$, or 100 on the AQI scale. Connecticut bans open burning when the AQI is 75 and Massachusetts bans burning when the AQI is above 50. In Pennsylvania, it is up to counties to ban burning when the AQI is high.

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Table 7: EPA's Air Quality Index (AQI) for 24-hour Fine Particle Pollution (PM2.5)

24-Hour PM2.5 ($\mu\text{g}/\text{m}^3$)	AQI Categories	AQI Values	AQI Cautionary Statements	AQI Health Effects Statements
0–12.0	Good	0–50	None	None
12.1–35.4	Moderate	51–100	Unusually sensitive people should consider reducing prolonged or heavy exertion.	Respiratory symptoms possible in unusually sensitive individuals, possible aggravation of heart or lung disease in people with cardiopulmonary disease and older adults.
35.5–55.4	Unhealthy for Sensitive Groups	101–150	People with heart or lung disease, older adults, and children should reduce prolonged or heavy exertion.	Increasing likelihood of respiratory symptoms in sensitive individuals, aggravation of heart or lung disease, and premature mortality in people with cardiopulmonary disease and older adults.
55.5–150.4	Unhealthy	151–200	People with heart or lung disease, older adults, and children should avoid prolonged or heavy exertion; everyone else should reduce prolonged or heavy exertion.	Increased aggravation of heart or lung disease and premature mortality in people with cardiopulmonary disease and older adults; increased respiratory effects in general population.
150.5–250.4	Very Unhealthy	201–300	People with heart or lung disease, older adults, and children should avoid all physical activity outdoors. Everyone else should avoid prolonged or heavy exertion.	Significant aggravation of heart or lung disease and premature mortality in people with cardiopulmonary disease and older adults; significant increase in respiratory effects in general population.
Greater than 250.5	Hazardous	Over 300	Everyone should avoid all physical activity outdoors; people with heart or lung disease, older adults, and children should remain indoors and keep activity levels low.	Serious aggravation of heart or lung disease and premature mortality in people with cardiopulmonary disease and older adults; serious risk of respiratory effects in general population.

Who is “SENSITIVE” to PM2.5? People with heart or lung disease, older adults, children and people of lower socioeconomic status are the groups most at risk. See EPA’s Technical Assistance Document (link below). Also at higher risk: prenatal children (low birth weight, pre-term birth and IQ reduction), diabetics, and people with higher exposures such as athletes exposed during exercise.

Sources:

National Ambient Air Quality Standards for Particulate Matter – Final Rule, effective March 18, 2013, Federal Register, Vol. 78, No. 10, Jan. 15, 2013, p. 3181 (<http://www.gpo.gov/fdsys/pkg/FR-2013-01-15/pdf/2012-30946.pdf>)

Revised Air Quality Standards for Particle Pollution and Updates to the Air Quality Index (AQI), Dec. 14, 2012, p. 4 (https://www.epa.gov/sites/production/files/2016-04/documents/2012_aqi_factsheet.pdf)

Technical Assistance Document for the Reporting of Daily Air Quality, May 2016 (<https://www3.epa.gov/airnow/aqi-technical-assistance-document-may2016.pdf>)

Integrated Science Assessment for Particulate Matter – Final Report, Dec. 2009 (<https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=216546>)

Credit: Clean Air Fairbanks, cleanairfairbanks@gmail.com (<http://cleanairfairbanks.wordpress.com>)

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Wood smoke can have a significant impact on exposures in neighborhoods where wood burning is prevalent, even during periods when the NAAQS reports general good air quality. This is because there are no air monitors in that area to pick up the wood smoke emissions.

Air Quality Index (AQI) Limitations

- The AQI is linked to a PM_{2.5} monitoring network. The monitors are inadequately placed in rural areas where wood burning often takes place. Since it is common for wood smoke to originate from sources within neighborhoods where monitoring networks are lacking, air monitoring networks do not adequately measure local air quality.
- Wood smoke can have a significant impact on exposures in neighborhoods where wood burning is prevalent, even during periods when the NAAQS reports general good air quality. This is because there are no air monitors in that area to pick up the wood-smoke emissions.²²⁰
- Studies show that the 24-hour NAAQS for PM_{2.5} (35 µg/m³) may not adequately protect against sub-daily peaking at hourly concentrations associated with adverse health effects.²²¹ A spatial analysis of wood smoke in the Adirondack Mountains concluded that current air quality standards mask these episodic peaks through daily averaging.²²²
- Both short- and long-term exposure to PM_{2.5} has been associated with mortality rates from all causes at levels that are below the current USEPA 24-hour PM_{2.5} standard of 35 µg/m³ daily.²²³

Open Burning Regulations

- Federal law prohibits open burning of residential, commercial, institutional or industrial solid waste with certain exceptions for land-clearing debris, diseased trees and debris from emergency clean-up operations. (40 CFR Part 257-3.7(a))
- In spite of regulations, trash burning remains a problem in some rural areas and ordinances are often poorly enforced. Some states,

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such as Wisconsin and Pennsylvania, allow open burning of domestic waste. Other states, including Connecticut, only allow burning of brush.

- Some local governments regulate the material burned, while others regulate distance from property line and/or the size of the fire. Some local governments ban fires on days when AQI alerts are issued. The following is a sampling of regulations from around the country.
- In Montgomery County, MD, some recreational burning is allowed under strict conditions. However, most open burning without a permit is prohibited. Recreational fires must be at least 20 feet away from any building or structure, smoke is “not allowed to cross property lines,” and burning is not allowed on “Code Orange” or “Code Red Air Quality days.”²²⁴
- In Portland, Oregon, recreational fires must burn clean, dry, cord-type firewood and be less than three feet in diameter, with a pile less than two feet high.²²⁵
- Allegheny County, PA, has the same fire size requirements as Portland, and also specifies that only fire logs, paraffin logs, or wood pellets may be used. The fire must be 15 feet from the nearest neighbor’s dwelling or inhabited area, any property line, roadway, sidewalk, or public accessway.²²⁶
- In many cities, including Denver and Boston, there are complete bans on outdoor fires, including portable fire pits and chimineas at all times of the year.²²⁷ Outdoor burning is banned in 21 cities in Massachusetts in addition to Boston.
- The variability in state wood burning regulations demonstrates the specific risk-management challenges that wood smoke is creating throughout the U.S. State wood smoke regulatory programs in the Northeast are summarized in Table 8.



Some local governments regulate the material burned, while others regulate distance from property line and/or the size of the fire. Some local governments ban fires on days when AQI alerts are issued.

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Table 8: Residential Open and Recreational Burning Restrictions in Northeast States

State	Total Burn Bans	Burn Bans During Poor Air Quality Days	PM2.5 Monitoring Stations	Recreational Burning Limits Examples: Campfire, Bonfire, Chiminea
CT ¹	No	AQI = >75	8	Prohibited if nuisance is created or is restricted by local municipality.
ME ²	No	No	11	As long as no nuisance is created.
MA ³	22 cities ⁴	AQI = >51 ⁵	28	Some cities and towns regulate, limit/prohibit use of chimineas, fire pits and outdoor fireplaces.
NH ⁶	No	No	14	Campfire fires < 2-foot diameter may be burned during the day. All others must be burned between 5 p.m. and 9 a.m.
NJ	No	When conditions “make such fires hazardous”	33	Unless “offensive or objectionable because of smoke emissions”; Fire pit regulations set by local officers.
NY ⁷	Spring ⁸	No	>50	Exceptions for ceremonial or celebratory bonfires; only charcoal or clean, untreated or unpainted wood can be burned; campfires <3' x 4'.
PA ⁹	Designated air basins ¹⁰	Varies by county ¹¹	44	Outside of designated air basins, if smoke cannot be seen or smelled outside of the property where the burning is taking place; does not “interfere with the reasonable enjoyment of life or property”; does not cause damage to vegetation or property; and is not harmful to human or animal health. Domestic refuse ok to burn where not more than two families are living and when generated onsite. ¹²
VT ¹³	No	No	5	When not prohibited by local ordinance. Only natural wood and yard waste from property maintenance. No trash can be burned.

Sources:

¹ CT DEEP. http://www.ct.gov/deep/cwp/view.asp?a=2684&q=531300&deepNav_GID=1619

² Department Of Environmental Protection Chapter 102: Open Burning Chapter 102: OPEN BURNING, <http://www.maine.gov/dacf/mfs/archive/fpd/downloads/openburning.pdf>

³ <http://www.mass.gov/eea/agencies/massdep/air/quality/open-burning-answers-to-your-burning-questions.html#A Word About Fire Pits>

⁴ Campfires, fire pits, burn barrels and burning of brush and yard waste prohibited

⁵ <http://www.mass.gov/eea/docs/dep/air/community/noburn.pdf>

⁶ <https://www.des.nh.gov/organization/commissioner/pip/publications/ard/documents/quick-guide.pdf>

⁷ <http://www.dec.ny.gov/chemical/58519.html>

⁸ Defined as smoke emitted directly into the air, including burning in barrels

⁹ PA DEP. Air Pollution From Household Open Burning In Pennsylvania

¹⁰ <http://www.pacode.com/secure/data/025/chapter129/s129.14.html>

¹¹ <http://www.achd.net/air/pubs/pdf/Article21.pdf>

¹² “Domestic Refuse” does not include such items as demolition waste, insulation, shingles, treated wood, paint, painted or stained objects or furniture, tires, mattresses, box springs, metal, insulating coating on wire, television sets and appliances, automobiles, automotive parts, batteries, PVC products, waste oil and other petroleum products.

¹³ <http://dec.vermont.gov/air-quality/compliance/open-burning>; <http://dec.vermont.gov/tags/backyard-burning>; <http://dec.vermont.gov/sites/dec/files/aqc/compliance/documents/BYBFactsheet.pdf>

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- In the state of Washington, all burning is banned in counties where there is no local clean air agency.²²⁸
- California's regional air pollution control agencies prohibit all wood burning, including all outdoor wood burning, during their "Spare the Air Tonight" warnings issued between the months of November and February. The ban goes into effect when the PM2.5 24-hour average NAAQS reach $35 \mu\text{g}/\text{m}^3$ or 100 on the AQI scale.²²⁹
- Utah's ban on burning takes place during winter inversions, which occur between November and March. In certain counties the ban includes outdoor fireplaces, fire pits and charcoal grill smokers.²³⁰

Regulations in Allegheny County, Pennsylvania

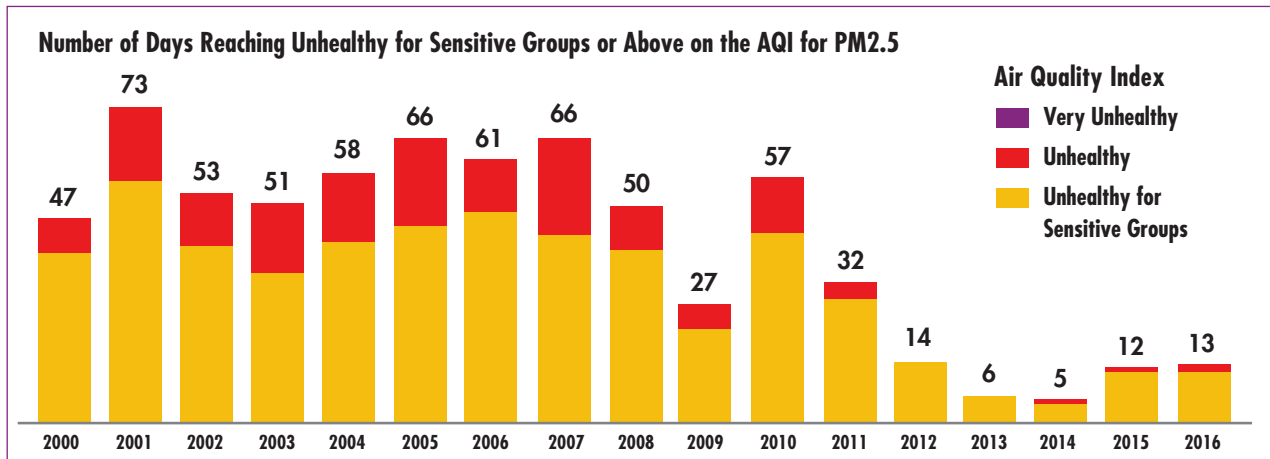
- In 2017, the annual PM2.5 concentrations recorded in Allegheny County ranked thirteenth among all U.S. counties. Among U.S. cities, Pittsburgh, the county seat, was the eighth most polluted for annual PM2.5. Nearly 2.6 million people live in this metropolitan area.²³¹
- Nearly 33% of those living in the Pittsburgh-New Castle-Weirton Metropolitan Area suffer from illnesses that could be caused or exacerbated by small diameter particles. Rates of childhood asthma in the region are higher than the national average at 13%; in some of the most polluted areas, rates are as high as 25%.²³² In the Monongahela River Valley, a highly populated valley with heavy industry, an estimated 1,406 more deaths occurred between 2000 and 2008 than expected, based on national rates, due to poor air quality.²³³
- Wood burning complaints are among the most common problems reported to the Allegheny County Health Department's Air Quality Program.²³⁴ Allegheny County is hilly, with valleys that trap wood smoke near the ground during periods of still, damp air and temperature inversions. In rural parts of the county, it is not uncommon for people to use burn barrels to dispose of their trash.



Some local governments regulate the material burned, while others regulate distance from property line and/or the size of the fire. Some local governments ban fires on days when AQI alerts are issued.

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Figure 8: Air Quality Index for PM2.5 in 2016 in Pittsburgh, PA



Source: Preliminary air quality data as reported to EPA's Air Quality System and AirNow.gov

In municipalities without curbside trash collection or mandated recycling, burning is the easiest and least expensive method to dispose of household and yard waste.

Burning is legal under state law, but is restricted by the Allegheny County Health Department, which is responsible for protecting the public's health by regulating air pollutants and enforcing federal pollution standards.

- Burning is legal under state law, but is restricted by the Allegheny County Health Department (ACHD), which is responsible for protecting the public's health by regulating air pollutants and enforcing federal pollution standards. Title 25 of the Pennsylvania Code allows open burning outside of designated air basins, with several conditions. Open burning is considered legal if the smoke cannot be seen or smelled outside of the property burning, if it does not interfere with the reasonable enjoyment of life or property, if it does not cause damage to vegetation or property, and if it is not harmful to human or animal health.
- Exceptions to restrictions include fires that are set to prevent fire hazards, instructions to fire-fighting personnel, prevention and control of disease or pests, fires in conjunction with the production of agricultural commodities, fires burning household waste generated in a home occupied by no more than two families, recreational or ceremonial fires, and fires used for cooking food.²³⁵

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- During air pollution alerts, open burning is restricted. However, particulate matter (PM) must reach levels of $350 \mu\text{g}/\text{m}^3$ over the 24-hour average before an alert goes into effect.²³⁶
- Allegheny County historically had a general ban on open burning, but it was loosely enforced. Because of an increase in public complaints about wood smoke, the Allegheny Health Department broadened its open-burning restrictions to include recreational burning: campfires, bonfires, chimineas, and backyard fire pits.²³⁷
- In open burning, only clean wood, propane or natural gas, fire logs, paraffin logs, or wood pellets may be used; fires may be no larger than 3' wide by 3' long by 2' high and must be at least 15 feet from the nearest neighbor's dwelling or inhabited area; and all wood-burning activities are prohibited on Air Quality Action days. When air quality inspectors investigate citizen complaints, they may issue fines for nuisance smoke and smoke odors. Fines begin around \$250 and increase with repeated noncompliance.²³⁸
- Despite these recently added restrictions, wood smoke is still a source of pollution in Allegheny County. Pennsylvania's non-profit Clean Air Council is concerned that the ACHD public education campaign falls short of strongly informing the public about the health threats of wood smoke.²³⁹ The Council established the *iseesmokepa.org* website to report residential smoke, and published "How to Talk About Wood Smoke Pollution," which is a guide to negotiating with neighbors about wood burning.²⁴⁰
- In Pittsburgh, the non-profit "Group Against Smog & Pollution" (GASP) developed educational materials on wood smoke and burn barrels.²⁴¹ The group also manages a Citizens Smoke Reading Program, which empowers people to understand emissions and instructs them on how to report violations. The Heinz Endowments and the Pittsburgh Foundation provided 1,000 "Speck" air monitors to public libraries, schools and citizen groups in the region. These devices detect indoor PM 2.5.



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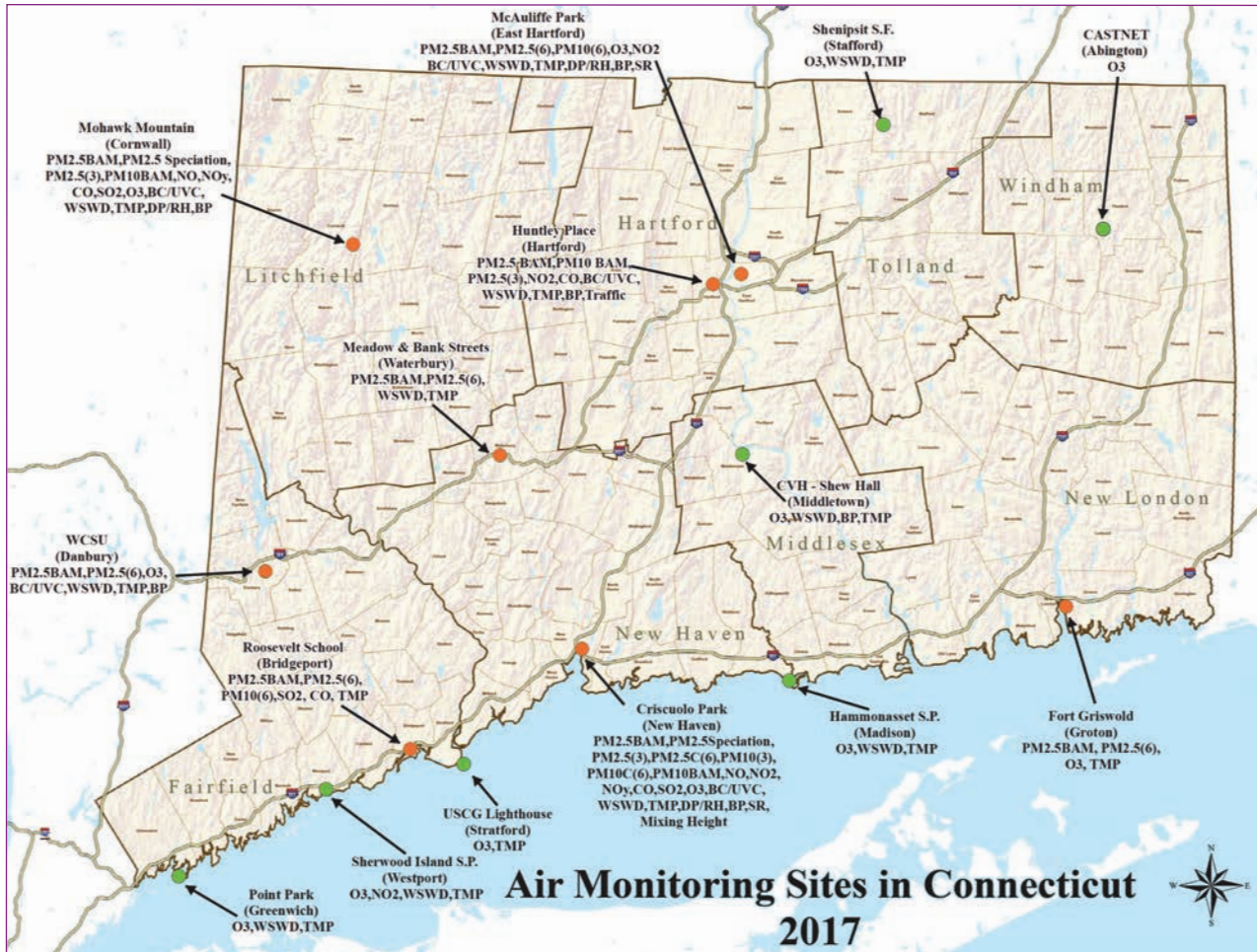
In Connecticut, particle pollution from fireplaces, wood stoves and outdoor burning creates a serious air quality problem in low-lying areas when inversions trap smoke close to the ground.

Regulations in Connecticut

- In Connecticut, particle pollution from fireplaces, wood stoves and outdoor burning creates a serious air quality problem in low-lying areas when inversions trap smoke close to the ground. Burning wood as a primary heat source in Connecticut is increasingly common—more than doubling between 2000 and 2010.²⁴²
- About 26,000 households in Connecticut burn wood for heat and wood burning is especially prevalent in the northeast corner of the state.²⁴³ Families statewide burn wood both inside and outside for ambience, despite a growing population that is sensitive to the health effects of smoke.
- Statistics show that asthma rates in the state are higher than the national rates.²⁴⁴ Nearly 10% of all children and 9% of adults have been diagnosed with asthma. One in 20 Connecticut adults has been diagnosed with Chronic Obstructive Pulmonary Disease (COPD).²⁴⁵ In addition, 16% of the population is over 65.²⁴⁶
- Connecticut allows the recreational burning of campfires, bonfires, fire pits, chimineas, or similar devices, unless they create a nuisance for neighbors or are in violation of any restrictions imposed on such burning by a local municipality.²⁴⁷ As is the case in Allegheny County, PA, defining a “nuisance” is challenging and expensive.
- Connecticut’s Department of Energy & Environmental Protection (DEEP) defines a nuisance as something that substantially interferes with the use or enjoyment of another person’s property.²⁴⁸
- It is very important for local health directors in Connecticut to know that the burning of wood in a campfire, bonfire, chiminea or other similar devices is prohibited if the burning is conducted in a way that creates a nuisance for neighbors. A local health director in Connecticut has the authority to shut down a wood-burning device if it creates a public health nuisance.

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Figure 9: Air Quality Monitors in Connecticut



Source: http://www.ct.gov/deep/lib/deep/air_monitoring/ct_airmonitors.pdf

- There are only eight PM2.5 monitors in the state. No PM2.5 monitors are located in areas where wood burning is most common.
- There are seven additional air monitoring sites in the state that do not measure PM2.5.

- Although monitoring data from 2008 through 2012 show that Connecticut meets EPA's PM2.5 standards, there are only eight PM2.5 monitors in the state. Even more troubling, there are no monitors in areas where wood burning is most common.
- Campfires and bonfires are not defined by state statute or regulation; however, some towns have special requirements to conduct this type

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Although monitoring data from 2008 through 2012 show that Connecticut meets EPA's PM2.5 standards, there are only eight PM2.5 monitors in the state. Even more troubling, there are no monitors in areas where wood burning is the most common.

of burning and may require homeowners to obtain a permit prior to burning a campfire on their property. Special requirements and permits may include limits on the size of the fires and certain setback distances from structures and/or property lines.

- In Connecticut, open burning refers to brush fires, camp fires and bonfires. Connecticut only allows clean, unprocessed wood to be burned. Processed wood is wood that has been glued or treated, including crates, pallets, and wood scraps. Campfires may not contain construction debris, wood pallets, or painted, stained, or treated wood. Unprocessed wood is untreated, natural wood and rough-cut lumber. Garbage may not be burned in campfires, bonfires, fire pits, chimineas or other similar devices.
- Open burning in Connecticut is restricted under the following conditions: when the AQI is forecast to be 75 or higher anywhere in the state; when the Forest Fire Danger Index is rated High, Very High, or Extreme; when the national or state ambient air quality standards may be exceeded; when a hazardous health condition might be created; or when there is an advisory from DEEP of any air pollution episode.²⁴⁹
- For open brush burning, residents must have a valid and signed permit from local officials, typically the town's Fire Marshal. Open burning is not permitted to clear land prior to construction activities and cannot be used as a way to dispose of construction debris, household trash, or leaves.
- Enforcement of wood smoke exposures is divided between the DEEP and local health departments in Connecticut. If the offending wood smoke comes from an Outdoor Wood Furnace (OWF), the DEEP handles the complaint. If the OWF complies with state statutes, but still harms neighbors, the DEEP will turn the issue over to the local health department.

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- In Connecticut, if an outdoor wood furnace (OWF) does not comply with state statutes, the DEEP will enforce compliance or shut down the OWF.²⁵⁰ All other offending wood smoke issues created by the OWF are handled by the local government, usually by the local health department in the town where the OWF is located.

Regulations in San Joaquin Valley, California

- Unique geographic and meteorological conditions and a growing population in the San Joaquin Valley contribute to poor air quality. Burning wood specifically is the leading cause of wintertime pollution in the Valley.
- In the past, the San Joaquin Valley experienced some of the nation's most polluted air, leading to a high number of hospitalizations for a variety of respiratory and cardiovascular diseases. These included asthma, acute bronchitis, pneumonia, and myocardial infarctions.²⁵¹
- To attain the NAAQS and improve public health, the San Joaquin Valley Unified Air Pollution Control District adopted a rule to reduce emissions from winter wood smoke. Rule 4901 was the first burn regulation in the U.S. to be applied uniformly across an entire air basin.
- Rule 4901 was amended in 2003 to require mandatory curtailment of residential wood burning when the air quality index reached 150, or about $65 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$.²⁵²
- Newer amendments to Rule 4901 allow only certain clean-burning stoves, fireplace inserts or heaters to be used when $\text{PM}_{2.5}$ concentrations are forecast to reach 20 to $65 \mu\text{g}/\text{m}^3$.²⁵³ These regulations discourage, but do not prohibit, wood burning when $\text{PM}_{2.5}$ concentrations are below $20 \mu\text{g}/\text{m}^3$.²⁵⁴

San Joaquin Valley



Unique geographic and meteorological conditions and a growing population in the San Joaquin Valley contribute to poor air quality. Burning wood specifically is the leading cause of wintertime pollution in the Valley.

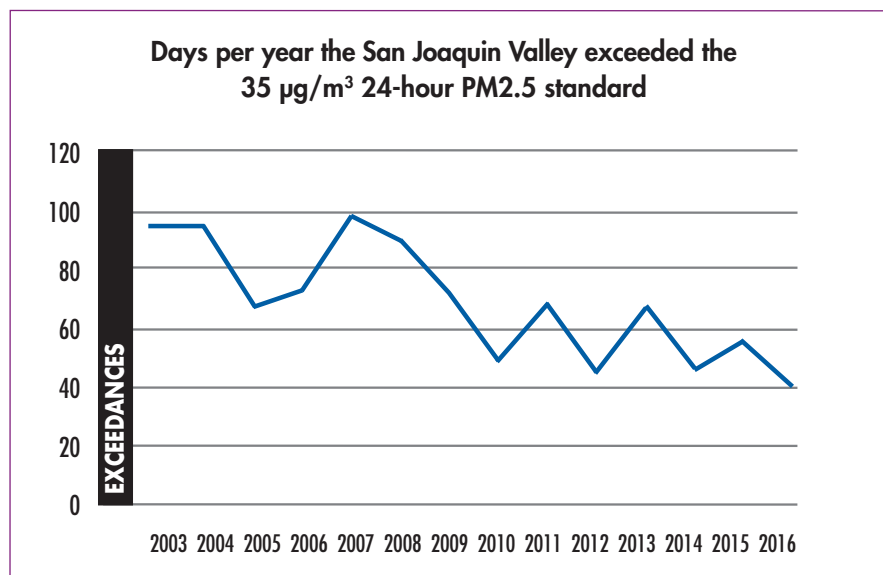
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Wood smoke regulations improve air quality and public health, according to studies of the San Joaquin Valley, which has one of the oldest and most stringent wood smoke regulatory programs in the country.

- Wood-smoke regulations improve air quality and public health according to studies of the San Joaquin Valley, which has one of the oldest and most stringent wood smoke regulatory programs in the country.
- Over the past decades, cleaner technologies have been developed to reduce emissions from wood-burning devices. San Joaquin Valley residents can use EPA-certified devices unless air pollution climbs to a critical point.
- Curtailments of residential wood combustion under Rule 4901 have resulted in substantial health benefits for San Joaquin Valley residents. By 2008, wood-burning curtailments had resulted in average daily PM 2.5 reduction of 13.6% in California's ninth-largest city, Bakersfield, at the southern end of the San Joaquin Valley.²⁵⁵

Figure 10: San Joaquin Valley PM 2.5 Reduction



Source: San Joaquin Valley Air Pollution Control District. Record Setting PM_{2.5} Air Quality in 2016. See <http://valleyair.org/pm25highlights.htm>

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- By 2008, air quality in the San Joaquin Valley during the winter had improved dramatically. Burn-season average concentrations of benzo(a)pyrene decreased by 32%; butadiene decreased by 44%; benzene decreased by 29%; and toluene decreased by 34%. Average concentrations of PM2.5 during the winter burn season decreased by 25%.²⁵⁶
- By 2015, the San Joaquin Valley recorded reductions in both fine particulate pollution (PM 2.5) and cardiovascular hospitalizations in the air basin.²⁵⁷ In 2016, the number of days that exceeded the 24-hour PM2.5 standard reached an all-time low.
- A study of San Joaquin Valley residents aged 65 years and older found that Rule 4901 prevented 7% of cardiovascular disease cases in the entire air basin, 8% of cases in rural areas, and 5% of cases in urban regions. In addition, Rule 4901 prevented 16% of ischemic heart disease cases in the entire air basin, 17% of cases in rural areas, and 13% of cases in urban regions.²⁵⁸
- The study actually underestimates the effectiveness of the San Joaquin Valley's wood burning restrictions because PM2.5 levels near many wood-burning sites can be up to 25% higher than shown by monitoring because the monitors are not nearby.²⁵⁹
- In addition, the data do not reflect exposures to PM2.5 from ambient outdoor air that enters homes, and from the indoor air in homes that burn wood.
- Rule 4901, the first burn regulation in the U.S. that applies uniformly across an entire air basin, is considered the most stringent in the nation, and the resulting health improvements have been clearly documented. Since Rule 4901 was implemented in the San Joaquin Basin, air quality has improved and hospital admissions have fallen significantly.



Rule 4901, the first burn regulation in the U.S. that applies uniformly across an entire air basin, is considered the most stringent in the nation, and the resulting health improvements have been clearly documented.

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Cigarette smoke and wood smoke contain many of the same toxic chemicals, yet cigarette smoke is heavily regulated by all levels of government while wood smoke is barely regulated.

Second-Hand Cigarette Smoke Heavily Regulated, Wood Smoke Lightly Regulated

- Cigarette smoke and wood smoke contain many of the same toxic chemicals, yet cigarette smoke is heavily regulated by all levels of government while wood smoke is barely regulated. How did cigarette smoke come to be so stringently regulated?
- Reports on the dangers of second-hand smoke were the impetus behind governmental regulations to restrict second-hand cigarette smoke. The 1986 report from the Surgeon General, “The Health Consequences of Involuntary Smoking,”²⁶⁰ translated scientific evidence on second-hand smoke into policy initiatives.
- The report concluded that second-hand smoke caused diseases, including lung cancer, in healthy nonsmokers. Children of parents who smoke have an increased frequency of respiratory infections compared to the children of nonsmokers.
- The report also found that simply separating smokers from nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke.
- In 2006, the Surgeon General concluded that local smoke-free policy initiatives engaged communities in an intensive process of public education and debate. It was also found that early on, local second-hand smoke-free policies were often more successful than federal or state initiatives.²⁶¹
- “This process raises public awareness regarding the health risks that second-hand smoke exposure poses to nonsmokers, increases public support for policy measures that provide protections from these risks, and changes public attitudes and norms regarding the social acceptability of smoking. These changes, in turn, lay the

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groundwork for successfully enacting and implementing the proposed policy, which reinforces and accelerates these changes,” the report stated.²⁶²

- As of 2018, a total of 22,661 municipalities were covered by a 100% smoke-free provision in non-hospitality workplaces, and/or restaurants and bars, by either a state, commonwealth, territorial, or local law. Forty-two states and the District of Columbia have local laws in effect that require non-hospitality workplaces and/or restaurants and bars to be 100% smoke-free.
- In addition, there were 3,676 states, commonwealths, territories, cities, and counties with a law that restricts smoking in one or more outdoor areas.²⁶³
- The critical factor driving adoption of these laws is the clear scientific evidence that second-hand smoke causes disease in nonsmokers. This rationale applies to wood-smoke emissions as well. Residential wood smoke is a significant contributor to PM_{2.5} emissions in both urban and rural areas in the U.S.

Children of parents who smoke have an increased frequency of respiratory infections compared to the children of nonsmokers.

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Table 9: Milestones in Establishing Second-Hand Smoke Policies in the U.S.

Year	Event
1971	The Surgeon General proposes a federal smoking ban in public places.
1972	The first report of the Surgeon General to identify second-hand smoke as a health risk is released.
1973	Arizona becomes first state to restrict smoking in several public places.
1974	Connecticut passes first state law to apply smoking restrictions in restaurants.
1977	Berkeley, CA, is first community to limit smoking in restaurants and other public places.
1986	Surgeon General's and National Academy of Sciences (NAS) reports conclude second-hand smoke is a cause of lung cancer in healthy nonsmokers.
1988	New York City ordinance bans/limits smoking in various public places; California implements statewide ban on smoking aboard all commercial intrastate airplanes, trains, and buses.
1992	USEPA classifies second-hand smoke as a Group A (known to be harmful to humans) carcinogen.
1994	San Francisco passes a ban on smoking in all restaurants and workplaces; Utah enacts a law restricting smoking in most workplaces.
1995	New York City bans smoking in most workplaces; California passes legislation that prohibits smoking in most enclosed workplaces; Vermont's smoking ban is extended.
1997	California EPA is first major report to conclude definitively that second-hand smoke exposure is a cause of heart disease in nonsmokers.
2000	The New Jersey Supreme Court strikes down a local clean indoor air ordinance adopted by the city of Princeton on the grounds that state law preempts local smoking restrictions.
2001	Surgeon General reports a causal relationship between second-hand tobacco smoke exposure and heart disease mortality among women who were nonsmokers.
2002	The Michigan Supreme Court refuses to hear appeal of lower court rulings striking down a local clean indoor air ordinance on grounds that state law preempts local communities from adopting smoking restrictions more stringent than the state standard; Delaware enacts a comprehensive smoke-free law, and repeals a preemption provision precluding communities from adopting local smoking restrictions that are more stringent than state law.
2003	Connecticut and New York enact comprehensive smoke-free laws; Maine enacts a law requiring bars, pool halls, and bingo venues to be smoke-free; Iowa and New Hampshire supreme courts strike down local smoke-free ordinances, ruling that they are preempted by state law.
2004	IARC identifies second-hand smoke as "carcinogenic to humans"; Massachusetts and Rhode Island enact comprehensive smoke-free laws.
2005	Delaware and Illinois repeal state preemption provision precluding local smoking restrictions that are more stringent than the state standard; Montana, North Dakota, Georgia, Vermont, Maine, Rhode Island strengthen or enact legislation that make most workplaces and other areas smoke-free.
2006	DC, Colorado, New Jersey, Utah, Arkansas, and Puerto Rico enact or strengthen legislation requiring most workplaces and public places to be smoke-free.

Source: The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Office on Smoking and Health (US). Atlanta (GA): Centers for Disease Control and Prevention (US); 2006.

V. Conclusion



- Wood-smoke exposure is a serious risk to human health. It is known to cause and exacerbate many pulmonary and cardiovascular diseases.
- Despite convincing scientific evidence that wood smoke harms health, governments at all levels have failed to effectively regulate wood burning. Wood smoke now constitutes nearly 30% of airborne particle pollution in a number of urban areas during winter months, as heating with wood has continually increased.
- Summer wood burning has also increased. Outdoor fireplaces, fire pits, chimineas, and cooking appliances have become increasingly more common. Home furnishing catalogs sell many of these wood burning appliances for home recreational use. Supermarkets and big box stores sell them and promote them as well. Recreational wood burning often takes place in areas where homes are close together and the smoke often enters neighboring homes.
- This rise in the popularity of recreational wood burning poses a problem for regulators whose laws and regulations are often older

Despite convincing scientific evidence that wood smoke harms health, governments at all levels have failed to effectively regulate wood burning.

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Raising public awareness of the potential health threats of wood smoke will increase public support for policy measures that provide protections from these risks, and change public attitudes and norms regarding the social acceptability of burning wood.

than this new craze of home outdoor wood burning. This increase places a burden on neighbors who complain about breathing other people's wood smoke without adequate regulations to protect them.

- Wood-smoke regulations and enforcement vary from state to state. Even within a state, enforcement of wood smoke issues can vary from town to town. Regulations put in place by towns, states, and the federal government have not caught up with the science on the harms of inhaling wood smoke.
- Research has shown that small particles, created by the burning of wood, remain airborne for longer periods of time than larger particles, meaning that they remain available for human inhalation.
- The particles can have a strongly negative effect on human health, causing and exacerbating lung diseases, and triggering cardiovascular events, cancers, and premature deaths. These health events can occur at air pollution levels well below regulatory standards.
- Short-term exposure to wood smoke aggravates lung diseases. It can cause asthma attacks, acute bronchitis, sinusitis, respiratory infections, and cardiac events.
- Long-term exposure to wood smoke can cause reduced lung function, chronic bronchitis, sinusitis, and lung cancer. It also can cause cardiovascular diseases, and cardiac events.
- Raising public awareness about the potential health threats of wood smoke will increase public support for policy measures that provide protections from these risks, and change public attitudes and norms regarding the social acceptability of burning wood. If governments, at all levels, could finally regulate cigarette smoke, after years without regulations, there is hope that eventually governments will better regulate wood smoke so that the public is finally protected.

VI. Recommendations



Recommendations for the Federal Government

- The federal government should adopt stricter wood-smoke standards. The current air standards are not strict enough to protect the public's health, with long-term exposures to PM_{2.5} causing an increased risk of harm, even at levels below the current air standards. The Clean Air Act requires that the Environmental Protection Agency (EPA) set air quality standards that protect even sensitive populations. The current laws clearly fail to protect human health as required by the Clean Air Act.
- The federal government should be required to test new wood-burning appliances for both their efficiency and emission levels before they are allowed to enter the marketplace. An example of such a failure are the outdoor wood furnaces that entered the marketplace without adequate testing, but which have proven to be harmful to both the environment and human health.
- The federal government should make clear what is allowed to be burned and what is not. Pressure-treated wood, plastics, building debris, and wood containing waxes, adhesives, and other dangerous additives should be banned from use in wood-burning appliances.
- The federal government should increase their education about wood smoke and its harms so that the public is more fully informed and can better protect their health.
- The federal government should require wood-burning appliances to contain a warning that wood smoke may be dangerous to health. Labeling requirements for tobacco products have proven to be effective in educating the public about the dangers of cigarette smoke; the same should be required for wood smoke.

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Recommendations for States

- State governments should enact laws that clearly state that wood smoke entering another person's property is against the law, and violations are enforceable by shutting down the offending wood-burning appliance.
- States should use visual smoke passing onto neighbors' properties as proof of harm. Wood-smoke emissions that harm people should be recognized as proof of harm by the designated agency that inspects offending wood-smoke appliances.
- States should make clear to the public which state agencies are empowered to enforce laws to protect those being harmed by other people's wood-smoke emissions. In some states, local health departments are the agencies empowered to enforce these laws.
- States should include wood smoke in their nuisance clauses to better prevent and enforce wood smoke issues.
- States should install enough PM2.5 monitors to adequately reflect where wood-smoke emissions actually occur. For instance, although monitoring data from 2008 through 2012 show that Connecticut meets EPA's PM2.5 standards, there are only eight PM2.5 monitors in the state, and they are not located in areas where wood burning is the most common.
- States should enact wood burning bans when air quality does not meet EPA's health standards for either ozone or particulate levels. Communities that have done so have experienced significant improvements in air quality.
- State websites should include: why wood smoke is harmful to health; why wood smoke regulations should be enforced; and which state, county, or town agency enforces laws on harmful wood-smoke emissions.

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Recommendations for City, Town, and County Governments

- City, town, and county governments should enact ordinances that clearly state that wood smoke entering another person's property is against the law, and is enforceable by shutting down the offending wood-burning appliance.
- City, town, and county governments should empower their local health departments to be the agency to enforce wood-smoke offenses, and encourage them to shut down wood-burning appliances when wood-smoke emissions harm other people.
- City, town, and county governments should ban outdoor wood furnaces, as they cannot be made safe for the environment or for people who live within half a mile of outdoor wood furnaces. Wood-smoke emissions from outdoor wood furnaces travel for half a mile and can enter all the homes within that area.
- The websites of city, town and county governments should include why wood smoke is harmful to health; why wood smoke regulations should be enforced; and which city, town or county government agency enforces the laws relating to harmful wood-smoke emissions.

Recommendations for Individuals

- Individuals need to understand that wood smoke is dangerous to their health. Individuals should protect themselves and their families from wood-smoke exposures. Pregnant women, infants, children, older adults, and people with pre-existing respiratory or cardiac diseases, diabetes, and breast cancer should avoid all wood-smoke exposures.

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- Individuals should use natural gas-burning appliances instead of wood-burning ones. Even a cleaner or newer wood-burning stove will not necessarily improve the PM levels in your home. The U.S. Department of Energy found that about a third of homes that replaced their wood-burning device did not see indoor air quality improvements. A natural gas stove, if properly vented, will reduce emissions.
- Individuals should avoid burning wood. If they must, they should burn only clean, dry wood. Never burn trash. Most household waste is primarily comprised of plastics, which emit highly toxic compounds. Do not burn building debris, pressure-treated wood, or wood containing waxes, adhesives, or other dangerous additives. Synthetic logs should also be avoided.
- Individuals need to make sure that their wood-smoke emissions are not harming others. If their wood burning is harming others, they need to shut down the wood-burning appliance.
- Individuals should reduce all wood-smoke exposures. If wood smoke enters your home on a regular basis, you and your family need to get out of the smoke. Ask your neighbors to reduce the wood-smoke emissions that are harming you. If that fails, ask your local health department for enforcement help. If others are being harmed by the wood smoke, invite them to join you in asking for enforcement. If all fails, you may consider moving your residence. Obviously, nothing is more important than your family's health.
- Individuals who are experiencing wood smoke in their homes should purchase a HEPA filter while waiting for enforcement. A 2016 study by the Department of Energy found significant benefits from using high-efficiency HEPA air filters to reduce PM from wood smoke in homes. These filters, if properly sized for the volume of space you normally occupy, can reduce indoor particle pollution by as much as 60%.²⁶⁴
- Individuals should work to get their towns to pass ordinances that better protect people from being harmed by other people's wood burning.

VII. Glossary

Acronyms, Abbreviations, and Definitions

ACGIH - American Conference of Governmental Industrial Hygienists

ACHD - Allegheny County Health Department

ATSDR - Agency for Toxic Substances and Disease Registry

AQI - Air Quality Index

BaP - benzo[a]pyrene, a PAH that results from incomplete combustion

BC - black carbon

CAA - Clean Air Act

CCA - chromated copper arsenate

CDC - Centers for Disease Control and Prevention

CFR - Code of Federal Regulations

CNS - Central Nervous System

CO - carbon monoxide

COPD - Chronic Obstructive Pulmonary Disease

CTDEP - Connecticut Department of Environmental Protection

DOE - Department of Energy

DNA adduct - a segment of DNA bound to a cancer-causing chemical

GASP - Group Against Smog & Pollution

HAP - Hazardous Air Pollutant. Also known as toxic air pollutants or air toxics. Pollutants known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects.

IARC - The International Agency for Research on Cancer

NAAQS - National Ambient Air Quality Standards

NAS - National Academy of Science

NIH - National Institutes of Health

NIEHS - National Institute of Environmental Health Sciences, part of NIH

NTP - National Toxicology Program

Open burning - Defined by EPA as smoke that enters the air directly, without first going through a chimney, flue, vent, or other similar path. Includes recreational burning as well as burning brush or other land-clearing debris.

PAH - polycyclic aromatic hydrocarbon; part of a large group of organic compounds with two or more fused aromatic rings

PAH-DNA adducts - Environmental PAH exposures result in PAH-DNA adducts

PM - particulate matter

PM_{2.5} - fine particulate matter (2.5 microns or micrometers)

PM₁₀ - coarse particulate matter (10 microns or micrometers)

Recreational burning - Use of an outdoor fire for warmth or ambiance

SO₂ - sulfur dioxide

USEPA - U.S. Environmental Protection Agency

UFP - Ultrafine particulate matter

VOC - volatile organic compound

W-COPD - COPD associated with wood smoke

WHO - World Health Organization

WSPM - wood smoke particulate matter

T-COPD - COPD associated with tobacco smoking

µg/m³ - The concentration of an air pollutant (e.g., PM) in micrograms (one-millionth of a gram) per cubic meter of air

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- ²⁵⁷ Hospital admissions drop and air quality improves with fireplace, wood burning restrictions. <https://www.arb.ca.gov/newsrel/newsrelease.php?id=773>.
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- ²⁶¹ National Cancer Institute. Smoking and Tobacco Control Monograph No 11. Bethesda (MD): U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute; 2000b. State and Local Legislative Action to Reduce Tobacco Use. NIH Publication No. 00-4804.
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- ²⁶³ American Non-Smokers' Rights Foundation. Overview List – How many Smokefree Laws? October 2, 2017. <http://www.pscleanair.org/2012chinook/>
- ²⁷⁴ US Department of Energy. Home Rx The Health Benefits of Home Performance – A Review of the Current Evidence. December 2016.

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ENVIRONMENT & HUMAN HEALTH, INC.

1191 Ridge Road ■ North Haven, CT 06473

Phone (203) 248-6582 ■ info@ehhi.org

www.ehhi.org

From: Hecht, Sean [mailto:hecht@law.ucla.edu]
Sent: Wednesday, November 07, 2018 10:21 PM
To: EnvironmentalJustice@Coastal
Subject: Comment on Coastal Commission's draft Environmental Justice Policy Statement

Dear Commissioners, Senior Commission Staff, and Environmental Justice Team:

I submit this comment on the Coastal Commission's draft Environmental Justice Policy Statement in my personal capacity, as someone who has engaged with Commission processes and materials. I commend the Coastal Commission and its staff for moving forward with this essential initiative to improve equity in Commission processes and outcomes. As the draft Environmental Justice Policy Statement notes, "the Coastal Act is an inherently equitable law, designed to protect California's coast and ocean commons for the benefit of all the people." It is noteworthy that the Commission is looking reflectively at its work, with the intention of improving its impact on environmental equity.

My comments are limited to some brief observations about environmental justice and the accessibility and transparency of Commission processes and materials. As with any government agency's processes and materials, Commission resources may be less accessible or transparent to people in ways that are correlated with attributes such as income, race, religion, culture, national origin, ethnic group, age, or disability status, among other factors. The Statement includes this language:

"The Commission is committed to consideration of environmental justice principles ... during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities."

This language can be interpreted to encompass ways in which access and transparency might differentially affect environmental justice values and communities, but it would be useful to be more direct and clear about the Commission's commitment both to these process-related values as well as to the substantive consideration of environmental justice principles.

The Commission should assess and address any inequities in access and transparency, especially where they may be correlated with the types of attributes listed above. Areas of specific concern include, for example: limitations on access to information relating to proposed projects or other items on Commission agendas; inequity in both access to Commissioners and staff, and transparency about that access; and limitations on access to information that sheds light on Commission policies, practices, precedent, and standards (for example, in administrative records, in policy documents, and from prior meeting materials). Given the reality that much Commission substantive precedent and policy is embodied in staff reports and Commission decisions that are not easily accessible or indexed online, this last point is significant.

Existing practices and relationships can amplify the impact of structural inequities, advantaging stakeholders that have consistent or frequent business in front of the Commission. This may be difficult to address, since frequent engagement in administrative processes inevitably creates familiarity and access. But to the maximum extent practicable, the Commission should develop processes and provide resources to diminish and eliminate disparities.

The following types of goals and strategies may be helpful to address these issues:

- Disseminating and maintaining information more effectively and accessibly, targeting diverse stakeholders;
- Accommodating diverse accessibility needs within hearing processes;
- Achieving more consistency and transparency in public and stakeholder access to Commissioners;
- Creating multiple modes of access to information about past, pending, and future proceedings; and
- Developing more comprehensive, and better-indexed and more searchable, document repositories online and in paper form.

I appreciate the opportunity to comment on the draft Statement.

Sincerely,

Sean B. Hecht
Co-Executive Director, Emmett Institute on Climate Change and the Environment
Evan Frankel Professor of Policy and Practice
UCLA School of Law

From: richard mecagni [mailto:mecagni@gmail.com]
Sent: Wednesday, January 16, 2019 3:19 PM
To: EnvironmentalJustice@Coastal
Subject: Environmental Justice Comments

I trust that you remain available to receive comments on the Coastal Commissions efforts to at adopting policies regarding environmental justice.

Attached is a description of an important issue that I wish for the Commission to consider. Perhaps other comments have already addressed this issue.

Please reply to me if further information is helpful -- along with any direction as to how I can better have this issue considered.

--

Rick Mecagni

Attachment Rick Mecagani
California Coastal Commission

Environmental Justice

RE: Disproportionate impact on middle income people

For our small community in the Santa Monica Mountains – Ventura County, the Coastal Commission has become a major cause of environmental *injustice*.

Until recently, our community was one of the few areas in the California Coastal Zone where middle class families could buy affordable land and build modest homes. Thirty years ago, I bought a 10 acre parcel for less than the cost of buying a vacant lot in Oxnard, Ventura, or Camarillo.

Through hard work and perseverance, I built the house (by myself) in which I currently live.

My dream of living in Coastal California came true.

But, how times have changed

In order to secure a ‘zone clearance’ to build my home, the County Planning Department placed conditions. I agreed to those conditions. At the time of my application the text of the planning conditions was 10 pages.

My permit costs differed little from the permit costs of any home in Ventura County. However times have dramatically changed in the past few years.

Today, due to Coastal Commission restrictions, the permit costs in the Santa Monica Mountains is about \$500,000 more than the permit costs for same house built in Oxnard, Ventura, or Camarillo. This \$500,000 in added costs are incurred in order to meet Coastal permit conditions. \$500,000 that one must have in their savings, \$500,000 that is not covered by construction loans. Who has an extra \$500,000 sitting in a bank account to pay to satisfy Coastal conditions?

For example, the latest planning document for a single family home in Coastal Ventura County is not the 10 pages I experienced – it is now 312 pages. 312 pages of conditions, requirements, studies, mitigation fees, and whatever else planners can load on applicants. Each and every condition represents more costs, more time, more frustration.

Additionally, Coastal is proposing mitigation ‘fees’ of \$250,000 when you clear “sensitive” vegetation which grows on the area to be occupied by your house and to provide for fire safety.

So, what about the middle class? What about environmental justice?

When confronted by these Coastal Commission induced costs, the middle class --- are left with no alternative, they just walk away and pass their dreams and land on to someone with the resources to fight or comply. Environmental Justice Denied to the middle class.

Additionally, the middle class does not have the resources needed to bring lawyers with them to the planning department – who often interpret ordinances conservatively.

Wealthy land owners retain attorneys who often succeed in advancing their clients interests through the implied threat of legal action – Because of the presence of these attorneys, planners become less inclined to interpret conservatively and become more moderate – this results in a double standard – one set of interpretations for the wealthy, a second set for the middle class. Hardly environmental justice.

So there goes the middle class – Bye Bye Toyota's and Chevy Trucks! – Hello Mercedes and Land Rovers!

The wealthy will build their houses, they will just write checks. The rest of us, will just walk away and lick our wounds. Environmental Justice Denied.

Conclusion

So, once the middle class grasp the futility of their efforts to build their 'dream home' they will sell their parcel of land and with it their dream – to an increasingly small number of purchasers.

Why fewer purchasers? The word gets out, building in the Santa Monica Mountains is only for those who can afford government induced costs.

We will absorb our financial and emotional losses and lick our wounds.

Why- the Coastal Commission! The rules and regulations proposed by and approved by the Coastal Commission will crush the dream of normal middle class families to build a home in the Ventura County Coastal Zone.

However, it will not stop development in the Santa Monica Mountains for the 1% who have an extra \$500,000 sitting in their bank account. Thus, the dream will be passed on to the wealthy and the dream will be theirs and theirs alone.

Environmental Justice, in my view, will not be served.

Hopefully, the legislature intended to stop such economic based discrimination when it added the environmental justice provision to the Coastal Act.

From: Fred Collins [<mailto:fcollins@northernchumash.org>]
Sent: Tuesday, January 22, 2019 7:59 AM
To: Selvaraj, Sumi@Coastal; EnvironmentalJustice@Coastal
Cc: Schwartz, Noaki@Coastal; Violet
Subject: RE: Coastal Commission's Revised Draft Environmental Justice Policy

Hello Sumi,

Thank you for the outreach to the Northern Chumash Tribal Council to share the new revised public review draft for Coastal Commission's Environmental Justice Policy.

1. When we get thrown in with the public comment it offend dilutes our standing, we do know that you understand, but, we are stakeholders and should be specifically address as such.
2. In the introduction, we find ourselves being lost in the general public, as Indigenous California Tribal Communities we have a stake in the very land that was stolen from us, by our government, this should be explain, that what we are talking about is our lands, the indigenous communities lands, the entire California Coast is our Sacred Lands, stolen, taken, and now we cannot afford to live anywhere near the coast or own land because of greed for our lands, and everything else comes after. Although we are people of color, this land is unique to US, and all else comes after.
3. It is good to talk and understand all of the Justice Principles put forth in this document, but, none of this matters if they are not Implemented and even more important is the follow up, talking is good but, let's make sure we Walk the Talk.
4. In the Statement of Environmental Justice Principles section, after, effective communications, should be implementation/follow-up, all the communication in the world do not matter without follow-up to each project, which should include a follow-up summary for effectiveness of implementation of all mitigations and policies.
5. Section: Respecting Tribal concerns. We are California Native American Tribes, and should be address as such. Concerns are not ours, ours are our Sacred Lands Protocols, not some whimsical concern, but, real life, deep memory, Sacred Life Ways, Preservation Protocols, Tribal Governmental Policies, 10,000 years Protocols.
6. In each section implementation follow-up should be included, each place where mitigation are approved, must include follow-up to make sure everyone is one the same page.

Please see recent failed follow-up project letter attached, follow-up is critical.

Fred Collins
Chair NCTC



Northern Chumash Tribal Council

A Native American Corporation - NorthernChumash.org
P.O. Box 6533 Los Osos, CA 93412
805-801-0347

Tom Luster
California Coastal Commission
45 Fremont Street #2000
San Francisco, CA 94105
415-904-5248

September 16, 2018

Re: Decommissioning Morro Bay Power Plant

Dear Tom,

The Northern Chumash Tribal Council, Inc. (NCTC) would like to “officially protest” the Dynegy decommissioning operations taking place in Morro Bay California in violation of California Coastal Commission (CCC) Application No. 9-18-0157, Applicant Dynegy Morro Bay, LLC (see pages 9, 28, 29 of approved application). In the CCC “Summary of Staff Recommendations Special Conditions 14, 15 “impose a number of requirements to protect, preserve, and report any tribal cultural resources found during project activities.” (see Special Conditions H, and 14, 15 below) These special conditions have not been recognized by the State Lands Commission and Padre Associates, and CCC has not enforced these conditions.

H. *TRIBAL CULTURAL RESOURCES Coastal Act Section 30244 states: Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required. The project site is within what are considered two “core areas” of the proposed Chumash Heritage National Marine Sanctuary.⁹ Core Area 6 extends along the shoreline from the Morro Bay area south to Point San Luis and contains hundreds of sites associated with the Chumash. Core Area 2 extends several miles offshore and is believed to contain Chumash villages, possible solstice alignments, and other sites that were submerged during the last several thousand years of sea level rise (about 20,000 years ago, sea levels were about three hundred feet lower than current levels). Nearby Morro Rock is considered by several tribes to be a sacred tribal cultural property.¹⁰ There have been at least four cultural resource surveys conducted within portions of the overall project site, though none identified resources within areas that will be disturbed by the proposed project activities.¹¹ However, based on a records search from the Central Coast Information Center of the California Historical Resources Information System (“CCIC-CHRIS”),¹² there are several known tribal cultural resources located within a quarter-mile radius of the project site, including an extant seasonal shellfish collecting and processing site and a habitation site, along with a shell mound that is believed to have been destroyed. There may also be unrecorded tribal cultural sites located in the offshore project area, though the potential for finding any during project activities is likely low, as much of this part of Estero Bay was disturbed during construction of the Morro Bay Strand during the early 1900s. During the project’s CEQA review, staff of the State Lands Commission contacted seven tribes with known or potential interest in the project area and received comments from two tribal representatives regarding the need to protect potential tribal cultural resources.¹³ Coastal Commission staff also contacted these representatives, and based in part*

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EDUCATIONAL SERVICES TEACHING NATURE, NATIVE CULTURES &
FARMING

on the concerns expressed during these exchanges, this CDP includes two Special Conditions that are based on those included in the State Lands Commission's IS/MND and that are meant to ensure that any tribal cultural resources discovered during project activities are minimally damaged and are properly handled. Special Condition 14 requires Dynegy to prepare, in consultation with tribal representatives, a monitoring plan that ensures one or more tribal monitors are on site during all project ground-disturbing activities, that ensures the tribal monitor(s) can provide guidance to project workers on identifying tribal cultural resources, and that requires implementation of a treatment plan should any tribal cultural resources be found. Special Condition 15 specifies the measures that are to be included in that treatment plans, including notification procedures, temporary work stoppages as necessary to protect the resources, securing the site, and other similar requirements. Conclusion As proposed and conditioned, the Commission finds that the project will be protective of archaeological resources and consistent with Section 30244 of the Coastal Act.

14. Tribal Cultural Resources Monitoring Plan. Prior to project-related ground-disturbing activities, including the removal of the anode bed and wells within the MBPP Facility Segment, the Permittee shall prepare a Tribal Cultural Resources Monitoring Plan for Executive Director review and approval. The Monitoring Plan shall be prepared in coordination with one or more representatives of a tribe that is culturally affiliated with the project area and shall include the following measures: a. Retaining one or more monitors from a tribe located in San Luis Obispo County that is culturally affiliated with the site and that will be present during all ground-disturbing activities. b. Providing at least five days prior notice to the monitor(s) of all ground-disturbing activities. c. Providing the monitor(s) with safe and reasonable access to the site. d. Identifying procedures for tribal monitoring of work in the project's Surf Zone and Offshore Segments, including availability of resources and information needed to monitor excavation activities. e. Describing the guidance to be provided to project personnel about identifying potential tribal resources that may be encountered. f. Ensuring the monitor(s) will provide project personnel with orientation on the Monitoring Plan's requirements, including the potential for exposing tribal cultural resources, guidance on recognizing such resources, and procedures to be implemented if they are encountered. g. Implementing the Tribal Cultural Resources Treatment Plan as described in Special Condition 15 below. The Permittee shall implement the Monitoring Plan as approved by the Executive Director.

15. Tribal Cultural Resources Treatment Plan. PRIOR TO THE START OF GROUND DISTURBING PROJECT ACTIVITIES, the Permittee, in consultation with the tribal monitor(s), shall prepare a Tribal Cultural Resources Treatment Plan that identifies measures to be implemented if intact tribal cultural resources are discovered during project activities. The Treatment Plan shall include provisions that allow the tribal monitor(s) to temporarily halt all project activities within 100 feet of the find, that ensure the location of the find is kept confidential, and that ensure the area of the find is secured to minimize site disturbance and avoid potential vandalism. The Treatment Plan shall also specify measures that will be taken to assess the nature and extent of the find, to record the find, and to notify relevant tribal representatives based on the results of the assessment. The Treatment Plan shall require that further impacts to the find be avoided through preservation in place, if feasible.

Sentence one, Special Conditions 14, 15: *Tribal Cultural Resources Monitoring Plan. Prior to project-related ground-disturbing activities, including the removal of the anode bed and wells within*

the MBPP Facility Segment, the Permittee shall prepare a Tribal Cultural Resources Monitoring Plan for Executive Director review and approval.

Did Not Occur

Sentence # Two, Special Conditions 14, 15: *The Monitoring Plan shall be prepared in coordination with one or more representatives of a tribe that is culturally affiliated with the project area and shall include the following measures: a. Retaining one or more monitors from a tribe located in San Luis Obispo County that is culturally affiliated with the site and that will be present during all ground-disturbing activities. b. Providing at least five days prior notice to the monitor(s) of all ground-disturbing activities. c. Providing the monitor(s) with safe and reasonable access to the site. d. Identifying procedures for tribal monitoring of work in the project's Surf Zone and Offshore Segments, including availability of resources and information needed to monitor excavation activities. e. Describing the guidance to be provided to project personnel about identifying potential tribal resources that may be encountered. f. Ensuring the monitor(s) will provide project personnel with orientation on the Monitoring Plan's requirements, including the potential for exposing tribal cultural resources, guidance on recognizing such resources, and procedures to be implemented if they are encountered. g. Implementing the Tribal Cultural Resources Treatment Plan as described in Special Condition 15 below. The Permittee shall implement the Monitoring Plan as approved by the Executive Director.*

Did Not Occur

You and I had many good meaningful conversations, by phone and email, about the conditions stated above, (see email exhibits 1) we worked on the wording and come up with good Special Conditions for this project to move forward, in respect and coordination with the Northern Chumash Tribal Council, Inc. for the honorable handling of California Tribal Resources, in Morro Bay California the heartland of the Northern Chumash Nation. It is very hard to believe that ***none*** of our conditions that we worked on together have been reviewed by the Executive Director, or implemented. Instead we have disrespectful situation on the ground occurring currently.

On or about August 29th the Northern Chumash Tribal Council, Inc. received a phone call from Rachael Letter, with Padre Associates, stating to me that work on the decommissioning of the Morro Bay power plant would begin on September 4th 2018. You can imagen my concern, especially when NCTC has not heard a word from anyone, after, the CCC approved the above referenced applications with tribal resources special conditions, and no word from anyone, no phone calls, no emails, no letters asking to meet and work on a monitoring plan to be approve by the CCC Executive Director. Rachael Letter stated that she was just told to contact us the NCTC at the direction of CCC to let us know that the project was starting, and to see if we agreed with the current Monitoring Plan that was done by Padre without any NCTC impute, and that SLC had approved their own Monitoring Plan in conjunction Padre Associates, completely **leaving out** CCC Special Conditions approved by the CCC, leaving out all conditions that had been legally followed under AB 52 that had been guaranteed by the CCC approval, and Executive Director review and approval. (see email below)

From: Rachael Letter

Sent: Tuesday, August 28, 2018 10:43 AM

To: 'fcollins@northernchumash.org' <fcollins@northernchumash.org>

Subject: Morro Bay Power Plant Decommissioning Project

Hello Fred,

I am contacting you at the request of the California Coastal Commission to discuss your concerns regarding tribal cultural resources at the Morro Bay Power Plant decommissioning project.

To date, the California State Lands Commission initiated Native American consultation under AB52 while preparing the Mitigated Negative Declaration for the project. CSLC received responses from the Xolon Salinan Tribe and the Salinan Tribe of Monterey and San Luis Obispo counties. In February 2017, CSLC continued consultation with both groups, which resulted in bringing the Xolon Salinan Tribe on board for cultural monitoring. CSLC's tribal liaison handled all consultation without any assistance from Padre; however, Padre did prepare the MND and subsequent monitoring plans.

It was brought to our attention yesterday that you and Mona Tucker had been in touch with the Coastal Commission during preparation and approval of the coastal development permit in July 2018. The Coastal Commission is asking if you concur with the current monitoring approach or would like to request a change.

Feel free to contact me with your comments or contact Tom Luster with the Coastal Commission directly at (415) 904-5240 or Tom.Luster@coastal.ca.gov.

First the Salinans are not from Morro Bay, and for the SLC to have foreigners make decision about my and the Northern Chumash Nations ancestors is something that I have no words for. As NCTC stated in our comments with you, Tom, we stated that San Luis Obispo County has an ordinance that states only local Chumash Peoples will work Cultural Resources in San Luis Obispo County, the Salinan monitor on the currently project drives over 100 miles to get to Morro Bay, completely unheard of, so disrespectful. Additionally, the County has laws in the General Plan under Open Space and Conservation Element, 4.0, 4.01 which describes protocols for Archaeology in San Luis Obispo County, none of these laws were followed. Padre Associates has been in this business for many years, they know better, they are not in compliance with CCC approval.

Currently the Northern Chumash Nations Peoples have to endure grave disrespect by the Salinan peoples, working currently on this project, with no valid evidence of living in Morro Bay, before the Mission Period. Morro Bay is completely Chumash Lands as NCTC discussed with Jennifer Mattox, Tribal Liaison for the SLC, and discussed the same facts and provided evidence to you. Any affiliations with the Salinans in San Luis Obispo County is Mission Period related, there is no evidence of Salinan occupation in San Luis Obispo County before 1600, NCTC presented irrefutable evidence that Morro Bay is in the heartland of the Northern Chumash Nation. The Salinans know better, they did not negotiate in good faith. NAHC has no evidence that Salinans were ever present in Morro Bay prior to the Mission Period. NCTC has provided experts, for SLC and CCC to call and validate NCTC facts, Wendy Tweeter UCLA, Barry Price Applied EarthWorks, and Terry Joslin Caltrans 5th District Tribal

Liaison. There are no respected archaeologists that will validate the SLC monitoring plan using Salinan in Chumash Nation Lands. SLC was well informed of all this information by NCTC in the phone and email communications with Jennifer Mattox, but, instead SLC chose to cause emotional and physical distress to a California Native American Tribe, NCTC, when, it was not necessary. What considerations were given to the true stakeholders? What was the intent of SLC? Why did SLC not follow up and verify with other professional, like Terry Joslin Caltrans 5th District Archaeologist and Tribal Liaison for San Luis County? See below email from Rachael Letter of Padre Associates:

From: Rachael Letter [<mailto:rletter@padreinc.com>]
Sent: Tuesday, August 28, 2018 11:26 AM
To: fcollins@northernchumash.org
Subject: RE: Morro Bay Power Plant Decommissioning Project

Hi Fred,

Thank you for responding. As discussed, the tribal cultural resources monitoring and treatment plan is attached. The plan was finalized by CSLC of which Jason Ramos stated: "I discussed with Tom Luster of the Coastal Commission that the CSLC's TCRMTP is specific to the CSLC's tribal coordination process. Any additional tribal monitors required by the Coastal Commission should be coordinated with in addition to the CSLC's approved plan, rather than amending the plan."

What happened here in this email? "Any additional tribal monitors" it seems that the SLC has completely miss the concept of California Tribal Meaningful Consultation in the planning and development of the monitoring plan. California Tribal input mandated by AB 52 and Executive Order B-10-11, is not about have more people on the ground monitoring for money, it is about having input in the wording of the monitoring plan, words matter.

On Friday January 12, 2018, NCTC received the email below from Jennifer Mattox:

From: Mattox, Jennifer@SLC [<mailto:Jennifer.Mattox@slc.ca.gov>]
Sent: Friday, January 12, 2018 12:59 PM
To: Tribal Liaison@SLC
Subject: MND for Dynegy Morro Bay Power Plant decommissioning released for review
Importance: High

Dearest Tribal Partners-

I am writing to let you know that the proposed mitigated negative declaration for the subject project has been placed on the Commission's website for your review. The comment deadline is February 9, 2018.

<http://www.slc.ca.gov/Info/CEQA/Dynegy.html>

My thanks to all who have expressed interest and who assisted in the development of measures to protect Tribal Cultural Resources.

Please never hesitate to contact me should you have any questions or would like to discuss any concerns.

Sincerely,

Jennifer

Jennifer Mattox

Tribal Liaison

State Lands Commission

100 Howe Ave., Suite 100-south

Sacramento, CA 95818

NCTC responded with the following email:

From: Fred Collins [<mailto:fcollins@northernchumash.org>]

Sent: Monday, January 22, 2018 8:24 AM

To: Mattox, Jennifer@SLC <Jennifer.Mattox@slc.ca.gov>

Subject: RE: MND for Dynegy Morro Bay Power Plant decommissioning released for review

Dear Jennifer,

The Northern Chumash Tribal Council, Inc. would like to comment on the Cultural Resources portion of the document, we find that the engineering to remove the pipes are adequate, and NCTC has no comment on the removal process.

However, on page 175, Cultural Resources Section, sections 5.13/5.13.1, paragraph 7, the statements made are completely inaccurate, for over 10,000 the northern boundaries of the Chumash Nation were from the area of Ragged Point to the area of San Miguel, (see Federal Recognized Santa Ynez Mission Indians web page, and above attached referenced finding by the Fowler Museum at UCLA dated January 20, 2018, that Morro Bay was in the Homelands of the Chumash, page one paragraph 3 last sentence) the Chumash did not have a trading or interaction with the Salinan's, as Salinan's traded to the East not South, the Chumash and Salinan's always had a hostile relationship. The area where the project is located is Chumash Lands ONLY.

*The Northern Chumash is stating that a Northern Chumash Monitor, either NCTC or the other Chumash Tribal Government, The Northern Chumash Tribe, Mona Tucker Chair, be on site **at all times** of the proposed project.*

Thank you,

Fred Collins

Chair Northern Chumash Tribal Council, Inc.

www.northernchumash.org

There was a robust back and forth with SLC and CCC, and NCTC will include them in the exhibits attached for reference. The SLC had full knowledge of the situation and made the decision to arbitrarily leave out the Northern Chumash Nations of the approved Special Conditions by the CCC.

NCTC is asking that the Special Conditions approve by CCC for this project be implemented before any further on shore work is done.

One of the most critical components of a Monitoring Plan is the qualifications of the archeologist (see exhibit 4) and the Native American Monitor, (see exhibit 5), the disrespect that is currently occurring on the ground at the site is in our opinion directly related to the qualifications of the archeologist on site for Padre and one of the Chumash monitors. If these exhibits had been added to the Monitoring Plan in the beginning we would not be having this disrespect today on the ground. It is our opinion that the archaeologist currently working on the project is not qualified. He is unknown to NCTC, and is not registered with the County of San Luis Obispo, in violation of GP Policy 4.0, 4.01, Open Space and Conservation Element.

NCTC would like to state that the constructions supervisors and constructions teams have been very respectful, safe and communicate in a good way.

Padre Associates is stating that CCC directed them to contact NCTC, and that SLC stated that they were using their tribal consultations, whereby eliminating CCC California Tribal Cultural Resources Special Conditions, which were approve by the Commission, and staff. It is “impossible” to believe that Padre Associates did not see or understand the CCC California Tribal Cultural Resources Special Conditions, they are very clear, they are very concise. From direct experience, when a company has a project before a licensing agency, and company revenue is at stake, once again it is “impossible” for Padre Associates to not have understood the Special Conditions, they just ignored them, as did the SLC, just dismissed them as unimportant. Padre, SLC and CCC do not have the power to change a public review licensing process approval, by just ignore the Special Conditions and do whatever they want, this is not due process, and is Out of Compliance, and should be treated as such by CCC. CCC is out of compliance with their Tribal Consultation Guidelines. CCC needs to stand up and protect the California Tribal Community from this gross violation of CCC Special Conditions.

Please forward to Staff and Commissioners.

Thank you,

Fred Collins
Chair NCTC

From: Arlene Versaw [mailto:arleneversaw@gmail.com]
Sent: Friday, January 25, 2019 5:07 PM
To: EnvironmentalJustice@Coastal
Subject: Comment to revised draft of Environmental Justice Policy

Overall, I feel this is a stronger policy outline than the first one. I suggest that one element may be missing: in the engagement of the stakeholders, a coordinated media blitz. to introduce this policy and make its presence known and understood could be very helpful.

Arlene Versaw, Arroyo Grande, CA

"Only truth and transparency can guarantee freedom." - John McCain

"Freedom of the press ensures that the abuse of every other freedom can be known, can be challenged and even defeated". Kofi Annan

From: Pam Heatherington [mailto:pjheatherington@gmail.com]
Sent: Monday, February 04, 2019 1:35 PM
To: EnvironmentalJustice@Coastal
Subject: Comments

Thank you for the opportunity to review the draft document. In its entirety it hits all the marks to improve the health and environment of overburdened communities.

I have a few comments:

1. Is it possible to have some case studies available? Often people may think they have an EJ issue but aren't sure. A variety of case studies may be helpful.
2. How will the Commission identify an EJ opportunity in a community that may not understand they are an EJ community?
3. If projects overlap but are segmented in review and the potential for pollution to these communities is great, how will these be recognized?

Your EJ team has done an exemplary job on this document!

Pam Heatherington

From: Leon Benham [mailto:LeonBenham@cox.net]
Sent: Thursday, February 07, 2019 5:45 PM
To: EnvironmentalJustice@Coastal
Subject: Citizens Complaint about the application of Environmental Justice in San Diego

Dear California Coastal Commission

As a citizen of Imperial Beach I have been witness to many forms of environmental injustice in the San Diego Bay and recently by the City of Imperial Beach.

Environmental Justice – What is it and how does it affect the people of the South San Diego Bay.

For decades now the citizens who live in the south San Diego Bay (Chula Vista, Imperial Beach, National City and South San Diego) have felt the impact of environmental injustice. While newcomers to the South Bay are perhaps not aware of the direct effects of environmental injustice, the people who have lived in the area for decades it is palatable and has directly lowered the quality of life in the South San Diego Bay. Because of environmental injustice we are excluded from access and the enjoyment of our beaches, bays and clean ocean waters. Environmental Injustice also has a direct effect on our economic future and the upward mobility of our young people....our future.

While the idea of environmental justice is relatively new the principles of environmental justice goes back to the civil rights movement of the 1960's.

In the 1960's many small southern towns in the United States had a white line painted on the road through the center of town. This line defined two distinct socio-economic groups. On the left side of the white line the citizens received most of the public spending. This side of the city shined because the portion of town received all the State, County and City infrastructure spending and development. The left side of the road also is where all the City Managers and Politicians lived, so naturally, all the decisions of public policy were made on the left side of the line. It became obvious from anybody coming from another city that the people who lived on the left side of the town received better roads, bridges, art projects, new schools, big development investment and the economic prosperity that came with living on the left side of the white line.

On the right side of the line things were not so great. This side of the city received less public spending even though they pay a large share of the public taxes. The right side of the white line had poor schools, bad roads, and in some places bridges that were damaged by storms were not replaced but abandoned. The right side of the line also had an old city dump which was abandoned by the people who live on the left side of the white line after 40 years of use. This abandoned dump now contaminates the ground water on the right side of white line and trash coming from this dump is carried to the ocean. Because of economic realities the right side of the road almost always had the poor working class. From the maids who changed the beds and maintained the fancy hotels on the left side of the white line.... to the construction workers who built the shiny new city on the bayfront...of course the shiny new city is on the left side of the white line. Most of the people who live on the right side of the road do not go to the shiny new city on the bay because they can't afford it.

Simply put ***Environmental Justice is about treating all people the same and equally.*** The concept of treating all people fairly was made into the law of the United States of America under the Civil Rights Act in the 1960's. It became illegal for Federal, State or City Governments to discriminate against people because of their race, color of their skin, or ethnicity. In addition, Federal, State and City Governments cannot spend disproportionality on one part of town over another part of town. This bedrock of our US democracy is equal representation under the law and this law provides the legal means to ensure that our system is fair.

Abuse of the Civil Rights Act cases are very hard to prove in a court of law. The reality is that in San Diego there is no white lines running down the middle of San Diego Bay that are visible. Also, there are no written records, phone records or documents which provide a paper trail to prove these groups who live on the left side of the white line conspired to break the law. Also, when as a private citizen, you try to make sense of the all the Government and Non-Governmental Organizations (NGO) who you expect would have a solution to the environmental injustice issue in the South San Diego Bay (*San Diego Port District, City of San Diego, City of National City, City of Chula Vista, City of Imperial Beach State Wildlife, Coastal Commission, Wild Coast, Surfrider, The Coastal Conservancy, SWIA, State Parks, TRNERR, USFWS, US Navy, EPA, Border Patrol, County Parks, CA Coastal Conservancy etc.*) it really hurts your head and it's hard to tell who is on what side.

However, there is hope. The people who wrote the civil rights act, people like Supreme Court Judge Thurgood Marshall, wisely put into place one simple fool proof argument that can clear up all the clutter. In Federal Courts where most civil rights cases of this nature are fought there is one part of the evidence that is most convincing and damning.

IS IT SO – The meaning of this term is as follows: Do the conditions that now exist and were created by the local government actions and NGO's promote and give certain advantage to one social group over another. Has the local government created a special class which has all the advantages and leaves the local public out of the decision-making process. In turn do the conditions that now exist in South San Diego Bay Communities include disproportionate spending by the government, unequal representation by special interests, and do infrastructure projects completed or not completed discriminate against one socio-economic group in one part of town over another. Does this current system of coastal land management create or promote an equal distribution the decision making to local people or does a small group of people who live in a different part of the state get to decide who will get the opportunity of wealth, land access and public betterment.

When this '**IS IT SO**' type of analysis is done objectively there can be no question that the towns in and around the South San Diego Bay are being discriminated against. Here are only a few examples.

- The South Bay of San Diego has the largest border port of entry in the world. Over 110,000 people cross each day. This brings a tremendous amount to sales tax revenue to the local governments especially the City of San Diego. The City of Tijuana is home to 2.1 million people and they shop within a few miles of the border. We have 7 Walmart's in the South San Diego area and soon a few more. **DO WE GET A PROPORTIONATE AMOUNT OF SPENDING FROM TAXES CREATED IN OUR AREA FROM OUR LOCAL GOVERNMENTS??? I WOULD SAY NO.... LOOK AT OUR SCHOOLS, ROADS AND PUBLIC FACILITIES IN THE SOUTH BAY. WHATS YOUR ANSWER.**

- In 2014' when the SDGE electrical plant was demolished the Port of San Diego came out with a Request for Proposal (RFP) to design and build a public park with water access along that part of the bay. This park was widely seen by South Bay citizens as finally getting their bay access back and somewhat restored. Without public notice this project was shelved. It turns out that this land was used as mitigation or entitlement credits for a project in the North Part of San Diego Bay. Furthermore, areas known as buffer zones took away most of the other areas of public access to the J-Street beaches. **As a citizen of the South Bay do you think this is fair... that access rights to our tidelands should be traded away to financially benefit another area? Our rights to access the water and shoreline are inalienable rights protected by the California Constitution. So, while the NGO foundation like Surfrider and Wild Coast say they are fighting for access rights... its only for them...not for the rest of us. What do you think who benefits from these land entitlements?**
- The Tijuana River Valley is home to an old trash dump site used by the City of San Diego and the US Navy since the 1940's. **IF THIS DUMP SITE WAS IN NORTH COUNTY OR ANYWHERE ELSE IN THE COUNTY DO YOU THINK IT WOULD GO UNCLEARED AND UNRECONIZED FOR THE LAST 30 YEARS RIGHT UNDER THE NOSE OF ENVIROMENTALISTS AND PUBLIC SERVANTS? Why have they purposely ignored this environmental waste site.???**
- The area of San Diego Bay south of the Coronado Bridge has the enough area to contain four Mission Bays recreational parks. However, from National City south through Chula Vista, South San Diego and Imperial Beach there only a few public beaches that remain. However these are expected to be traded away in the coming year. **Is it fair that the City of San Diego and Coronado have created at least seven white sandy beaches in their town, built boat docks, built waterfront restaurants and spent millions of public monies on at least 10 projects to improve the North San Diego Bay but have not spent a proportional amount in the South Bay? While our south bay public lands are traded away for these projects by the Port of San Diego have caused our access to the waterline to decrease and is access is getting to be non-existent. We do not have access to our bay coastal waters and more areas are being closed off**

without public input or knowledge. Do you think this is fair and equal treatment under the law?

- Since the large spills and sewage releases in 2017 from Mexico into the Tijuana River Valley there have been no long or short-range plans to improve the water quality off Imperial Beach. This is not a new problem over the last 60 years Imperial Beach has had a beach closures due to rain. But in the last 18 years the beach closures and pollution have increased dramatically. **Do you think it is fair for the Citizens of Imperial Beach to have 55 million gallons of process waste water dumped off-shore with an additional 22 million gallons of treatment level one sewage waste from Mexico being dumped so close to the shoreline? This dumping as being going on since 2004' this would never work in North County why is it allowed here? Why are we being treated differently.**
- Over the last 30 or more years State of California failure to apply standard flood control maintenance practices in the Tijuana River Valley which have starved Imperial Beach shoreline of the historical annual supply of 655,000 cubic yards of beach sand. Instead of demanding this sand supply be restored the City of Imperial Beach uses a defective and hastily conceived Local Coastal Plan to use eminent domain to seize private beach homes with-out public knowledge. **Do you think that it is unfair and it seems unreasonable that in at least 3 other river systems in San Diego County rechanneling has occurred? But for some reason out of town consultants and experts ignore this basic fact of our South San Diego River coastline. They can't seem to promote that this sand supply should be restored as part of the Tijuana Valley Restoration Plan? Their first reaction was to take private homes? You have to ask yourself why are we being treated differently than other parts of the county.**

I and other citizens of the South San Diego Bay ask the California Coastal Commission to have a public meeting in the South San Diego Bay Area or Imperial Beach to address these problems of Environmental Justice.

If you cannot meet because of schedule we ask that a representative from the CCC meet for a public discussion at the Imperial Beach Library.

We also asked that any further projects under your consideration are put on hold until a full public disclosure of the facts can be made to the public of the South San Diego Bay.

Leon Benham, Private Citizen
1731 Hermes Street
San Diego, CA 92154
619-964-9153

From: Katherine Biala [mailto:kybiala@icloud.com]
Sent: Tuesday, February 12, 2019 8:04 PM
To: Selvaraj, Sumi@Coastal
Subject: Re: Follow-up from Wednesday's meeting

Sumi, would you mind calling me before Friday (deadline for public comment) as I want to go over some recommendations from Marina on the final EJ policy. I am attaching the document but am not confident that you will be able to read our comments. I would like to discuss some of these points as they are extremely important to us.

Hope life is treating you well! I can't believe it has been three months since last we saw you!

Let me know when might be a convenient time to talk.

Cordially,
Kathy Biala

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

**Revised Public Review Draft – January 2019****California Coastal Commission Environmental Justice Policy****Introduction**

The goal of the Commission’s Environmental Justice Policy is to provide guidance and clarity for Commissioners, staff, and the public on how the Commission will effectively implement its environmental justice authority¹. The adoption and implementation of this policy is intended to integrate the principles of environmental justice, equality, and social equity into the foundation of the Commission’s program and operations, and to ensure public confidence in the Commission’s mission, process, and commitment to coastal equity.

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.

Section 30006 of the Coastal Act also states 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.”

Since 1977, the Commission has worked to uphold the Coastal Act, a statute grounded in the principles of public inclusion and equity. However, despite numerous victories, the statute’s vision of coastal protection and access for all people has not been fully realized. Concern remains that historically, much of the Commission’s work has been largely shaped by coastal residential, commercial and industrial landowners, without adequate consideration of those whose lives and livelihoods are connected to our coasts through their labor, recreation, and cultural practices but cannot afford to live on the coast.²

¹ AB 2616 (Burke) (Ch. 578, Stats. 2016) amended the Coastal Act to give the Commission authority to specifically consider environmental justice when making permit decisions. This legislation also cross-references existing non-discrimination and civil rights law in the government code and requires the governor to appoint an environmental justice Commissioner.

² Morales, M. Central Coast Alliance United for a Sustainable Economy (CAUSE). July 12, 2018 comment letter re: proposed environmental justice policy.

Generations of injustices towards California’s Native American communities, people of color, and other marginalized populations through forms of discriminatory land use policies, desecration of sacred lands and cultural resources, and concentration of environmental pollution has resulted in inequitable distribution of environmental benefits and burdens that still disproportionately burden these communities today. The concept of environmental justice emerged out of the civil rights movement to describe the application of civil rights and social justice to environmental contexts.³ The term “environmental justice” is currently understood to include both substantive and procedural rights⁴, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Taking an environmental justice approach to coastal policy requires a fundamental re-thinking of who is connected to the coast, and how. For instance, tribal and indigenous communities with cultural ties to the coast depend on access to ancestral lands and sacred sites to maintain traditional practices, yet their unique perspectives are frequently overlooked or undervalued. Environmental justice stakeholders across the country who have been working in this policy arena for decades have noted that wherever people of color are predominantly concentrated in coastal regions, they are frequently disconnected from the coast itself, by both social and physical barriers. Countless people commute to the coast for work every day, to labor in homes, businesses, ports and fields. Others come to the coast for free outdoor recreation and fresh air. For them, the coast is an accessible refuge from neighborhoods lacking parks and greenspace. Statistics show a startling lack of diversity among those who live on the California coast, and yet millions of inland residents visit and work there every day, without the means to access affordable accommodations.

Historic inequalities, as well as California’s growing population, changing demographics, socio-economic forces, judicial decisions, and policy choices have and continue to shape development patterns and population shifts that widen the disparity gap. Not only is equitable access to the coast for all Californians essential, so is protecting coastal natural resources for future generations.⁵ To fulfill the agency’s mission of protecting and preserving coastal resources the Commission adopts the following Environmental Justice Policy to inform its decisions, policies, and programs to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone.

Draft Environmental Justice Policy

The California Coastal Commission’s commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act ~~an inherently equitable law~~, a law designed to protect California’s coast and ocean commons for the benefit of all the people. In keeping with that ~~aspirational vision~~ visionary mandate, but recognizing the agency has not always extended this mission to many marginalized communities throughout California’s history, the Commission as an agency is committed to protecting coastal natural resources and

³ Environmental Justice for All: A Fifty State Survey of Legislation, Policy and Cases, fourth edition (2010).

⁴ Ibid.

⁵ Government Code 11135 is the state analog to the federal Civil Rights Act of 1964.

providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities not be denied on the basis of background, culture, race, color, religions, national origin, ethnic group, age, disability status, sexual orientation, and gender identity.

The Commission will use its legal authority to advance clean, healthy, and accessible coastal environments for communities who have been disproportionately overburdened by pollution. Coastal development should be inclusive for all who work, live, and recreate on California's coast and provides equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that ~~all aspects of~~ our ~~conservation~~ mission ~~are~~ is best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with Public Resources Code Section 30013⁶ and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.

This policy uses the terms “disadvantaged,” “marginalized,” and “underserved” interchangeably; it intends to encompass not only the definitions contemplated by SB 1000,⁷ but also to include other low-income and minority populations that are disproportionately burdened by or less able to prevent, respond, and recover from adverse environmental impacts. This policy uses the term “equity” as defined in the context of social and racial equity⁸, where “equity” refers to the fairness of achieving outcomes for all groups and no one factor, such as race, can be used to predict outcomes.

This policy is designed to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone. It incorporates and is further implemented by the following Statement of Principles.

⁶ AB 2616 (Ch. 578, Stats.2016) added Coastal Act Section 30013 findings to advance the principles of environmental justice and civil rights.

⁷SB 1000 (Leyva) (Ch. 587, Stats. 2016) added Government Code Section 65302(h)(4)(A), expanding the definition of “disadvantaged communities” for the purpose of General Plans to mean “an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.”

⁸ The Local & Regional Government Alliance on Race and Equity. Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action. (2015)

Statement of Environmental Justice Principles

Respecting Tribal Concerns: The Commission respectfully acknowledges the painful history of genocide against Native American Tribes ~~Native American genocide among our nation's first people~~ and honors the efforts of California's coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. The Commission commits ~~We commit~~ to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California's coast. In addition to the requirements of the Commission's formal tribal notification and consultation policy, the Commission will work collaboratively with tribes to better understand the significance of local and regional cultural concerns. This includes including but not limited to the application of traditional ecological knowledge, as well as access to and protection of areas of cultural significance, access to and protection of ethnobotanical resources, access to and protection of traditional fishing and gathering areas, and access to and protection of sacred sites.

Meaningful Engagement: The Commission acknowledges the critical need to communicate consistently, clearly, and appropriately with environmental justice groups and underserved communities. Because of their historic under-representation in coastal land use planning and permitting decisions, it is important to make additional, ~~creative~~ efforts to inform these communities about issues and projects with environmental justice findings implications for their neighborhoods and families. ~~To reach the goal of full engagement, Commission staff should make every effort~~ will work to obtain and dedicate meaningful resources to reach out early and often to these communities, in language that is understandable and accessible to local communities that face limited English proficiency, lack access to formal education, and experience other obstacles to engagement, as staffing and resources allow. They ~~should~~ will also augment communication methods outreach with non-traditional communication methods, for example, the use of social media, flyers, ~~and~~ community meetings, town halls, surveys, and focus groups targeted at populations who face barriers to participation. To ensure that outreach efforts are effective, staff will ask community groups and organizations for their suggestions and preferences for adjusting these techniques.

Coastal Access: Article X of the California Constitution guarantees the right of access to navigable waters for all people. The Commission reaffirms its long-standing commitment to protecting, providing, and maximizing public access for all the people. The Coastal Act's mandates to provide maximum access and recreational opportunities for all, and to protect, encourage, and provide lower cost visitor and recreational opportunities embody fundamental principles of environmental justice. The Commission reaffirms its long-standing commitment to identifying and eliminating barriers in order to provide for those who may be otherwise deterred from going to the beach or coastal zone. The coast belongs to everyone, and access cannot be denied or diminished on the basis of race, ethnicity, socio-economic status, or place of residence or other factors listed in the Policy Statement.

~~Understanding that even nominal costs can be become insurmountable barriers to access for vulnerable populations and underserved communities, the Commission confirms that preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas. The conversion of lower-cost visitor-serving facilities to high-cost facilities is also a barrier to access for those with limited income, and contributes to increased coastal inequality. The Commission will strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer-term strategy to increase the number and variety of new lower-cost opportunities.~~

~~The Commission realizes that the conversion of lower-cost visitor-serving facilities to high-cost facilities is a barrier to access for those with limited income, and contributes to increased coastal inequality. Where a local government fails to consider environmental justice when evaluating a proposed development that has the potential to adversely or disproportionately affect a historically disadvantaged group's ability to reach and enjoy the coast, that failure may be the basis for an appeal to the Coastal Commission. Similarly, where a local coastal program includes policies that implement environmental justice principles, a local government's failure to consider those principles may also be the basis of an appeal to the Coastal Commission.~~

Housing: The Commission recognizes the elimination of affordable residential neighborhoods has pushed low-income Californians and communities of color further from the coast, limiting access for communities already facing environmental health disparities.

Although the Legislature removed the Coastal Act mandate to protect and provide affordable housing in 1981, the Commission still has retained the authority to “encourage” affordable housing. The Commission will increase these efforts with project applicants, appellants and local governments, by analyzing the cumulative impacts of incremental housing stock loss, and by working with local government to adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types. The Commission will continue to seek legislative action to regain its previous authority.

The agency will also support measures that increase affordable housing options, but also protect coastal resources. If it is reasonably alleged that a proposed project, or permit on appeal, is or would be in violation of another state or federal law, the Commission will utilize its discretion to contact the appropriate agency to resolve the issue.

Local Government: Local governments implement Coastal Act policies at the local level through planning documents certified by the Commission. The Commission will strongly encourage local governments to amend their local coastal programs, port master plans, public works plans and long range development plans to address environmental justice issues. Staff will develop a list of best practices to help local government develop policies that reduce impacts on vulnerable communities resulting from new development.

The Commission also recognizes the harm in allowing communities to engage in punitive practices such as hiring security guards who have been known to enlist law enforcement to

exclude communities of color from certain coastal recreation areas. The Commission will consider the historic role of such enforcement measures when reviewing local policies that may have discriminatory intent or impact.

The Commission understands that regional transportation policies can discourage inland communities from visiting the coast, burdening both workers and families. The Commission will work with local governments and regional transit agencies on local coastal program policies to decrease vehicle miles travelled and increase public transportation from inland areas to the coast.

~~Access to~~ Participation in the Process: Fully Achieving the Coastal Act's mandate for coastal protection depends on full public participation that reflects California's diversity. The Commission is committed to identifying and eliminating barriers to its public process in order to provide a more welcoming, understandable and respectful atmosphere for those who may be otherwise intimidated or deterred from taking part in ~~by~~ government proceedings. This includes making an effort to schedule items with significant environmental justice implications in close proximity to affected underserved communities, at locations and times accessible to those who work during the day or lack access to private vehicles, when legal deadlines allow, and providing language translation services as needed and time extensions for translators. The Commission will not engage the services of private security or law enforcement unless a credible threat to public safety has been clearly demonstrated.

The Commission will conduct a review of equitable access to and utilization of its existing programs and funding sources to ensure that disadvantaged populations are included in the its efforts. The agency will also acknowledge and include environmental justice and equity principles in its educational programs, job announcements and other communication materials whenever possible.

Accountability and transparency: Creating a measure of accountability is critical to building and maintaining trust and respect with communities who have become skeptical of government's motives or relevance to their lives. When evaluating projects, programs and activities, the Commission will consider whether and how proposed development will positively or negatively affect underserved communities, and will be fully transparent in that analysis in staff reports and presentations. The Commission will make use of CalEnviroScreen, U.S. EPA EJSCREEN, U.S. Census data and/or similar tools and data to identify disadvantaged communities. And where consistent with the Coastal Act, civil rights and environmental justice laws, the Commission will propose permit conditions to avoid or mitigate impacts to underserved communities. Analysis of mitigation measures will include consideration of the technical knowledge and lived experiences of affected communities.

Any third party studies, reports or analyses ~~will~~ be evaluated to ensure they have been conducted by reputable, independent parties, using the best available science. Analysis ~~will~~ assess meaningful alternatives beyond mitigation measures to re-siting projects with negative environmental health impacts in disadvantaged communities, to minimize or avoid adverse impacts to those communities. If viable alternatives are available, consider those in permitting decisions. The Commission ~~will~~ use the powers within its authority to examine the level of

inclusive access to public recreation and affordable housing in any new coastal development, as well be a voice for maximizing these benefits for disadvantaged communities during review of projects.

Climate Change: Climate change and sea level rise hazards will have disproportionate impacts on communities with the least capacity to adapt and may exacerbate existing environmental injustices and cumulative impacts from other environmental hazards. The Commission recognizes that climate change impacts on coast and ocean resources have a disproportionate impact on For example, underserved communities that may rely on public access for indigenous gathering activities, subsistence fishing, and lower-cost recreational opportunities, jobs and other economic benefits of the coastal economy will face greater impacts. A warming climate means that access

Access to cooler coastal temperatures will increasingly become a public health imperative for inland residents as the climate warms. Some sea level rise, coastal erosion and climate adaptation measures, such as sea walls, may further reduce access to public trust resources and coastal recreation areas for all residents, particularly lower income residents living inland.

Lower-income residents and those who live in rental units are also more likely to be displaced by flooding or related impacts as compared to property owners because they lack the funds and/or abilities to rebuild, have less control over their safety, and often have limited access to insurance. , and that some climate adaptation measures such as sea walls to protect coastal property may have the negative impact of further eliminating public coastal areas serving this function. Commission also recognizes that the The expense of sea level rise adaptation measures for coastal communities could also heighten displacement of disadvantaged populations by increasing living expenses for sewer and water services.

Low-income communities are more vulnerable to climate-driven water quality and supply issues that can result from seawater intrusion, contamination from extreme storm events, and drought. Within its existing authority, the Commission will prioritize the cleanup and avoidance of hazardous facilities in flood-prone areas and will work to advance buffering measures like wetlands restoration that prevent seawater intrusion into groundwater supplies.

The Commission will take this reality into consideration when analyzing the effectiveness and the impacts of sea level rise adaptation and mitigation measures as well as implementation of these measures. The Commission will also continue to recommend considering environmental justice when analyzing sea level rise impacts in planning and permitting as stated in its adopted Sea Level Rise Policy Guidance.

Habitat and Public Health: Understanding that public health and the health of natural ecosystems are inextricably intertwined, ecological impacts are felt first by vulnerable and at-risk communities, and that there is no environmental justice without a healthy environment, the Commission will continue to prioritize the protection of coastal resources. This includes including sensitive habitats, watersheds, water quality, marine biodiversity, and biological productivity. Heavy industrialization and environmental contamination of concentrated sections of California's coast has effectively eliminated much of the public coastal use in these areas. The

Commission will also work with the relevant public agencies to consider project impacts to air quality and soil health in disadvantaged communities which reduce the positive health and recreational benefits associated with coastal access for pollution-burdened communities.

The Commission's environmental justice policy ~~will~~ be implemented in a manner that is fully consistent with the standards in, and furthers the goals of, Chapter 3 of the Coastal Act, and certified local coastal programs, ~~including but not limited to ensuring to ensure~~ that low-income communities are not disproportionately affected by water contamination or overuse, or diminished environmental services such as those provided by healthy ecosystems, fully-functioning wetlands, ~~and swimmable, fishable, drinkable~~ and clean waters and safe lands in the coastal zone.

Implementation

In order to implement the environmental justice policy, including the statement of principles, the Coastal Commission commits to the following actions, which will be largely accomplished over the course of the next five years. These actions, will be included in the 2019 update of agency's Strategic Plan, which establishes the agency's top priorities for the near-term.

Putting environmental justice and equity goals into the agency's Strategic Plan will provide the public with ongoing accountability and transparency of the Commission's efforts to incorporate environmental justice into its program. Stakeholders will have the opportunity to participate in regular reviews and updates on Strategic Plan progress at both the state and federal level to ensure the policy remains relevant, accessible and an active component of the statewide coastal program.

The following actions are not meant to be an exhaustive list but are examples of how the Commission advance its policy goals during the initial implementation. These themes will be further explored with ample opportunities for public review during multiple hearings on the Strategic Plan Update in 2019.

Engagement with Affected Communities

1. To better balance the historic inequities surrounding disadvantaged communities' access to the planning process, the Executive Director ~~will~~ host a quarterly teleconference between the executive director and environmental justice leaders and stakeholders.
2. Partner with environmental justice leaders and groups to educate their communities about coastal issues that intersect with environmental justice. Use listservs, social media, the Commission's website and other technology to communicate with environmental justice communities. Create and maintain an environmental justice listserv of groups and individuals who have expressed an interest in getting more

- involved. Continuously update and enhance contacts and relationships with local, regional and statewide environmental justice advocates.
3. Establish a protocol for disseminating informational material that can be easily understood by disadvantaged communities identifying projects with environmental justice findings.
 4. Expand the Commission's communication methods to include flyers, community meetings, town halls, and surveys and partner with community groups to reach out early and often.
 5. Develop educational materials explaining the Coastal Act and the Commission through an environmental justice lens that can be easily adapted by staff or Commissioners for community meetings and other public speaking events.
 6. Conduct outreach and develop relationships with community-based organizations and seek their input on identifying marginalized and disadvantaged communities that live, work and recreate near a proposed project.
 7. As spelled out in the Tribal Consultation Policy the Commission will work collaboratively with Native American Tribes to better understand the significance of local and regional cultural concerns. The Commission will seek out and learn from indigenous peoples' unique historical, cultural and ecological knowledge of California's land and resources.
 8. Staff will regularly analyze barriers to implementation to environmental justice policies in conjunction with local partners and community-based organizations for the purpose of compiling a report on how best to support implementation of this policy.

Environmental Justice Staff Training and Support

1. Develop a team of environmental justice and equity champions across the Coastal Commission in every major department including management. Integrate environmental justice and equity considerations throughout the agency.
2. Pursue budget change proposals to add an environmental justice staff positions that will focus on policy implementation, community outreach and issue identification. This will include at least one senior level staff position.

3. Designate staff in every district office of the Coastal Commission, who can be the point of local contact for environmental justice groups and stakeholders. These staff members will provide more effective and personalized responses to issues and facilitate ongoing communication among staff and environmental justice communities.
4. Provide a base level of training on equity and environmental justice issues for the entire staff. Video tape the training for future staff.
5. Work with experts to develop an internal, required training program for all staff and Commissioners to address unconscious bias and related issues.
6. Provide training and financial support for staff members who are willing to serve as interpreters at community meetings and local events. Include such work in duty statements.
7. Include environmental justice concepts and issues in the agency's relevant planning and guidance documents, including the Commission's Public Education curricula.

Coastal Development and Environmental Justice

1. Encourage and teach staff to incorporate environmental justice issue identification, research and analysis into their work. Develop internal criteria for early identification of project proposals that could raise environmental justice issues
2. Develop an internal checklist for staff to help analyze the level of potential environmental justice impacts associated with a proposed project. Have staff identify environmental justice communities in the area and potential impacts of the projects on those communities
3. Include an analysis of environmental justice issues in applicable staff reports, and proposed mitigation measures to avoid or fully mitigate identified impacts, in a manner that is fully consistent with Chapter 3 or LCP policies.
4. Strongly encourage local governments to amend their local coastal programs to address environmental justice issues. Develop a guidance memo for local governments to assist with the incorporation of environmental justice policies and develop a list of best practices to help reduce disparate impacts on vulnerable communities resulting from new development.
5. Seek additional local assistance grant funding from the Legislature to encourage local government partners to include environmental justice policies in local coastal programs.

6. Seek legislation to restore Coastal Act policies protecting affordable housing.
7. Staff will continue to work collaboratively with partner agencies, the public, and commissioners to ensure that coastal management decisions at all levels appropriately consider environmental justice concepts and values.

Public Participation

1. Make Commission meetings more geographically accessible and affordable to underserved communities by adopting an annual meeting calendar that includes at least three Commission meetings per year in more inland areas accessible by public transit. Explore ways to increase meeting accessibility through technology.
2. Whenever possible, agendaize hearings that are relevant to disadvantaged communities at times and locations that are convenient for working families. Explore ways to expand public comment opportunities for these communities to encourage input.
3. Provide language-appropriate training materials describing available online resources, how commission meetings work, how to fill out comment cards, how to report violations and file appeals, and how to apply for Whale Tail grants.
4. Encourage broader participation by creating materials and supporting community workshops to show residents how to participate at Commission meetings.
5. Host a public workshop with the Commission and Environmental Justice leaders to discuss coastal justice concepts, priorities and challenges within two years of adopting the policy.
6. To track and measure success, the Commission shall conduct a bi-annual public review on the effectiveness and progress of this policy, and amend the policy as appropriate.

Immediate Next Steps

1. Commission staff will continue to evaluate public and Commissioner feedback on this Revised Public Review Draft policy, conduct additional outreach to stakeholder groups and affected communities, and revise the above statement accordingly for final consideration and adoption at the March, 2019 Coastal Commission meeting in Los Angeles.
2. Following the policy's adoption, Commission staff will begin the implementation phase of the environmental justice policy. The implementation phase will include specific

program objectives, implementing actions and goals, as identified above. These will be included as a new section in the Commission’s Five-Year Strategic Plan Update, which will begin in 2019. Stakeholders and environmental justice groups will have multiple opportunities over the course of the year to provide additional input on these actions at public hearings, in letters and emails or through meetings with staff. All future updates to the Strategic Plan will include an update to the Environmental Justice section.

3. Commission staff will release a public engagement plan outlining the timeline, outreach tools and other details related to gathering feedback on the Strategic Plan Update and the implementation phase of the policy
4. The Commission’s Environmental Justice Team will continue to gather ideas and identify opportunities for the agency to implement environmental justice issues on an ongoing basis across the agency and throughout the districts.
5. ~~These efforts will inform the update of the Commission’s Five Year Strategic Plan Update, which will be scheduled for public hearings in 2019. The Strategic Plan will include specific program objectives, implementing actions and public accountability.~~
6. The Commission’s GARE (Government Alliance on Race and Equity) Team, in collaboration with the Environmental Justice Team and senior staff, will complete an Agency Racial Equity Action Plan in 2019 to inform and inspire greater inclusivity and diversity in all of the Commission’s internal processes and functions.

###

From: Katherine Biala [<mailto:kybiala@icloud.com>]

Sent: Thursday, February 14, 2019 10:44 AM

To: Schwartz, Noaki@Coastal

Subject: Second try.

Noaki, thanks for chatting with me yesterday. On page 3, I know my ideas were a bit “jumbled”. Could you look at the below and see if you can make it into a better description of the concept I am trying to articulate?

In considering the challenges faced by disadvantaged communities, the Coastal Commission recognizes that at the heart of this “disadvantage” is the economic disparity and lack of political savvy in environmental injustices. Corporations and developers have the advantage of significant funding, full time paid staff, legal and political avenues not available to disadvantaged communities. In the face of the day to day survival mode of working class citizens, expectations that they devote significant time opposing projects is unrealistic. It is easy to be intimidated to speak up when one has language barriers, when one fears consequences to livelihood or public attacks levied by well monied developers, or of being unable to grasp and challenge a myriad of legal documents and positions that are always advanced by project proponents. Yet this is what is required to rally against sophisticated and determined opponents. This is the reason that the Coastal Commission will be, not only an ally, but an important advocate for those whose voices would otherwise be lost.

I hope my concept is embraced by the CCC. A policy can never make a significant impact unless there is actual help rendered to disadvantaged communities. The odds are always against us.

Cordially,
Kathy

From: Saied Kashani [mailto:saiedkashani@googlemail.com]
Sent: Wednesday, February 13, 2019 2:41 PM
To: EnvironmentalJustice@Coastal
Subject: comment on Coastal Commission environmental justice policy

Your proposed Environmental Justice and Social Equity policy does not take into account or mention or address the long history of legal, de facto and informal discrimination against minorities in Coastal residency and housing.

History: Through the 1940s, virtually every coastal community in California maintained and legally enforced racially restrictive covenants that prohibited sale or even rental of homes to anyone other than what we now call white Anglos. Although these covenants were made formally illegal in California in 1947, the covenants remained on the books and continued to be enforced informally through the 1960s. As late as the 1970s, in practice brokers who showed homes or rentals in many coastal communities to minorities, found their listings canceled or new business cut off.

As a practical matter this has made it very difficult for minorities to buy or even rent houses by the Coast. By the time the racially restrictive covenants fell away, prices had risen (most notably in the 1970s) beyond what many minorities could afford. The irony is just as legal restrictions were lifted, economic restrictions came into place.

The result is that most coastal communities are all-white or mostly-white enclaves. This is not the result of free choice but prior discrimination.

The Coastal Act was passed in 1976. Over the years, the Coastal Commission has been increasingly restrictive in what it will allow in coastal areas. A house, for example with a seawall, that the Commission might have approved in 1980, will not be approved today.

At the same time, the Commission will allow additions, remodeling and even protective devices for pre-existing homes that it will not allow for new homes. Part of this is built into the Coastal Act, which has exemptions for "pre-existing" homes, which certainly includes homes built before 1976.

In practice, this means pre-existing homes, which, due to past discrimination, are almost exclusively white-owned, have an advantage in obtaining permits over new homes, which could be owned or built by whites or minorities. Put bluntly, the typically white owner of a "pre-Coastal" home will get a permit for, for example, a protective wall, but the owner of a newer home, who might be a minority, will not.

Making matters worse, the Commission imposed increasingly restrictive requirements at just the time that minorities were finally allowed to purchase property and build homes in Coastal areas. These restrictions necessarily have a disproportionate impact on minority homeowners. The irony is that just as legal restrictions were overcome, the Commission imposed its own restrictions. Combine that with the increased price of coastal housing, and we see why coastal communities are still highly segregated despite an official end to discrimination.

A preliminary statistical analysis bears this out. As far as can be determined from the Commission's somewhat incomplete records, the Commission has never granted a permit for a seawall to a minority homeowner, but has granted many such permits in the past to white owners. This is because the Commission would grant a seawall permit for a pre-existing house but not for new construction. Pre-

existing houses were almost exclusively owned by whites, while new homes might be owned by minorities.

Recommendations: Please consider adding the following to your Policy:

1. Affirmative action for bona fide minority applicants. To the extent possible the Commission should assist minority applicants who in the past would have been subject to discrimination, to allow more minority home ownership along the Coast. Perhaps reduced fees or faster processing times can be used.
2. Take "pre-Coastal" projects into account when evaluating new projects. The Commission is often charged with comparing a proposed new project to pre-existing projects to see if the new project or home is "consistent with community character" for example in size, scale, etc. Often in making this assessment, the Commission or staff will deliberately disregard/not consider "pre-Coastal" houses or projects. For example in comparing size or scale of a proposed new house, the Commission or staff will not include in the comparison nearby large houses that were built before the Coastal Act, saying these houses are "pre-Coastal". Such an attitude forgets that minority applicants were not allowed to build houses on the coast "pre-Coastal". In effect, such an attitude validates past discrimination. All existing development in any area should be considered when assessing new projects.
3. Staff composition. Equality begins at home. The Coastal Commission staff is not reflective of the population of California as a whole. To take just one example, the Director of the Commission has always been a white male. For twenty-five years it was the same white male. There is no lack of qualified recruits. For example, the building department of the City of Los Angeles is well integrated and has many minorities in high positions.
4. Commission meetings. Hold meetings in areas other than all-white enclaves on the Coast. Look at the public attendees to the Commission meetings -- are they reflective of the composition of the State as a whole? Also consider holding meetings at least partially in the evening when working people can attend.

From: Rene Aiu [mailto:aiurene@gmail.com]
Sent: Friday, February 15, 2019 3:42 PM
To: EnvironmentalJustice@Coastal
Subject: Comments Attached

The attached is a Harbor & Beach Community Alliance letter with our comments on the January 2019 Environmental Justice Policy draft.
Please let me know if you have any questions.

Rene Aiu on behalf of the Harbor & Beach Community Alliance



February 15, 2019

California Coastal Commission

Re: Environmental Justice Policy Draft of January 2019
Comments from the Harbor & Beach Community Alliance, Oxnard

The Commission's Environmental Justice Policy draft recognizes that social and physical barriers can disconnect underserved lower income communities from access to coastal areas. But there are other more subtle informal barriers that discourage public access that are not expressly included in this draft.

These de facto barriers are most common in areas where private residential dwellings border public coastal and waterfront areas. These types of barriers informally privatize areas that are public by making the area appear unwelcoming and for use by only an entitled few.

This off-putting atmosphere can be created in many insidious ways. Establishing predominantly high-end stores and restaurants that cater to certain demographics and income levels can be a barrier to the underserved and lower income groups coming to coastal areas. Converting low-cost visitor-serving facilities to high-cost facilities or high-end residences also results in inequality to coastal access. Putting up walls, fences, gates, hedges, or simply placing personal items such as lounge chairs, furniture, planters, decks, locked bicycles and other recreational equipment on public walkways and areas inhibit public access.

These informal barriers can also be incorporated into the design of developments: fortress-like walled-in housing, remote or valet public parking, lack of parking without adequate public transportation, limited public amenities, inadequate or difficult to locate facilities to accommodate the elderly and disabled, and few affordable recreational activities and services.

We see these informal barriers at beaches, harbors, and commercial waterfronts, particularly wherever public waterfront and public beach walkways run along high-density, high-end residential areas. Keeping these public walkways, waterfronts and parks welcoming to all is a challenge. We have learned that people who do not experience coastal and waterfront areas will not participate or work to protect them. They need to understand their benefits and value now and for generations to come. They will only truly understand and value what they experience.

How will the Coastal Commission implement an effective environmental justice policy without taking into account these informal barriers? How will these informal barriers be considered when reviewing and approving development plans? How will the Commission monitor, manage and enforce its environmental justice policy when informal barriers are randomly put up by people who usually live or operate a business nearby?

Suggested Plans of Action:

- 1) The Commission should clearly include informal barriers in its policy because these barriers convey the message “you are not welcome here”.
- 2) The Commission needs to describe how it will consider and manage these types of subtle informal barriers.
- 3) The Commission should continue its efforts to revive the successful 1970’s program that required substantial mixed-income housing in all new coastal development. The Commission should seek legislation to restore Coastal Act policies protecting affordable housing.
- 4) The Commission should strongly recommend that local governments keep their local coastal plans reasonably updated and incorporate environmental justice issues in their plans.
- 5) The Commission should develop a list of best practices for local governments to implement its environmental justice policy.
- 6) As noted in the policy draft, the Commission should consider if legislation is needed to provide an appeal process based upon its Environmental Justice Policy.

We support and commend the Commission’s efforts on environmental justice.

Rene Aiu on behalf of the Harbor & Beach Community Alliance
3600 S. Harbor Boulevard #488
Oxnard, California 93035

From: Livia Beaudin [mailto:livia@cerf.org]
Sent: Friday, February 15, 2019 4:37 PM
To: EnvironmentalJustice@Coastal
Cc: Erika Cueva
Subject: RE: Coastal Commission's Revised Draft Environmental Justice Policy

Please find attached CERF's comments on the Commission's revised draft Environmental Justice Policy.

Thank you,

Livia Borak Beaudin
Legal Director
Coastal Environmental Rights Foundation





February 15, 2019

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94118

Via Electronic Mail
environmentaljustice@coastal.ca.gov

RE: CERF Comments on Revised Environmental Justice Policy

Dear Commissioners:

On behalf of the Coastal Environmental Rights Foundation (CERF), please accept the following comments on the Coastal Commission's Draft Environmental Justice Policy. CERF is a nonprofit environmental organization founded by surfers in North San Diego County and active throughout California's coastal communities. Our organization is dedicated to the enforcement of environmental laws and raising public awareness about coastal environmental issues. CERF commends the California Coastal Commission's ongoing efforts to develop and finalize its Environmental Justice Policy (EJP).

CERF is encouraged by the Coastal Commission's revised draft EJP, its statement of Environmental Justice Principles, and the implementation plan for the same. The latest revisions are in line with CERF's prior comments, focusing on implementation and implementation of specific EJ policies within revised LCPs. As California continues to struggle with an affordable housing crisis and rising homeless population, the EJP's commitment to affordable housing and re-establishing the Commission's legislative authority to mandate and provide affordable housing is especially encouraging.

The City of Encinitas' recent struggles to update its General Plan Housing Element, the Governor's lawsuit against Huntington Beach over affordable housing, and the City of Del Mar's lawsuit against the Commission over its vacation rental policy all highlight the current statewide struggles to apportion our valuable coastal resources. They also underscore the importance of local implementation of Coastal Act mandates, as well as the repercussions of a failure to act at a Statewide level. Though it is often repeated, Peter Douglas's words still ring true – "The coast is never saved. It's always being saved." Without the Commission's implementation and enforcement of the Coastal Act, the struggle to save the coast becomes immeasurably more difficult. To that end, CERF urges the Commission to re-establish its prior affordable housing authority, but to expand its administrative enforcement authority.

The advancement of the EJP in the Commission's 2019 Five-Year Strategic Plan Update is a significant step in the right direction. We look forward to the positive effects the EJP will have on California's underserved communities following its anticipated adoption in March. At the same time, we encourage the Commission to use its current authority and its enforcement powers to ensure all Californians have an opportunity to enjoy our public trust resources.

CERF sincerely appreciates the efforts of the California Coastal Commission – especially the dedicated staff-- in the effort to draft and implement the Environmental Justice Policy.

Sincerely,

Coastal Environmental Rights Foundation



Livia B. Beaudin
Legal Advisor

From: Carrie Kelly [mailto:kcrevid@gmail.com]
Sent: Saturday, February 16, 2019 9:59 PM
To: Schwartz, Noaki@Coastal; Sanchez, Jordan@Coastal
Cc: EnvironmentalJustice@Coastal
Subject: Equality doesn't work on an MPA beach- SALT CREEK/STRANDS

COASTAL COMMISSION STAFF and members:

Please see my twitter & pinned pasted post @CarrieHKelly. This is my home beach for all but 6 summers since 1972. I grew up in Niguel Shores Community Association (NSCA) and my family was four of the first 30 residents on the coast side of the highway between Monarch Beach (Table Rock) and the Dana Point Headlands. The beach was an empty wonderland back then for most of the year. I now hold a journalism degree (twice interned for CBS news); taught marine science for four years; am a community activist and environmentalist. I grew up doing beach activities and am a certified scuba diver (FIVE PAID certifications) and world traveled. I have life safety training and loss control experience as an insurance underwriter. I am trained in CPR first Aide and rescue diver as well as oxygen provider. I am serious about fun, beach activities, and safety at the shoreline.

Our TheOC beaches are being grossly mismanaged. The worst example of misuse is hundreds, I mean 400-600 children, on the MPA beaches at Salt Creek and Strands. **These are children participating in BABYSITTING CAMPS masquerading as lifeguard training** (some run my the OC lifeguard, a county contractor) ... **a huge percentage of these kids are in those camps ALL SUMMER long and never intend to be lifeguards.** Our beaches are severely adversely environmentally impacted by this trampling. Further, the beaches eroded through climate change (hurricane waves) and the Headlands LLC which included your approval of a monster seawall ... the seawall is undermining the beach. **For the last few years we have had little or no beach to walk and run on in winter months and had to deal with being bullied or jostled by hundreds of summer campers on narrow beach and access ways in summer. THIS IS TOTALLY UNFAIR.** These camps are PAID EXCLUSIVE GROUPS which continuously impede public use and access. Some are licensed schools. The OC Board of supervisors should have revoked ALL permits at the first complaints (going back 17 years). The coastal commission and state authorities should have stepped in over a decade ago.

Our MPA beach is not properly patrolled; **there is no consistent law enforcement by OC police; PC parks rangers, OC lifeguards OR California Department of Fish & Wildlife.** I see numerous violations whenever I am there. It is painful to watch. There are virtually no rules enforced. They parks officials had policies to enforce until 15 years ago ... then their manuals were taken and the BOARD OF SUPERVISORS failed to enact the corresponding rules for safe beach play and behavior. It has been a free-for-all ever since - **unsafe beaches cannot promote any sense of equality.**

The county beaches still all SMOKING on their BEACHES (they are the only ones in Southern California) .. **which conflicts with environmental rights, MPA rights, and rights of those who are physically disabled who have respiratory issues. BUT THE BEACH COMES FIRST ... NOT THE PEOPLE.**

******* I TOTALLY support , ADA rights,, environmental rights, and rights equality for older people who want to walk, read, snooze or relax without being harassed by noise, dangerous games and bullying groups.** We are totaly shocked and the intimidating and bullying of large groups which have been allowed to frighten other people. These include groups of people playing football who are too aggressive - they bowl right into other people ... dangerous games should be illegal.

Please advise if you need any further details or testimony. I have images and hair-raising details.

Thank you for your time.

--

SEE DISCLAIMER BELOW ... applies contents of this email AND to all attachments

Carrie H. Kelly (@CarrieHKelly)
PO Box 196
Dana Point, CA 92629
949-973-8454

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From: Carrie Kelly [mailto:kcrevid@gmail.com]
Sent: Monday, February 18, 2019 2:49 PM
To: Schwartz, Noaki@Coastal; Sanchez, Jordan@Coastal
Cc: EnvironmentalJustice@Coastal
Subject: P.S : Equality doesn't work on an MPA beach- SALT CREEK/STRANDS

COASTAL COMMISSION & STAFF:

I know the comment period has ended but to clarify what I wrote over the weekend ... **a exclusive (not open to public) paid event, group school or summer camp whether or not it is masquerading as LIFEGUARD TRAINING does not have a right to continuously impede public use and access.** The summer camps by their very size and nature are doing just that. OC lifeguard claims their contract (they are an independent contractor and not a county employee) includes camps (they were kicked off CAPO beach for not yielding to the public about 16 years ago). OC Parks rangers, city and county officials have taken numerous complaints since then. They are deliberately ignoring the public safety, rights to use, and outcry (lots of elderly, single people) ... **many people know I was falsely arrested (ALL CASES DISMISSED), wrongfully charged and harassed and also illegal evicted from parks for using a megaphone to avoid UNWANTED PHYSICAL CONTACT ... when the kids were bullying me and bumping me as I went up and down the ramp and stairway** (which is too narrow to bring hundred of children down). This has scared off a number of people who were trying to stand up for their own rights. The camp counselors (who are too young and immature) do not control the participants .. some of which are in the camp ALL SUMMER LONG (1-2 week sessions) and some are only 4 years old. Many kids don't even want to be there and they do not listen to instructions.

The summer camp participants DO NOT QUALIFY as the public (no protection for rights of use), BECAUSE they are a PAID EXCLUSIVE GROUP. They have no protection if they are CONTINUOUSLY impeding public use and access EVEN IF THEY HAVE A PERMIT they are STILL ILLEGAL.

Our MPA beach (Strands, Salt Creek and Niguel Shores) is very fragile and small after high waves; winds and rain .. as well as from erosion from Hurricane waves and the o=monster Seawall associated with the Headlands LLC. This use is causing damage to that fragile environment, as well as the issues I described above.

Please advise interest in images or deposition. I am happy to provide either.

Thank you.

Carrie Kelly

From: Carole Truesdale [mailto:carole_truesdale@hotmail.com]
Sent: Sunday, February 17, 2019 2:00 PM
To: EnvironmentalJustice@Coastal
Cc: Schwartz, Noaki@Coastal; Selvaraj, Sumi@Coastal
Subject: Environmental Justice Policy input

Good morning,

The document that you have created speaks volumes. There is one element that needs to be addressed and that is Economic hardships for people and communities that are effected and fall under jurisdiction of the State of CA, especially in the City of Morro Bay, CA. SLO County is going to have financial issues with our power plant shut down that is going to have a ripple effect throughout the entire County.

CBS published a eye-opening article and it reads as follows: "40% of Americans only one paycheck away from poverty" ... Millions of middle-class Americans are just one missed paychecks away from poverty, with 4 of 10 considered "liquid-asset poor," or without enough money socked away to cope with even a sudden disruption in income.

The findings, from economic advocacy group Prosperity Now, highlight the financial insecurity facing many U.S. households, as was seen during the recent partial government shutdown. Thousands of furloughed government workers, who missed two paychecks, struggled to cover basics like housing and food. One furloughed worked told CBS News last week she had \$1.06 in her bank account, describing the situation as "terrifying."

Despite the lowest unemployment rate in decades and solid economic growth, many Americans are on thin financial ice, Prosperity Now found. Minority household are particularly lagging on key measures such as income and wealth, the study found. Across the board, more than 1 in 10 American households fell behind in their bills in the least year, a signal that many are struggling with rising costs and stagnant incomes.

"A lot of headlines we've seen around the government shutdown highlights what that looks like for a lot of families," said Kasey Wiedrich, director of applied research at Prosperity Now. "These federal jobs are well paying, they are stable, they give benefits. But if you lose that paycheck for a couple of weeks, people aren't able to pay their bills."

The study crunched Census and other data to create a picture of Americans' financial health. For many, especially minorities, it's not a pretty picture.

The study also echoes previous research showing that large segments of the population lack financial stability. Four of 10 U.S. adults said they

experienced at least one type of material hardship in 2017, an Urban Institute study found last year.

Not Just The Poor

About one-third of households lack basic savings accounts, the study found, while fewer than 60 percent say they are putting money away for an emergency.

That can put people in a tough spot if they miss even a single paycheck. Forty percent of households don't have enough liquid savings -- such as cash or assets that can be quickly sold and converted into cash -- to replace their income at the poverty level for three months, Prosperity Now found. the federal poverty level threshold for a family of four is \$25,750.

"This is not a problem of just low-income people -- this is a problem of middle-class people and even people with higher incomes without enough savings," Wiedrich said. "if they hit a shock, they are in the same boat. Maybe they can't pay their mortgage" or must make choices about what bills to pay.

Health and Housing Costs

More Americans are skipping doctor's visits because of the costs than in previous years, the study found. That comes at a time when the gains from the Affordable Care Act have been eroding. About 13 percent of Americans refrain from seeing their physician because of the expense.

Another financial challenge that keeps many people on the edge is housing. Homes are becoming less affordable across the country, with median home values now even four times higher than median incomes -- experts generally advise against spending more than three times income on housing. Similarly, half of all renters say they spend more than a third of their income on rent and utilities.

Wiedrich added, "Certainly, we have seen at a national level things have slowly been getting better -- unemployment has been going down, income is getting better, but it's been a very slow improvement, and we know it's not shared equally across the country."

In our City of Morro Bay (population of approximately 10,500 people) we have a significant retired population percentage. Annual median incomes approximately \$54K, our local elementary school had a decline in their registration due to the fact that families cannot afford living in this community for the first time since the school was founded. Our citizens are facing another crisis of increased sewer prices to pay for a \$126 Million plant

that is adjacent to one of the largest estuaries on the Central Coast. Our City is being disenfranchised, by decisions being made that are not healthy for the economic feasibility of the citizens.

Economics plays a huge role in keeping families and cities thriving. We need to stop the mitigation and start the restoration and be better stewards of our land so that future generations may enjoy what their forefathers carved for them.

Thank you,
Carole Truesdale

"Food without wine is a corpse; wine without food a ghost. United and well matched, they are as body and soul; living partners!" chef...Andre Simon (1877-1970)

From: Mariam Carr [mailto:mlcarr.clinic@law.uci.edu]

Sent: Sunday, February 17, 2019 6:44 PM

To: EnvironmentalJustice@Coastal

Cc: Schwartz, Noaki@Coastal; mar@azul.org; andrea@azul.org; Michael Robinson-Dorn; Alyse Bertenthal (clinic); Brett Korte (clinic); Brian Sutter (clinic)

Subject: Public Comment on the Revised Draft Environmental Justice Policy

Dear California Coastal Commission,

Please find attached a comment letter and redline edit submitted on behalf of Azul regarding the California Coastal Commission's Revised Draft Environmental Justice Policy.

Sincerely,

Mariam Carr and Brian Sutter

Certified Law Students o/b/o Environmental Law Clinic

University of California, Irvine School of Law

mlcarr.clinic@law.uci.edu

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UCI University of
California, Irvine

Environmental Law Clinic
School of Law
PO Box 5479
Irvine, CA 92616
Phone (949) 824-9660

February 17, 2019

Sent via Electronic Mail

Jack Ainsworth, Executive Director
California Coastal Commission
45 Fremont St., Suite 2000,
San Francisco, CA 94105-2219
environmentaljustice@coastal.ca.gov

**RE: COMMENTS ON THE CALIFORNIA COASTAL COMMISSION'S
REVISED DRAFT ENVIRONMENTAL JUSTICE POLICY**

Dear Executive Director Ainsworth:

The University of California, Irvine Environmental Law Clinic represents Azul and together we are submitting this letter to provide comments on the California Coastal Commission's Revised Public Review Draft of its Environmental Justice Policy ("Revised Draft Policy"). Azul supports the Coastal Commission's effort to develop a more effective final Environmental Justice Policy, and submits these comments to ensure the Coastal Commission upholds its commitment to prioritize environmental justice. The Revised Draft Policy fails to adequately incorporate the substantive and procedural safeguards necessary to address environmental justice issues. This comment letter builds on Azul's first comment letter, dated November 7, 2018, and emphasizes areas in which the Revised Draft Policy continues to inadequately address environmental justice. A redline version of the Revised Draft Policy is attached as Attachment A. That redline incorporates some of Azul's recommendations with suggested language. Azul's recommendations are not, however, limited to those in the attached redline edit and are provided in the following comments.¹

I. Policy-Wide Comments

- A. The Final Environmental Justice Policy Should Describe in Detail the Substantive and Procedural Rights Encompassed in Environmental Justice, Describe Specific Measures to Remedy Inequitable Coastal Management, and Address Other Environmental Justice Issues with Greater Specificity.**
- B. The Final Environmental Justice Policy Should Shift the Responsibility of Demonstrating the Impacts of Proposed Projects Away from Overburdened and/or Vulnerable Communities.**

¹ Azul also reserves the right to rely on any other comments submitted in response to the Revised Draft Policy.

C. The Final Environmental Justice Policy Should More Accurately Identify Environmental Justice Representatives.

II. Planning and Permitting Comments

- A. The Final Environmental Justice Policy Should Recommend That Local Governments Amend Their Local Coastal Programs to Address Environmental Justice Issues.**
- B. The Final Environmental Justice Policy Should Clarify That Inadequate Consideration of Environmental Justice is Grounds for Appealing Coastal Development Permits.**
- C. The Coastal Commission Should Condition Permits on the Elimination or Mitigation of Any Potential Significant Impacts on Vulnerable Communities.**
- D. The Final Environmental Justice Policy Should Prioritize Areas of Particular Concern to Vulnerable Communities Threatened by Climate Change.**

I. Policy-Wide Comments

- A. The Final Environmental Justice Policy Should Describe in Detail the Substantive and Procedural Rights Encompassed in Environmental Justice, Describe Specific Measures to Remedy Inequitable Coastal Management, and Address Other Environmental Justice Issues with Greater Specificity.²**

Although the Coastal Commission's Revised Draft Policy expands and improves upon the Commission's first Draft Environmental Justice Policy by incorporating a description of California's historic inequitable coastal management into the Introduction,³ Azul recommends that the final policy go further. The Commission recognizes substantive and procedural rights as remedial measures for past and ongoing inequitable coastal management, specifically defined as "equitable distribution of environmental benefits" and "equitable access to the process where significant environmental and land use decisions are made" respectively;⁴ however, the Revised Draft Policy fails to explain how these rights will be protected. The final policy should make it clear how these substantive and procedural rights are enforceable. The following comments further expand on what these rights entail which include equitable coastal access for all Californians, equitable consideration of siting climate change mitigation measures limiting coastal access, and the right to appeal Coastal Development Permits (CDPs) on the grounds of inadequate consideration of environmental justice.

The Revised Draft Policy also fails to provide sufficient detail regarding deadlines and a specific implementation timeline for the final policy. The Revised Draft Policy states that implementation will be "largely accomplished over the course of the next five years."⁵ Azul

² This corresponds to Comment I.A. of Azul's first comment letter. Azul EJ Policy Comment Letter (Item Wednesday 7f) 11.07.18, at 3.

³ CALIFORNIA COASTAL COMMISSION, ENVIRONMENTAL JUSTICE POLICY REVISED PUBLIC REVIEW DRAFT 1-2 (2019), https://documents.coastal.ca.gov/assets/env-justice/CCC%20EJ%20Policy%202019_Revised%20Public%20Review%20Draft.pdf.

⁴ See *id.* at 2.

⁵ *Id.* at 11.

reiterates its recommendation that the Coastal Commission promulgate a more specific timeline and deadlines for achieving compliance with the final policy. Similarly, the Revised Draft Policy states that the Commission will release to the public an outline of a timeline for gathering feedback on the implementation phase of the policy, but the timeline for implementation is still undecided. The final policy should state a more specific timeline for implementation of the Commission's planned actions.

Azul generally supports the Commission conducting "bi-annual public review[s] on the effectiveness and progress of this policy. . . ." ⁶ In order to make sure that the policy is fully implemented before the Commission updates its Strategic Plan five years from now, Azul recommends that the Coastal Commission utilize this bi-annual public review as an opportunity to also evaluate whether the Commission is fully implementing the final policy.

B. The Final Environmental Justice Policy Should Shift the Responsibility of Demonstrating the Impacts of Proposed Projects Away from Overburdened and/or Vulnerable Communities.⁷

The Revised Draft Policy states that "the Commission will use the powers within its authority to examine the level of inclusive access to public recreation and affordable housing in any new coastal development, as well be a voice for maximizing these benefits for disadvantaged communities during review of projects."⁸ The Coastal Commission also has described the final policy as a tool for advocacy organizations, suggesting that the Coastal Commission would rely on advocacy groups and outside researchers to identify potential disproportionate impacts of proposed projects on vulnerable communities.⁹ Azul supports the Commission's efforts to identify disproportionate impacts of proposed projects, but recommends that the Commission assign its own staff to research and study potential environmental justice impacts of proposed projects. Should the Commission delegate this research to universities or nonprofits, Azul recommends that the Commission support these organizations monetarily when necessary. In the alternative, the Commission should explicitly acknowledge in the final policy that its procedures overburden disadvantaged communities, and express support for state funding for programs that will reduce or eliminate that burden.

C. The Final Environmental Justice Policy Should More Accurately Identify Environmental Justice Representatives.¹⁰

The Revised Draft Policy correctly identifies the engagement of affected communities through outreach and collaboration as an important goal,¹¹ but the Revised Draft Policy fails to describe specific steps that the Coastal Commission will take to determine whether groups are truly representative of overburdened communities. The final policy should: (1) establish more concrete steps for Commission Staff to prevent astroturfing—defined as the organized effort to

⁶ *Id.* at 15.

⁷ This corresponds to Comment I.C. of Azul's first comment letter. Azul EJ Policy Comment Letter (Item Wednesday 7f) 11.07.18, at 4.

⁸ REVISED DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 3, at 9.

⁹ See California Coastal Commission, *Overview of the Coastal Commission's Draft Environmental Justice Policy* (Oct. 1, 2018), <https://www.youtube.com/watch?v=YgyOdiWmXIw> at 51:10.

¹⁰ This corresponds to Comment I.D. of Azul's first comment letter. Azul EJ Policy Comment Letter (Item Wednesday 7f) 11.07.18, at 4-5.

¹¹ REVISED DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 3, at 5.

create the false impression of a grassroots movement;¹² (2) request that groups disclose funding sources and interests; and (3) seek to verify whether groups are truly representative of overburdened communities by examining environmental justice indicators provided by CalEnviroScreen, U.S. EPA, EJSCREEN, U.S. Census data and/or similar tools and data.¹³

II. Planning and Permitting Comments

A. The Final Environmental Justice Policy Should Recommend That Local Governments Amend Their Local Coastal Programs to Address Environmental Justice Issues.¹⁴

Although Azul commends the Coastal Commission for including in the Revised Draft Policy a commitment to strongly encourage local governments to amend their Local Coastal Programs (LCPs), port master plans, public works plans, and long-range development plans to address environmental justice issues,¹⁵ Azul recommends that the final policy go further by incorporating a specific timeline for local governments to bring their existing LCPs into compliance with the final policy. Azul specifically requests that the Coastal Commission add language to the final policy providing for the review of all LCPs to ensure compliance with the final policy no later than a date certain, ideally December 31, 2020. Doing so will facilitate more immediate redress of environmental injustice by strongly encouraging local governments to consider environmental justice in developing their LCPs.

Finally, Azul suggests that the Coastal Commission strongly recommend that local governments incorporate existing and emerging environmental justice considerations into their LCPs and amend existing LCP's as necessary to reduce any disparate impacts on vulnerable communities. The Coastal Commission should also monitor the progress of amended LCPs when the Commission reviews LCPs for conformity with the Coastal Act. These measures will clarify how implementation of the final policy will affect LCPs and provide for regular review and monitoring of LCPs to assess how effectively they are addressing environmental injustice. The Commission should request that the California Legislature act to bring non-compliant LCPs into compliance with this Policy by passing legislative remedies for LCPs which fail to consider environmental justice issues.¹⁶

B. The Final Environmental Justice Policy Should Clarify That Inadequate Consideration of Environmental Justice is Grounds for Appealing Coastal Development Permits.¹⁷

The Coastal Commission greatly improved the Revised Draft Policy by incorporating the following language:

¹² See *astroturfing*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/astroturfing> (last visited Feb. 12, 2019).

¹³ CalEnviroScreen reports are available at <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>

¹⁴ This corresponds to Comment II.A. of Azul's first comment letter. Azul EJ Policy Comment Letter (Item Wednesday 7f) 11.07.18, at 6.

¹⁵ REVISED DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 3, at 7.

¹⁶ See *Pub. Res. Code*, § 30519.5 (stating that "[t]he commission shall. . . recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.").

¹⁷ This corresponds to Comment II.B. of Azul's first comment letter. Azul EJ Policy Comment Letter (Item Wednesday 7f) 11.07.18, at 6-7.

Where a local government fails to consider environmental justice when evaluating a proposed development that has the potential to adversely or disproportionately affect a historically disadvantaged group's ability to reach and enjoy the coast, that failure may be the basis for an appeal to the Coastal Commission.¹⁸

Although the Revised Draft Policy now recognizes failure to consider environmental justice when evaluating a proposed development as a basis for appeal to the Coastal Commission, Azul requests that the Commission clarify that failing to consider environmental justice denies members of environmental justice communities their constitutional right of equitable coastal access guaranteed by Article X of the California Constitution.¹⁹ The Commission's final policy should clearly state that failing to consider environmental justice in a CDP application constitutes a violation of Chapter 3 of the Coastal Act.²⁰ Providing such clarity and guidance for policymakers would allow for direct appeals to the Coastal Commission when local governments do not adequately consider environmental justice in issuing CDPs. Additionally, clarifying that failure to consider environmental justice can serve as the basis for appeal would incentivize local governments to amend their LCPs to address environmental injustice.

C. The Coastal Commission Should Condition Permits on the Elimination or Mitigation of Any Potential Significant Impacts on Vulnerable Communities.²¹

The Revised Draft Policy states that the Commission will propose permit conditions to avoid or mitigate significant impacts on underserved communities and that those mitigation measures include consideration of the technical knowledge and lived experience of affected communities.²² Although Azul supports the Revised Draft Policy's inclusion of "application of traditional ecological knowledge" as part of the Commission's effort "to work collaboratively with tribes to better understand the significance of local and regional cultural concerns,"²³ Azul recommends that final policy also state that the Commission shall consider traditional ecological knowledge when evaluating mitigation measures.

The Coastal Commission may impose mitigation conditions on CDPs for various purposes, such as upholding the policies of the Coastal Act or the California Environmental Quality Act.²⁴ Similarly, the Coastal Commission may impose conditions on permits to promote

¹⁸ REVISED DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 3, at 6.

¹⁹ See CAL. CONST. art. X § 4.

²⁰ CDPs issued by local governments may be appealed to the Coastal Commission if they do not conform with the policy guidelines set forth in Chapter 3 of the Coastal Act. See, *Pub. Res. Code*, § 30603(b). One of these policies, Public Resources Code § 30210, mandates the provision of maximum public access and recreation opportunities to all people. See also, *Pub. Res. Code*, § 30210.

²¹ This corresponds to Comment II.C. of Azul's first comment letter. Azul EJ Policy Comment Letter (Item Wednesday 7f) 11.07.18, at 7.

²² REVISED DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 3, at 9.

²³ *Id.* at 5.

²⁴ See, e.g. CALIFORNIA COASTAL COMMISSION, PROCEDURAL GUIDANCE FOR EVALUATING WETLAND MITIGATION PROJECTS IN CALIFORNIA'S COASTAL ZONE, (last accessed Oct. 18, 2018), <https://www.coastal.ca.gov/weteval/we4.html> (describing categories of acceptable compensatory mitigation measures for wetlands development); CALIFORNIA COASTAL COMMISSION, STAFF REPORT: CDP HEARING 3-18-0286 10 (last accessed Aug. 24, 2018) <https://documents.coastal.ca.gov/reports/2018/9/Th13a/Th13a-9-2018-report.pdf> (CDP conditioned on subsurface reconnaissance for significant cultural materials at the proposed site of a residence in the Asilomar Dunes); CALIFORNIA COASTAL COMMISSION, STAFF REPORT: CDP HEARING 3-18-0777 12 (last accessed

environmental justice and to comport with the final policy and the Coastal Act. The final policy should make clear that inadequate consideration of environmental justice in the issuing of CDPs constitutes a violation of Chapter 3 of the Coastal Act—which guarantees “maximum [coastal] access . . . for all the people”—and is thus grounds for an appeal.²⁵ Imposing strict mitigation requirements would provide effective means of protecting vulnerable or overburdened communities.

D. The Final Environmental Justice Policy Should Prioritize Areas of Particular Concern to Vulnerable Communities Threatened by Climate Change.²⁶

Although the Revised Draft Policy acknowledges the reality that vulnerable communities bear disproportionate impacts of climate change, the Draft Policy indicates only that “the Commission will take this reality into consideration when analyzing the effectiveness and the impacts of sea level rise adaptation and mitigation measures, as well as implementation of these measures.”²⁷ Azul recommends that the final policy state that consideration of disproportionate impacts of climate change means prioritizing the protection of “access hotspots” when planning for the effects of climate change.²⁸ Moreover, Azul reiterates its recommendation that the final policy state that CDPs in regions with access hotspots shall be conditioned on the elimination or mitigation of any access-limiting impacts—such as sea walls designed to adapt to sea level rise.

Conclusion

In conclusion, Azul respectfully requests that the Coastal Commission amend the Revised Draft Policy to incorporate the comments provided above and in Attachment A. Azul thanks the Coastal Commission for its continued consideration of Azul's input, and for working to achieve environmental justice and equitable coastal management for all Californians.

Aug. 23, 2018), <https://documents.coastal.ca.gov/reports/2018/9/Th13b/Th13b-9-2018-report.pdf> (CDP conditioned on containment systems for construction debris for a proposed bridge pathway over the San Lorenzo River).

²⁵ See *Pub. Res. Code*, § 30210; see also *Pub. Res. Code* § 30604(h) (stating, “[w]hen acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.”).

²⁶ This corresponds to Comment II.D. of Azul's first comment letter. Azul EJ Policy Comment Letter (Item Wednesday 7f) 11.07.18, at 7-8.

²⁷ REVISED DRAFT ENVIRONMENTAL JUSTICE POLICY, *supra* note 3, at 9.

²⁸ See Dan R. Reineman, et al., *Coastal Access Equity and the Implementation of the California Coastal Act*, 36 STAN. ENVTL. L. REV. J. 89, 104 (2016).



Marce Gutiérrez-Graudiņš
Founder and Director
Azul



Brian Sutter
Mariam Carr
Certified Law Students
Environmental Law Clinic
UC Irvine School of Law

cc. Brett Korte
Clinical Fellow

Michael Robinson-Dorn
Supervising Attorney & Clinical Professor of Law
Director, Environmental Law Clinic
UC Irvine School of Law

ATTACHMENT A

Environmental Justice Policy

REVISED PUBLIC REVIEW DRAFT – JANUARY 2019

California Coastal Commission

Introduction

The goal of the Commission's Environmental Justice Policy is to provide guidance and clarity for Commissioners, staff, and the public on how the Commission will effectively implement its environmental justice authority¹. The adoption and implementation of this policy is intended to integrate the principles of environmental justice, equality, and social equity into the foundation of the Commission's program and operations, and to ensure public confidence in the Commission's mission, process, and commitment to coastal equity.

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."

Section 30006 of the Coastal Act also states 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."*

Since 1977, the Commission has worked to uphold the Coastal Act, a statute grounded in the principles of public inclusion and equity. However, despite numerous victories, the statute's vision of coastal protection and access for all people has not been fully realized. Concern remains that historically, much of the Commission's work has been largely shaped by coastal residential, commercial and industrial landowners, without adequate consideration of those whose lives and livelihoods are connected to our coasts through their labor, recreation, and cultural practices but cannot afford to live on the coast.²

Generations of injustices towards California's Native American communities, people of color, and other marginalized populations through forms of discriminatory land use policies, desecration of sacred lands and cultural resources, and concentration of environmental pollution has resulted inequitable distribution of environmental benefits and burdens that still disproportionately burden these communities today. The concept of environmental justice emerged out of the civil rights movement to describe the application of civil rights and social justice to environmental contexts.³ The term "environmental

¹ AB 2616 (Burke) (Ch. 578, Stats. 2016) amended the Coastal Act to give the Commission authority to specifically consider environmental justice when making permit decisions. This legislation also cross-references existing non-discrimination and civil rights law in the government code and requires the governor to appoint an environmental justice Commissioner.

² Morales, M. Central Coast Alliance United for a Sustainable Economy (CAUSE). July 12, 2018 comment letter re: proposed environmental justice policy.

³ Environmental Justice for All: A Fifty State Survey of Legislation, Policy and Cases, fourth edition (2010).

justice” is currently understood to include both substantive and procedural rights,⁴ meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Taking an environmental justice approach to coastal policy requires a fundamental rethinking of who is connected to the coast, and how. For instance, tribal and indigenous communities with cultural ties to the coast depend on access to ancestral lands and sacred sites to maintain traditional practices, yet their unique perspectives are frequently overlooked or undervalued. Environmental justice stakeholders across the country who have been working in this policy arena for decades have noted that wherever people of color are predominantly concentrated in coastal regions, they are frequently disconnected from the coast itself, by both social and physical barriers. Countless people commute to the coast for work every day, to labor in homes, businesses, ports and fields. Others come to the coast for free outdoor recreation and fresh air. For them, the coast is an accessible refuge from neighborhoods lacking parks and greenspace. Statistics show a startling lack of diversity among those who live on the California coast, and yet millions of inland residents visit and work there every day, without the means to access affordable accommodations.

Historic inequalities, as well as California’s growing population, changing demographics, socio-economic forces, judicial decisions, and policy choices have and continue to shape development patterns and population shifts that widen the disparity gap. Not only is equitable access to the coast for all Californians essential, so is protecting coastal natural resources for future generations.⁵ To fulfill the agency’s mission of protecting and preserving coastal resources the Commission adopts the following Environmental Justice Policy to inform its decisions, policies, and programs to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone.



⁴ *Ibid.*

⁵ Government Code 11135 is the state analog to the federal Civil Rights Act of 1964.

Draft Environmental Justice Policy

“The California Coastal Commission’s commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to protect California’s coast and ocean commons for the benefit of all the people. In keeping with that visionary mandate, but recognizing the agency has not always extended this mission to many marginalized communities throughout California’s history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities not be denied on the basis of background, culture, race, color, religions, national origin, ethnic group, age, disability status, sexual orientation, and gender identity.

The Commission will use its legal authority to advance clean, healthy, and accessible coastal environments for communities who have been disproportionately overburdened by pollution. Coastal development should be inclusive for all who work, live, and recreate on California’s coast and provides equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission’s goal, consistent with Public Resources Code Section 30013⁶ and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state’s diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.”

This policy uses the terms “disadvantaged,” “marginalized,” and “underserved” interchangeably; it intends to encompass not only the definitions contemplated by SB 1000,⁷ but also to include other low-income and minority populations that are disproportionately burdened by or less able to prevent, respond, and recover from adverse environmental impacts. This policy uses the term “equity” as defined in the context of social and racial equity,⁸ where “equity” refers to the fairness of achieving outcomes for all groups and no one factor, such as race, can be used to predict outcomes.

⁶ AB 2616 (Ch. 578, Stats.2016) added Coastal Act Section 30013 findings to advance the principles of environmental justice and civil rights.

⁷ SB 1000 (Leyva) (Ch. 587, Stats. 2016) added Government Code Section 65302(h)(4)(A), expanding the definition of “disadvantaged communities” for the purpose of General Plans to mean “an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.”

⁸ The Local & Regional Government Alliance on Race and Equity. Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action (2015)



Statement of Environmental Justice Principles

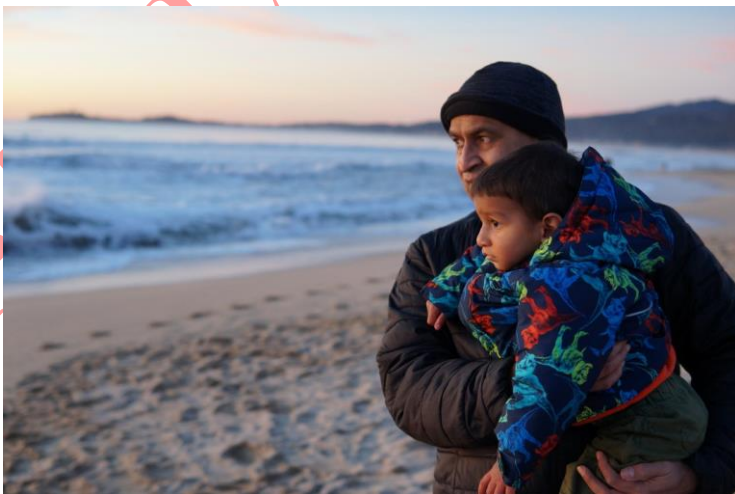
The Environmental Justice Policy is designed to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone, and incorporates and is further implemented by the following Statement of Principles.

Respecting Tribal Concerns

The Commission respectfully acknowledges the painful history of genocide against Native American Tribes honors the efforts of California's coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. The Commission commits to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California's coast. In addition to the requirements of the Commission's formal tribal notification and consultation policy, the Commission will work collaboratively with tribes to better understand the significance of local and regional cultural concerns. This includes the application of traditional ecological knowledge, as well as access to and protection of areas of cultural significance, ethnobotanical resources, traditional fishing and gathering areas, and sacred sites.

Meaningful Engagement

The Commission acknowledges the critical need to communicate consistently, clearly, and appropriately with environmental justice groups and underserved communities. Because of their historic under-representation in coastal land use planning and permitting decisions, it is important to make additional efforts to inform these communities about projects with environmental justice findings. To reach the goal of full engagement, Commission staff will work to obtain and dedicate meaningful resources to reach out early and often to these communities, in language that is understandable and accessible to local communities that face limited English proficiency, lack access to formal education, and experience other obstacles to engagement. They will also augment outreach with non-traditional communication methods, for example, the use of social media, flyers, community meetings, town halls, surveys, and focus groups targeted at populations who face barriers to participation. To ensure that outreach efforts are effective, staff will ask community groups and organizations for their suggestions and preferences for adjusting these techniques.





Coastal Access

Article X of the California Constitution guarantees the right of access to navigable waters for all people. The Coastal Act's mandates to provide maximum access and recreational opportunities for all, and to protect, encourage, and provide lower cost visitor and recreational opportunities embody fundamental principles of environmental justice. The Commission reaffirms its long-standing commitment to identifying and eliminating barriers in order to provide for those who may be otherwise deterred from going to the beach or coastal zone. The coast belongs to everyone, and access cannot be denied or diminished on the basis of race, ethnicity, socio-economic status, place of residence or other factors listed in the Policy Statement.

Understanding that even nominal costs can be barriers to access, preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas. The conversion of lower-cost visitor-serving facilities to high-cost facilities is also a barrier to access for those with limited income, and contributes to increased coastal inequality. The Commission will strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer-term strategy to increase the number and variety of new lower-cost opportunities.

The Commission also recognizes that equitable coastal access is encompassed in and protected by the public access policies in Chapter 3 of the Coastal Act. As a result, inadequate consideration of environmental justice in the issuing of Coastal Development Permits constitutes a violation of the public access policies in Article X of the California Constitution and Chapter 3 of the Coastal Act, and is grounds for an appeal. Similarly, where a local coastal program includes policies that implement environmental justice principles, a local government's failure to adequately consider those principles is grounds

for an appeal to the Coastal Commission.

Housing

The Commission recognizes the elimination of affordable residential neighborhoods has pushed low-income Californians and communities of color further from the coast, limiting access for communities already facing environmental health disparities.

Although the Legislature removed the Coastal Act mandate to protect and provide affordable housing in 1981, the Commission retained the authority to encourage affordable housing. The Commission will increase these efforts with project applicants, appellants and local governments, by analyzing the cumulative impacts of incremental housing stock loss, and by working with local government to adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types. The Commission will continue to seek legislative action to regain its previous authority.

The agency will also support measures that increase affordable housing options, but also protect coastal resources. If it is reasonably alleged that a proposed project, or permit on appeal, is or would be in violation of another state or federal law, the Commission will utilize its discretion to contact the appropriate agency to resolve the issue.

Local Government

Local governments implement Coastal Act policies at the local level through planning documents certified by the Commission. The Commission will strongly encourage local governments to amend their local coastal programs, port master plans, public works plans and long range development plans to address environmental justice issues. Staff will develop a list of best practices to help local government develop policies that reduce impacts on vulnerable communities resulting from new development. Upon adoption of this Policy, the Commission shall begin review of all local coastal programs to ensure compliance with this Policy, and will complete review of all LCPs by December 2020. During its review of LCPs, the Commission shall recommend actions or amendments to local governments necessary to reduce the disparate impacts on vulnerable communities resulting from those LCPs. In all subsequent reviews of LCPs, the Commission will reiterate any recommendations the local governments fail to incorporate into existing LCPs.

The Commission also recognizes the harm in allowing communities to engage in punitive practices such as hiring security guards who have been known to enlist law enforcement to exclude communities of color from certain coastal recreation areas. The Commission will consider the historic role of such enforcement measures when reviewing local policies that may have discriminatory intent or impact.

The Commission understands that regional transportation policies can discourage inland communities from visiting the coast, burdening both workers and families. The Commission will work with local governments and regional transit agencies on local coastal program policies to decrease vehicle miles travelled and increase public transportation from inland areas to the coast.

Commented [MC1]: Comment II.B. from Azul's Second Comment Letter submitted to the Coastal Commission on the Jan. 2019 Revised Environmental Justice Policy.

Commented [MC2]: Comment II.A. in Azul's Second Comment Letter.



Participation in the Process

Achieving the Coastal Act's mandate for coastal protection depends on full public participation that reflects California's diversity. The Commission is committed to identifying and eliminating barriers to its public process in order to provide a more welcoming, understandable and respectful atmosphere for those who may be otherwise intimidated or deterred from taking part in government proceedings. This includes making an effort to schedule items with significant environmental justice implications in close proximity to affected underserved communities, at locations and times accessible to those who work during the day or lack access to private vehicles, when legal deadlines allow, and providing language translation services as needed and time extensions for translators. The Commission will not engage the services of private security or law enforcement unless a credible threat to public safety has been clearly demonstrated.

The Commission will conduct a review of equitable access to and utilization of its existing programs and funding sources to ensure that disadvantaged populations are included in its efforts. The Commission will also acknowledge and include environmental justice and equity principles in its educational programs, job announcements and other communication materials whenever possible.

Accountability and Transparency

Creating a measure of accountability is critical to building and maintaining trust and respect with communities who have become skeptical of government's motives or relevance to their lives. When evaluating projects, programs and activities, the Commission will consider whether and how proposed development will positively or negatively affect underserved communities, and will be fully transparent in that analysis in staff reports and presentations. The Commission will make use of CalEnviroScreen, U.S. EPA, EJSCREEN, U.S. Census data and/or similar tools and data to identify disadvantaged communities. And where consistent with the Coastal Act, civil rights and environmental justice laws, the Commission will propose permit conditions to avoid or mitigate impacts to underserved

communities. Analysis of mitigation measures will include consideration of the technical knowledge and lived experiences of affected communities. **The Commission will condition CDPs on the inclusion of mitigation measures that will eliminate the risk of those disparate impacts. If the permit applicant cannot eliminate or completely mitigate the risk, the application for the permit will be denied.**

Any third party studies, reports or analyses will be evaluated to ensure they have been conducted by reputable, independent parties, using the best available science. Analysis will assess meaningful alternatives beyond mitigation measures to re-siting projects with negative environmental health impacts in disadvantaged communities, to minimize or avoid adverse impacts to those communities. If viable alternatives are available, consider those in permitting decisions. **To minimize the burden on communities facing environmental justice problems, the Coastal Commission will initiate its own research and fact-finding to study the potential environmental justice impacts of each project. The Commission will delegate this research and fact-finding to its own staff, as well as partner with universities or nonprofits, and will provide monetary support to those universities and nonprofits when necessary. The Commission acknowledges that relying on communities to provide evidence of negative impacts of proposed development and other projects will continue to disadvantage overburdened communities, and expresses support for state funding for programs that will reduce or eliminate this burden.** The Commission will use the powers within its authority to examine the level of inclusive access to public recreation and affordable housing in any new coastal development, as well be a voice for maximizing these benefits for disadvantaged communities during review of projects.

Climate Change

Climate change and sea level rise hazards will have disproportionate impacts on communities with the least capacity to adapt and may exacerbate existing environmental injustices and cumulative impacts from other environmental hazards. For example, underserved communities that may rely on public access for indigenous gathering activities, subsistence fishing, recreational opportunities, jobs and other economic benefits of the coastal economy will face greater impacts.

Access to cooler coastal temperatures will increasingly become a public health imperative for inland residents as the climate warms. Some sea level rise, coastal erosion and climate adaptation measures, such as sea walls, may further reduce access to public trust resources and coastal recreation areas for all residents, particularly lower income residents living inland.

Lower-income residents and those who live in rental units are also more likely to be displaced by flooding or related impacts as compared to property owners because they lack the funds and/or abilities to rebuild, have less control over their safety, and often have limited access to insurance. The expense of sea level rise adaptation measures for coastal communities could also heighten displacement of disadvantaged populations by increasing living expenses for sewer and water services.

Low-income communities are more vulnerable to climate-driven water quality and supply

Commented [MC3]: Comment I.I.C. in Azul's Second Comment Letter.

Or, as a secondary alternative, the Final Policy should state: Where the potential for significant disparate impacts on vulnerable or overburdened communities are found, the Commission will require any significant impacts on vulnerable communities be mitigated to the maximum extent feasible.

Commented [MC4]: Comment I.B. in Azul's Second Comment Letter.

issues that can result from seawater intrusion, contamination from extreme storm events, and drought. Within its existing authority, the Commission will prioritize the cleanup and avoidance of hazardous facilities in flood-prone areas and will work to advance buffering measures like wetlands restoration that prevent seawater intrusion into groundwater supplies.

The Commission will take this reality into consideration when analyzing the effectiveness and the impacts of sea level rise adaptation and mitigation measures as well as implementation of these measures. The Commission will also continue to recommend considering environmental justice when analyzing sea level rise impacts in planning and permitting as stated in its adopted Sea Level Rise Policy Guidance. Specifically, the Coastal Commission shall prioritize the protection of 'access hotspots' when planning for the effects of climate change and making decisions that potentially impact coastal access. In responding to effects of climate change such as sea-level rise, the Coastal Commission shall condition CDPs and review LCPs in regions with access hotspots based on the elimination or mitigation of any access-limiting impacts.

Commented [MC5]: Comment II.D. in Azul's Second Comment Letter.

The Coastal Commission should place this language here because Azul's comment was intended to make more concrete the level of "consideration" that the Commission will be giving, mentioned in the preceding sentences.

Habitat and Public Health

Understanding that public health and the health of natural ecosystems are inextricably intertwined, ecological impacts are felt first by vulnerable and at-risk communities, and that there is no environmental justice without a healthy environment, the Commission will continue to prioritize the protection of coastal resources. This includes sensitive habitats, watersheds, water quality, marine biodiversity, and biological productivity. Heavy industrialization and environmental contamination of concentrated sections of California's coast has effectively eliminated much of the public coastal use in these areas. The Commission will also work with the relevant public agencies to consider project impacts to air quality and soil health in disadvantaged communities which reduce the positive health and recreational benefits associated with coastal access for pollution-burdened communities.

The Commission's environmental justice policy will be implemented in a manner that is fully consistent with the standards in, and furthers the goals of, [Chapter 3](#) of the Coastal Act, and certified local coastal programs, to ensure that low-income communities are not disproportionately affected by water contamination or overuse, or diminished environmental services such as those provided by healthy ecosystems, fully-functioning wetlands, and clean waters and lands in the coastal zone.





Implementation

In order to implement the environmental justice policy, including the statement of principles, the Coastal Commission commits to the following actions, which will be largely accomplished over the course of the next five years. These actions will be included in the 2019 update of agency's Strategic Plan, which establishes the agency's top priorities for the near-term.

Commented [MC6]: The Coastal Commission should add a more specific timeline for implementation, to incorporate Comment I.A. of Azul's Second Comment Letter.

Putting environmental justice and equity goals into the agency's Strategic Plan will provide the public with ongoing accountability and transparency of the Commission's efforts to incorporate environmental justice into its program. Stakeholders will have the opportunity to participate in regular reviews and updates on Strategic Plan progress at both the state and federal level to ensure the policy remains relevant, accessible and an active component of the statewide coastal program.

The following actions are not meant to be an exhaustive list but are examples of how the Commission advances its policy goals during the initial implementation. These themes will be further explored with ample opportunities for public review during multiple hearings on the Strategic Plan Update in 2019.

Engagement with Affected Communities

1. To better balance the historic inequities surrounding disadvantaged communities' access to the planning process, the Executive Director will host a quarterly teleconference between the executive director and environmental justice leaders and stakeholders.
2. Partner with environmental justice leaders and groups to educate their communities about coastal issues that intersect with environmental justice. Use listservs, social media, the Commission's website and other technology to communicate with environmental justice communities. Create and maintain an environmental justice listserv of groups and individuals who have expressed an interest in getting more involved. Continuously update and enhance contacts and relationships with local, regional and statewide environmental justice advocates.
3. Establish a protocol for disseminating informational material that can be easily understood by disadvantaged communities identifying projects with environmental justice findings.
4. Expand the Commission's communication methods to include flyers, community meetings, town halls, and surveys and partner with community groups to reach out early and often.
5. Develop educational materials explaining the Coastal Act and the Commission through an environmental justice lens that can be easily adapted by staff or Commissioners for community meetings and other public speaking events.
6. Conduct outreach and develop relationships with community-based organizations and seek their input on identifying marginalized and disadvantaged communities that live, work and recreate near a proposed project.
7. To ensure that the Commission has an accurate understanding of the interests of environmental justice communities on particular projects, the Commission will specifically seek input from groups truly representative of vulnerable or

overburdened communities, determined by identifying the geographic area the groups represents, if applicable, and examining other indicators such as those provided by CalEnviroScreen, including poverty rates, linguistic isolation, and housing burdens. As discussed above, where otherwise consistent with the Coastal Act, the Commission will carefully consider on the facts presented appropriate permit conditions to avoid or mitigate impacts to underserved communities. Analysis of mitigation measures will include consideration of the technical and/or expert knowledge and lived experiences of affected communities.

Commented [MC7]: Comment I.C. in Azul's Second Comment Letter.

8. To ensure that the Commission has an accurate understanding of the interests of environmental justice communities on particular projects, the Commission will specifically seek input from groups truly representative of vulnerable or overburdened communities, determined by identifying the geographic area the groups represents, if applicable, and examining other indicators such as those provided by CalEnviroScreen, including poverty rates, linguistic isolation, and housing burdens. As discussed above, where otherwise consistent with the Coastal Act, the Commission will carefully consider on the facts presented appropriate permit conditions to avoid or mitigate impacts to underserved communities. Analysis of mitigation measures will include consideration of the technical and/or expert knowledge and lived experiences of affected communities. **The Commission will condition CDPs on the inclusion of mitigation measures that will eliminate the risk of those disparate impacts. If the permit applicant cannot eliminate or completely mitigate the risk, the application for the permit will be denied.**

Commented [MC8]: Comment I.I.C. in Azul's Second Comment Letter.

9. As spelled out in the Tribal Consultation Policy the Commission will work collaboratively with Native American Tribes to better understand the significance of local and regional cultural concerns. The Commission will seek out and learn from indigenous peoples' unique historical, cultural and ecological knowledge of California's land and resources.
10. Staff will regularly analyze barriers to implementation to environmental justice policies in conjunction with local partners and community based organizations for the purpose of compiling a report on how best to support implementation of this policy.

An alternative option is that the final policy state: 'Where the potential for significant disparate impacts on vulnerable or overburdened communities are found, the Commission will require any significant impacts on vulnerable communities be mitigated to the maximum extent feasible.'

Environmental Justice Staff Training and Support

1. Develop a team of environmental justice and equity champions across the Coastal Commission in every major department including management. Integrate environmental justice and equity considerations throughout the agency.
2. Pursue budget change proposals to add an environmental justice staff positions that will focus on policy implementation, community outreach and issue identification. This will include at least one senior level staff position.

3. Designate staff in every district office of the Coastal Commission, who can be the point of local contact for environmental justice groups and stakeholders. These staff members will provide more effective and personalized responses to issues and facilitate ongoing communication among staff and environmental justice communities.
4. Provide a base level of training on equity and environmental justice issues for the entire staff. Video tape the training for future staff.
5. Work with experts to develop an internal, required training program for all staff and Commissioners to address unconscious bias and related issues.
6. Provide training and financial support for staff members who are willing to serve as interpreters at community meetings and local events. Include such work in duty statements.
7. Include environmental justice concepts and issues in the agency's relevant planning and guidance documents, including the Commission's Public Education curricula.

Coastal Development and Environmental Justice

1. Encourage and teach staff to incorporate environmental justice issue identification, research and analysis into their work. Develop internal criteria for early identification of project proposals that could raise environmental justice issues.
2. Develop an internal checklist for staff to help analyze the level of potential environmental justice impacts associated with a proposed project. Have staff identify environmental justice communities in the area and potential impacts of the projects on those communities.
3. Include an analysis of environmental justice issues in applicable staff reports, and proposed mitigation measures to avoid or fully mitigate identified impacts, in a manner that is fully consistent with Chapter 3 or LCP policies.
4. Strongly encourage local governments to amend their local coastal programs to address environmental justice issues. Develop a guidance memo for local governments to assist with the incorporation of environmental justice policies and develop a list of best practices to help reduce disparate impacts on vulnerable communities resulting from new development. **Begin review of all local coastal programs to ensure compliance with this Policy, and complete review of all LCPs by December 2020. Periodically review every certified LCP to determine whether such program is being effectively implemented in conformity with this Policy, and recommend corrective actions, where necessary.**
5. Seek additional local assistance grant funding from the Legislature to encourage

Commented [MC9]: Comment II.A. in Azul's Second Comment Letter.

local government partners to include environmental justice policies in local coastal programs.

6. Seek legislation to restore Coastal Act policies protecting affordable housing.
7. Staff will continue to work collaboratively with partner agencies, the public, and commissioners to ensure that coastal management decisions at all levels appropriately consider environmental justice concepts and values.

Public Participation

1. Make Commission meetings more geographically accessible and affordable to underserved communities by adopting an annual meeting calendar that includes at least three Commission meetings per year in more inland areas accessible by public transit. Explore ways to increase meeting accessibility through technology.
2. Whenever possible, agendize hearings that are relevant to disadvantaged communities at times and locations that are convenient for working families. Explore ways to expand public comment opportunities for these communities to encourage input.
3. Provide language-appropriate training materials describing available online resources, how commission meetings work, how to fill out comment cards, how to report violations and file appeals, and how to apply for Whale Tail grants.
4. Encourage broader participation by creating materials and supporting community workshops to show residents how to participate at Commission meetings.
5. Host a public workshop with the Commission and Environmental Justice leaders to discuss coastal justice concepts, priorities and challenges within two years of adopting the policy.
6. To track and measure success, the Commission shall conduct a bi-annual public review on the effectiveness and progress of this policy, and amend the policy as appropriate.

Immediate Next Steps

1. Commission staff will continue to evaluate public and Commissioner feedback on this Revised Public Review Draft policy, conduct additional outreach to stakeholder groups and affected communities, and revise the above statement accordingly for final consideration and adoption at the March, 2019 Coastal Commission meeting in Los Angeles.
2. Following the policy's adoption, Commission staff will begin the implementation

phase of the environmental justice policy. The implementation phase will include specific program objectives, implementing actions and goals, as identified above. These will be included as a new section in the Commission's Five-Year Strategic Plan Update, which will begin in 2019. Stakeholders and environmental justice groups will have multiple opportunities over the course of the year to provide additional input on these actions at public hearings, in letters and emails or through meetings with staff. All future updates to the Strategic Plan will include an update to the Environmental Justice section.

3. Commission staff will release a public engagement plan outlining the timeline, outreach tools and other details related to gathering feedback on the Strategic Plan Update and the implementation phase of the policy
4. The Commission's Environmental Justice Team will continue to gather ideas and identify opportunities for the agency to implement environmental justice issues on an ongoing basis across the agency and throughout the districts.
5. The Commission's GARE (Government Alliance on Race and Equity) Team, in collaboration with the Environmental Justice Team and senior staff, will complete an Agency Racial Equity Action Plan in 2019 to inform and inspire greater inclusivity and diversity in all of the Commission's internal processes and functions.

Commented [MC10]: The Coastal Commission should make it clear whether this timeline relates to the implementation of the EJ policy. Additionally, the Coastal Commission should add details to the Final Policy about the timeline's enforcement.

From: Lynn Ross [mailto:lrthinkgreen@gmail.com]
Sent: Sunday, February 17, 2019 11:45 PM
To: EnvironmentalJustice@Coastal
Cc: Pam Marino
Subject: The Coastal Commission's promotion of smoke from wood-burning fires is anti-Environmental Justice

TO: Environmental Justice program group

DATE: February 17, 2019

FROM: Lynn Ross

RE: Response to Environmental Justice draft:

- 1) The Environmental Justice program (draft) ignores Coastal Act and Standard hours law.
- 2) How can toxic smoke from wood-burning fires embody a fundamental principle of environmental justice? (It can't)

KEY POINTS:

A) Your encouragement of breathing carcinogenic smoke from wood-burning beach fires is anti-Environmental Justice, and an insult to people and their communities who already suffer from pollutants. You prevent their right to access the entirety of the beach during standard hours because of the pollutants of wood-burning on the beach. This includes children up to elderly people.

B) Coastal Commission staff members on video are lying to the Commissioners and the public by covering up important and major precedents of statements and action by Coastal Commissioners against wood-burning fires at a meeting in Dec., 2015.

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Comments regarding Key Point A:

Staff, this program is very impressive and credible in that you have apparently included a diversity of people to help develop it.

However, there is a major item in your draft that is counter-intuitive to promoting and having EJ equity – your promotion of breathing carcinogenic smoke using wood-burning beach fires.

Toxic smoke:

This promotion of toxic smoke is so uninformed and overtly anti-environmental justice, it makes one wonder: There must be more to this promotion of smoke. Bias for surfers? Politics at the local government level? The Coastal Commissioners are ignoring their statutory responsibilities of upholding the Coastal Act – for what? To give away their power to the air district boards?

This program draft reveals the Big Exception for environmental justice for all. Smoke segregates people and prevents access. We know this by now because of the science and the extensive public testimony.

Out of all the excellent, pro-active ideas and specifics to promote and adhere to environmental justice policies now, during implementation over five years, and into the future, encouraging the use of wood-burning fires is an insult to individuals and their communities who already contend with pollutants, and the resulting high populations of people with asthma and other health problems.

Dirty tricks:

We breathe in the air right in front of us -- not state and federal air quality standards averaged out over 24 hours. On a beach, you breathe in smoke from wood fires — unless they are prevented, or have propane-only fires. Your program says that people go to the beach for fresh air - but you plan just the opposite. The effort to involve the air district boards is misleading, and literally a dirty trick. It is a shocking and illegal relinquishing of statutory obligations by the Coastal Commission and the Commissioners themselves.

For example, in Monterey County, there are over 41,000 people with asthma, according to the Monterey County Health Department. Your anti-EJ policy for smoke-emitting wood-burning will assuredly prevent access to people with asthma, or trick them that it's okay to breathe smoke. It is anti-science, and literally anti-people for whom you want to provide smoke to breathe.

Purposefully and knowingly hiding the fact that breathing smoke from a wood-burning fire is an unhealthy activity, exemplifies and perpetuates the problem of why we are in need of environmental justice to begin with.

Staff's wrong premise:

The staff has recently and cynically written that no one can prove that pollution from smoke at the beach actually harms health. But this is not the premise.

The facts and the premise are that smoke prevents access because people's health is already compromised by medical-related health problems. This includes COPD, asthma, heart attack and cancer survivors, people with cancer, people who use beach wheelchairs who have sensitivities to smoke inhalation, and older people who in general should stay away from smoke. They have testified before the Coastal Commissioners.

We have a history of making people sick in this country from hiding negative impacts of an array of toxics. So now the Coastal Commission is joining that disdainful history by saying – We don't care about environmental justice because wood-burning is cheap. On the contrary, in terms of EJ, it's very expensive.

This is a shocking embarrassment for the Coastal Commission: You are supposed to work on policies to promote EJ –not perpetuate the lack of it. EJ integrity is ignored by you regarding smoke from wood-burning fires. While cost is an extremely important factor in recreation, lying to the public through policies is what actually causes and worsens environmental injustice. To attempt to compel cities to amend their LCPs for smoke-emitting wood fire pits is anti-environmental justice because it causes people to breathe pollutants and prevents access.

Your repeated excuse is that a wood fire is a lower cost activity -- but it prevents access and is unhealthy. The Commission is literally ignoring the Coastal Act and the Standard hours law. People have a right to access and enjoy the entirety of the beach from early in the morning to late in the evening without anything preventing them from doing so.

Anti EJ: You know it's unhealthy and prevents access, but you pretend that it is okay for the people who suffer the most to begin with from pollutants.

Smoke:

(1) Smoke from wood-burning fires on the beach prevents access to people who must not inhale smoke due to medical-related health problems.

(2) Negative effects of smoke from beach fires has been significantly addressed in letters and via public testimony before city councils and the Coastal Commissioners.

- One woman with COPD said, "I feel so excluded."
- Another woman said that the smoke from wood-burning fires caused painful red skin rashes and painful eyes.
- Others testified the smoke prevents their access because of asthma.
- A man in his 80s who is a heart attack survivor, said he did not feel well after breathing the smoke walking on the bluff.
- Medical experts tell older people to stay away from smoke.
- People who use beach wheelchairs sometimes have health problems regarding breathing.

(3) The Commission can't pretend not to know: Most of the commissioners have received the PDF book, The Harmful Effects of WOOD SMOKE and the Growth of Recreational Wood-burning. It is the most comprehensive book written by top scientists regarding the ill-effects of smoke. As people become even more aware of the toxicity of smoke, continuing to promote wood fires for beach recreation will inevitably lead to a lawsuit against the Coastal Commission. Just because it is supposedly "cheap" recreation, the costs are high for people who suffer and are prevented access. The wood-burning beach fire is like any other thing on your list of items that prevents access.

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COMMENTS REGARDING KEY POINT B:

The Coastal Commission staff (in particularly, Deputy Director, Dan Carl, and planner Mike Watson of the Santa Cruz office) have covered up, misrepresented, and lied to both the Coastal Commissioners and the public about the important and major precedents of statements and actions by Coastal Commissioners at the Commission meeting in Monterey on December 11, 2015. They have done this in documents and on video.

Mr. Carl and Mr. Watson lied to the Commissioners as recently as at the October, 2018 Coastal Commission meeting. They stated that at the December 11, 2015 meeting, the Commissioners directed them to work with the city of Carmel to have a program with both wood-burning fires and propane.

In fact, the Commissioners specifically directed them to work with Carmel to develop a propane-only fire program for the beach.

The city began to develop a propane-only program. However, only because a new mayor started wood-burning again six months later, did Carmel have both wood-burning and propane beginning in June, 2016.

Since that program, many people have testified that they are prevented access because of the smoke.

It appears that this cover-up has the support of the CCC Executive Director.

With your EJ program moving forward, it is outrageous that we cannot trust the staff; and the public listening via video are being manipulated and lied to as well. At the October, 2018 meeting, Mr. Carl said "...for the newer Commissioners...to provide perspective" — and then lied to them by ignoring, misrepresenting, and covering up the major and important precedents from the December 11, 2015 meeting.

What kind of "perspective" for Commissioners and the public is that for EJ moving forward?

The activity by Mr. Carl and Mr. Watson is unprofessional, repugnant, overt, arrogant, and antithetical to acting in the public trust for the Coastal Act and the inclusivity of the environmental justice policies.

The truth:

The Commissioners' major precedents at the Dec. 2015 meeting:

- Sitting by a wood-burning fire is an unhealthy recreation.
- The science is in: Smoke is a carcinogen.
- Smoke prevents access.
- When we learn healthier ways, we change.
- Fire rings are a problem up and down the coast (Dana Bochco) • To the staff: work with the city to develop a propane-only fire program.
- "Air monitoring is not our purview."
- A propane-only program could potentially be used statewide.
- To the staff: What you are hearing from the dais is that we are moving away from smoke.
- A commissioner said that she herself could not attend her own Commission events if there were bonfires.

The ignoring of major precedents is to revise and make up history.

Smoke from the beach fires on the beach prevent access. Literally, it segregates people. EJ is for fairness, and policies must support that.

The Coastal Commission should be doing everything it can to encourage and make sure propane fires are cheaply available to everyone -- not wood-burning. Entities buying them in bulk and renting them out cheaply is cheaper and healthier than wood-burning fires.

As you know, there are beaches up and down the coast that use propane-only fires. Propane is used by millions of people for camping, at the beach, entertaining on a deck, or at home for cooking and heat.

For example, propane is used by the majority of people between Half Moon Bay and Santa Cruz where there are no gas lines, and in rural areas throughout the Coastal Zone. Propane-only fires is what the Coastal Commission must require of local governments as they amend their LCPs.

SUMMARY:

From the draft:

"The Commission will use its legal authority to advance clean, healthy, and accessible coastal environments for communities who have been disproportionately over-burdened by pollution."

"...environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation."

"The Commission reaffirms its long-standing commitment to identify and eliminate barriers in order to provide for those who may be otherwise deterred from going to the beach or the Coastal Zone." Barriers include smoke at the beach.

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Thank you for your valuable time.

From: Cynthia Hawley <cynthiahawley@att.net>

Subject: Comments on the Commission's environmental justice policies

Date: February 17, 2019 at 11:52:30 PM PST

To: "kevin@Coastal Kahn" <Kevin.Kahn@coastal.ca.gov>, Effie.Turnbull-Sanders@coastal.ca.gov

On behalf of Home Front Environmental Justice I have attached comments on the Coastal Commission's draft Environmental Justice Policies. We appreciate the opportunity to contribute to these essential requirements and policies and are grateful for your consideration of them.

Sincerely,

Cynthia Hawley

Cynthia Hawley, Attorney

P.O. Box 697

Morro Bay, CA 93443

cynthiahawley@att.net

Phone: (805) 776-5102

COMMENTS ON THE COASTAL COMMISSION'S DRAFT
ENVIRONMENTAL JUSTICE POLICY

Prepared by Cynthia Hawley on behalf of

HOME FRONT MORRO BAY

February 17, 2019

The overarching equal right of all Californians to full participation in the Coastal Commission's land and resource use decision-making processes requires a fundamental change in Coastal Commission processes.

It is currently common and accepted practice for coastal staff to work with project applicants to shape a project description that conforms to the Coastal Act and Local Coastal Programs. Projects shaped in this way are provided to the Commissioners and the public within a staff report. On the surface of it, this is benign business as usual that is currently accepted by all.

Within this process, project appellants and opponents are free to provide staff with information and analyses, and to respond to the Commission's staff report.

But through the lens of the right of all Californians to equal and full participation in the decision-making process, the planning services provided to project applicants by Coastal staff are directly contrary to these EJ policies and statutes, and are unsupportable. This current system benefits project applicants at the expense of project opponents and appellants who are left out of the process and are not given similar staff assistance. The process especially affects those who may not have the money, knowledge, experience, time or language skills to represent the interests of environmental justice.

While the fix to create equitable conditions might seem to be to shift the duties of some staff members to working directly with disadvantaged appellants and project opponents to produce strong appeals and oppositions where justified, the Coastal Act prohibits it.

In fact, as might be expected when you think about it, the Coastal Act prohibits staff from providing this kind of assistance to applicants and interested parties – developers as well as opponents and appellants.

Coastal Act §30335 entitled "Employees to give procedural assistance" states as follows:

"The commission shall provide for appropriate employees on the staff of the commission to assist applicants and other interested parties in connection with

matters which are before the commission for action. The assistance rendered by those employees **shall be limited to matters of procedure** and **shall not extend to advice on substantive issues arising out of the provisions of this division, such as advice on the manner in which a proposed development might be made consistent with the policies specified in Chapter 3 (commencing with Section 30200).**”

“Shall” means mandatory under Public Resources Code §15.

This law mandates an even playing field for project applicants and other interested parties like project opponents and appellants and carries out the original legislative grant to all California citizens of the statutory right to full participation in the land use decision-making process.

The Commission’s long term staff practice of providing planning assistance to project applicants in developing a project that might be consistent with the Coastal Act is explicitly prohibited by §30335 and it cannot be squared with equal and full participation in the Commission’s land and resource use decision-making processes.

How can appellants or opponents of a project that might be detrimental to water or air quality be provided equal and full participation in the Commission’s decision whether to permit the project if the Commission’s own resources are being used to assist the project applicant? Under the new EJ policies, will Commission staff be authorized to identify projects that might be contrary to environmental justice policies and choose not to assist the applicant on that ground?

Certainly all agencies must expect to have to undergo some reorganization in order to comply with the EJ requirements – otherwise the new mandates for environmental justice in government agencies would not have been needed. Business as usual will not carry out these mandates.

Since this long term practice of dedicating staff time to assisting applicants is contrary and counter to the policies and purposes of environmental justice and is in violation of the Coastal Act that mandates an even playing field for applicants and other interested parties, perhaps reorganization to conform with §30335 could be part of the reorganization to carry out environmental justice.

The absolute necessities of addressing the climate crisis and creating environmental justice will necessarily require difficult changes and Home Front Environmental Justice asks the Coastal Commission to take the lead in this challenge by determining to

reorganize the Commission staff, to shift from the current practice of assisting project applicants to carrying out the environmental justice policies.

Home Front Environmental Justice believes and points out that without this fundamental change at this time, neither the equal right of all Californians to fully participate in the Coastal Commission's land and resource use decision-making processes nor environmental justice will actually exist no matter what the policies declare.

The Policy statement needs to inform people of all education levels and capacities what environmental justice means to them. We believe that the following are essential to the Policy statement.

- 1. The policy statement should explicitly include the equal right of all Californians to full participation in the land use decision-making processes.***

For the Coastal Commission, carrying out environmental justice boils down to land use decisions – whether a decision is equitable administration of rights to affordable housing, to clean air, to clean water or to coastal access. How the land and its resources are protected, used and developed determines whether environmental justice will be realized.

As to public participation in these critical decisions, Coastal Act §30006 mandates that Californians have a statutory “right to fully participate in decisions affecting coastal planning, conservation and development”. And under the Government Code and the Coastal Act¹ - both of which prohibit denial of “full and equal access to the benefits of any program or activity that is conducted, operated, or administered pursuant to this division.....” – all Californians have the equal right to full participation in land use decision-making processes.

These three things – the 1) land use decision-making process being the mechanism by which the Coastal Commission has the duty and authority to carry out environmental justice, and the public's 2) equal right to 3) fully participate in that process – should be brought to the public's attention in the Policy statement.

We suggest amending the draft Policy statement as follows:

The California Coastal Commission's commitment to diversity and environmental justice recognizes that the Coastal Act is an inherently equitable law, designed to protect and empower the equal right of all Californians to fully participate in the land

¹ Government Code §11135; Coastal Act §30013

use decision-making processes that 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 natural resources and providing public access and lower-cost recreation opportunities for everyone,.....

2. The draft Policy and the text expanding on it should include "incomes" to reflect the law and include all groups.

The way the draft Policy reads now, a low-income person would read it and have no idea that he or she is included as a protected person with equal rights that would be equitably carried out for him or her under these new laws. In reality, both the Government Code and the Coastal Act explicitly include them.

Both the Coastal Act and the Government Code include incomes in the statutory definition of "environmental justice" as follows.

Under Coastal Act §30107.3, "Environmental justice means 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."

California Government Code §65040.12 mandates how environmental justice shall be carried out and defines "environmental justice" as fair treatment of people of all incomes as follows:

.....

(e) For the purposes of this section, "environmental justice" means 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.

The draft Policy does not include any citation of Coastal Act §30107.3 and the draft Policy alters Government Code §65040.12 by using the term "socio-economic status" where both the Government Code and Coastal Act §30107.3 use the term "incomes". Many of the people for whom these laws have been enacted may not understand the term "socio-economic status" as applying to people – perhaps like them – with low incomes.

The legislature used the word "income" for a reason and the Policy and all text that elaborates on the Policy should use the correct term of "income".

The Commission should exercise extra care to include consideration of environmental justice issues and policies when considering the consolidation of permit hearings under Coastal Act section 30601.3.

Coastal Act §30601.3 allows consolidation of local permit hearings and decisions with a Coastal Commission permit hearing and decision under certain conditions.² It should be noted that it is the Coastal Commission that decides whether consolidation may occur. According to the March 7, 2006 Legislative Digest related to amendment of the Coastal Act to add §30601.3, the bill authorizes “...the commission to process and act upon a consolidated coastal development permit application when a proposed project requires a coastal development permit from both a local government with a certified local coastal program and the commission, and the applicant, local government, and commission agree to consolidation.”

While the wording of the statute (below) leaves room for misinterpretation by the addition of the phrase “which may agree through its executive director” that the Executive Director may be authorized to grant consolidation, the Legislature’s intent that consolidation requires agreement of the Coastal Commission for consolidation to occur is absolutely clear in the Legislative Digest.

This makes sense since eliminating local public hearings and decisions made by planning commissions, city councils and boards of supervisors is a potentially drastic denial of rights to full participation in the decision-making processes that may have detrimental impacts on disadvantaged communities.

Another issue that should be considered by the Commission is the effect of consolidation when the applicant is also the local agency. In this scenario the local agency has a conflict of interest in that it is to act for the benefit of the public to ensure “that public participation is not substantially impaired by that review consolidation” while as applicant, impairment of public participation might be beneficial especially when a public project is highly contested.

2

(a) Notwithstanding Section 30519, the commission may process and act upon a consolidated coastal development permit application if both of the following criteria are satisfied:

(1) A proposed project requires a coastal development permit from both a local government with a certified local coastal program and the commission.

(2) The applicant, the appropriate local government, and the commission, which may agree through its executive director, consent to consolidate the permit action, provided that public participation is not substantially impaired by that review consolidation.

Again, the decision whether to eliminate the right of full participation in local hearings at which all interested parties might participate is, according to the law, to be made by the Coastal Commission.

Home Front Environmental Justice asks that Appendix A be re-included into the policy document.

The appendices that are included in the first draft of the Commission's EJ policies are noticeably excluded from the final draft. In particular and most important, Appendix A should be restored because it provides the language of the Coastal Act and the environmental justice amendments that bestow these rights on the people. This is the un-interpreted law that should, and actually must be included in the Commission's policies if people are to be able to read for themselves the source of the policies – what they are granted by law.

For example, the §30107.3 definition of environmental justice is no longer in the policy text – “Environmental justice means 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.” It is in the definitions of environmental justice that the word “incomes” is included and it is important that people disadvantaged by low incomes know that these policies apply to them.

Home Front Environmental Justice is grateful for the Coastal Commission's commitment to environmental justice and appreciates your consideration of these comments.

From: betty winholtz <winholtz@sbcglobal.net>
To: environmentaljustice@coastal.ca.gov <environmentaljustice@coastal.ca.gov>
Sent: Sunday, February 17, 2019, 11:58:47 PM PST
Subject: EJ policy comments

Sumi:

Topics are in bold followed by page numbers. Quotes from the documents are in regular script. My comments are in italics.

Sincerely,
Betty Winholtz
Morro Bay

Taking an environmental justice approach to coastal policy requires a fundamental rethinking of who is connected to the coast, and how. (page 2)
Yes.

Twice this series of groups is made, but not until footnote number 7 is income mentioned as a group of disadvantage: ensuring that those opportunities not be denied on the basis of background, culture, race, color, religions, national origin, ethnic group, age, disability status, sexual orientation, and gender identity. (page 3, paragraph 1)

And again: The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, disability status, sexual orientation, and gender identity. (page 3, paragraph 3)

Finally used on **footnote 7** (page 3) *Previous statements did not include income; here is the first reference.*

Meaningful engagement: to communicate consistently, clearly, and appropriately with environmental justice groups and underserved communities. (page 5) *"Underserved" is ambiguous.*

Coastal Access: socio-economic status (page 6) *Income is a cleaner, clearer word.*

Coastal Access: This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas. The conversion of lower-cost visitor-serving facilities to high-cost facilities is also a barrier to access for those with limited income, and contributes to increased coastal inequality. The Commission will strive for a no-net-loss of

lower-cost facilities in the coastal zone, while implementing a longer-term strategy to increase the number and variety of new lower-cost opportunities. (page 6)

I think this statement is really important. We need to be mindful that such opportunities should not be concentrated in certain area, but along the full length of the coast:

Coastal Access: Where a local government fails to consider environmental justice when evaluating a proposed development that has the potential to adversely or disproportionately affect a historically disadvantaged group's ability to reach and enjoy the coast, that failure may be the basis for an appeal to the Coastal Commission. (page 6) *While this deals with reaching the coast, where are you addressing those who live and work on the coast and their ability to stay where they live and work?*

Housing: The Commission recognizes the elimination of affordable residential neighborhoods has pushed low-income Californians and communities of color further from the coast, limiting access for communities already facing environmental health disparities. (page 7) *Yes, yes, and yes!*

Housing: analyzing the cumulative impacts of incremental housing stock loss, and by working with local government to adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types. (page 7) *It's more than policy, it's enforcement through quotas.*

Housing: If it is reasonably alleged that a proposed project, or permit on appeal, is or would be in violation of another state or federal law, the Commission will utilize its discretion to contact the appropriate agency to resolve the issue. (page 7) *This is proactive and demonstrates seriousness.*

Local government: *what happens when it is the local government that is abusing its own vulnerable community? There are other more insidious punitive practices which keep the public out of the public process.* (page 7)

Participation in the Process: The Commission is committed to identifying and eliminating barriers to its public process in order to provide a more welcoming, understandable and respectful atmosphere for those who may be otherwise intimidated or deterred from taking part in government proceedings. (page 8) *Then consolidated permits need to go away.*

Participation in the Process: *If you really wanted equity, access to Coastal staff in terms of time, consultation, and information would be the same with the Public as it is with developers and city/county staffs.*

Accountability and Transparency: Analysis will assess meaningful alternatives beyond mitigation measures to re-siting projects with negative environmental health impacts in disadvantaged communities, to minimize or avoid adverse impacts to those communities. (page 9) *It's not just about health, it's about economics as well, pushing people out.*

From: William Smith [mailto:smithwja@gmail.com]

Sent: Sunday, February 17, 2019 11:59 PM

To: EnvironmentalJustice@Coastal

Subject: Transmittal of Comments on Revised Draft Environmental Justice Policy

I have attached my letter, as a pdf file, to the California Coastal Commission commenting on its Revised Draft Environmental Justice Policy. I have included an unformatted text version of the letter below for your convenience.

William J. Smith
Alameda, CA 94501
(510)522-0390

February 17, 2019

California Coastal Commission
Environmental Justice Team
45 Fremont Street, Site 2000
San Francisco, CA 94105

Subject: Comments of William J. Smith on
California Coastal Commission Revised Draft Environmental Justice Policy

Honorable Coastal Commissioners:

Beginning immediately, I encourage you to aggressively implement the policies in the revised public review draft of the environmental justice policy that you plan to adopt this spring. By integrating the principles of environmental justice, equality and social equity into the Commission's program and operations you will ensure public confidence in your stewardship of the Coast. You will also point the way towards reforming the CEQA (California Environmental Quality Act) process. The CEQA process ignores equity considerations and focuses on impacts of projects to the built environment but requires no consideration of impacts to the social environment, including equity. (See Note)

In particular I support the following proposed actions:

- Coastal Development and Environmental Action 3: Include an analysis of environmental justice issues in applicable staff reports and proposed mitigation measures to avoid or fully mitigate impacts
- Coastal Development and Environmental Action 6: Seek legislation to restore Coastal Act policies protecting affordable housing

Housing near the coast above the reach of rising seas for all Californians whose lives and livelihoods are connected to the coast would better integrate their labor, recreation and cultural practices into coastal communities. Legislation to restore the Coastal Commission's original mandate to protect and provide affordable housing is needed to both better integrate coastal

communities and to mitigate and adapt to climate change. The Legislature revoked the California Coastal Committees mandate to provide affordable housing in 1981.

I encourage the Commission staff to focus on developing direct face-to-face relationships with community based organizations and disadvantaged communities. While print and electronic communications like listservs and web pages are easy to catalog and track, personal relationships are required to see that such communications are truly effective. The proposed addition of staff in every district office of the Coastal Commission to be the point of local contact for environmental justice and stakeholders is essential for meaningful outreach to disadvantaged communities.

Yours in Coastal Community,

William J. Smith

William J. Smith
PhD., P.E.

2822 Bayview Drive
Alameda, CA 94501-6348

WJASmith@AOL.com
510-522-0390

Note:

The City of Alameda, California, noted in its Final Environmental Impact Report for the Marina Master Plan (SCH #2016102064) issued in May of 2018 that “Generally, affordability of housing is an economic and social effect that is not treated as a significant effect on the environment under CEQA (see CEQA Guidelines Section 15131).”

From: Richard E.T. Sadowski [mailto:r.e.t.sadowski@gmail.com]
Sent: Monday, February 18, 2019 2:29 PM
To: Selvaraj, Sumi@Coastal; Schwartz, Noaki@Coastal
Cc: Ainsworth, John@Coastal; Carl, Dan@Coastal; Kahn, Kevin@Coastal
Subject: Morro Bay Environmental Justice Issue

February 18, 2019

Hi Sumi, Noaki and Kevin,

As per our January 30, 2019 teleconference, I am following up with an example of an environmental justice issue that Morro Bay citizens are currently facing.

I have also cc'd , your executive staff, Mr. Ainsworth and Mr. Carl, on this email and request that the attached document be put into the public record for the March 2019 Coastal Commission meeting and that a copy of the document be sent to all the sitting Coastal Commissioners.

The document is titled:
" Major Morro Bay WRF Project Cost Impacts
Caused by Dilapidated Sewage Collection System"

Thank You for your time and consideration regarding this important environmental justice matter,

Richard E.T. Sadowski
Home Front EJ, Morro Bay

Major Morro Bay WRF Project Cost Impacts Caused by Dilapidated Sewage Collection System

by

Richard E.T. Sadowski

and

Marla jo Bruton-T.Sadowski

Home Front Environmental Justice
Morro Bay, California

Introduction

Morro Bay's WRF project cost is currently estimated to be \$126 million, up from \$75 million in 2015, and with no end in sight. Water and sewer rates to pay for this facility are expected to be beyond the means of a large segment of the population of Morro Bay.

Contributing significantly to the high cost of the proposed facility are:

- Cost of extra facility capacity to process the large amount of rain water that enters the system through openings in the City's dilapidated sewer lines.
- Cost of the water reclamation element, said to be necessary to ensure a reliable water supply since City wells are severely contaminated with nitrates. The wells once provided a significant, reliable source of water for the City.

Both of these cost elements directly result from the City's long-term failure to maintain its sewage collection system. The City expects residents, and the general public (the latter through funding of State and Federal loans) to pay for its failures.

In addition to high construction costs, Morro Bay residents would be forced to pay elevated operation and maintenance costs for

- The oversized sewage treatment plant
- Water reclamation facilities
- Supporting infrastructure.

Infiltration and Exfiltration in Damaged City Sewer Lines

According to the City's "Final Report Sewer Collection System Master Plan Update, May, 2006", the City's collection system consists of approximately 50 to 60 miles of gravity sewers. Extensive documented evidence demonstrates that a significant portion of the sewer lines in Morro Bay are old and dilapidated, riddled with cracks, holes, and misaligned pipe joints.

Depending on weather-related soil conditions, and the position of lines relative to the water table, these openings in the lines make them subject to:

- Infiltration (entry of rain water into the sewage collection system) or
- Exfiltration (leaking of sewage from the lines into the ground), or
- Both infiltration and exfiltration

Most of the lines are above the water table for most, or all of the year. A few are below the table at all times, and some lines lie above the water table during dry weather, and below it during significant rain events.

- During dry weather, sewage exfiltrates from damaged lines above the water table, and contaminates the groundwater, including the Morro Basin aquifer, from which several City wells draw water. Although the City denies that exfiltration is occurring, substantial evidence shows that the nitrates in the wells are primarily from sewage.

- During wet weather, large amounts of rain water enter the defective lines that lie below the water table. That rain water must then be processed at the sewer plant.

The City's Sewer System Management Plan audit reports demonstrate that since the Master Plan was completed in 2006, little has been done to repair badly-damaged lines.

Government Negligence

City staff and officials have, for many years, had clear evidence of the condition of the sewer lines. That evidence is primarily in the form of regularly-performed video inspections of the interiors of sewer lines throughout the City, and written logs documenting damage recorded on video.

The video inspection program has been in place since 2000, the date of the oldest inspections reviewed by activists. It may have been in place earlier than that. Substantial evidence demonstrates that:

1. City staff with access to video inspection materials have known for nearly 20 years, and perhaps longer, that the sewer lines were in a severe state of disrepair. It appears that the inspections were simply stored away and that no actions were taken based on the inspection findings.
2. Elected City officials, as well as Regional Water Quality Control Board (RWQCB) officials have known of the problem since 2007, when activists presented them with a formal, detailed report on sewer line condition. The source of the report findings was the video inspections.
3. City staff and officials allowed surcharging of the sewer plant with large volumes of rain water in winter, resulting in:
 - Increased sewer plant operations costs
 - Occasional failure by the plant to treat all inflows to secondary standards, due to rain water-inflated inflows to the plant

Although they were aware of the problems caused by the defective lines, City and RWQCB officials failed to take action to remedy them. Instead, actions were taken to conceal the results of exfiltration and infiltration, and in the case of nitrate contamination, to blame the problem on others. The WRF design has been significantly oversized to deal with the large amounts of rain water that infiltrates into the lines and must then be processed as sewage.

1. City staff and officials allowed sewage from the lines to contaminate the Morro Basin aquifer, which supplies several municipal wells, causing nitrate levels to soar, and necessitating costly treatment of the well water. They have consistently denied that exfiltration is a problem.
2. City staff concealed the rising nitrates for several years by reporting false and misleading nitrate data in the City's annual Consumer Confidence Reports to City water customers
3. City staff and officials, with the help of a significantly-flawed, City-commissioned consultant report, blamed the nitrate contamination of the aquifer on farming activities in the Morro Valley. They then threatened to sue the farmers.
4. City staff and officials and RWQCB staff and officials have steadfastly denied that leaking sewage is contaminating the Morro Basin aquifer. When testing conclusively proved sewage was in all

wells downgradient of Morro Bay sewer lines, the RWQCB stated that as long as the City had an adequate supply of potable water, it would take no action.

4. City staff and officials have purposely oversized the proposed WRF plant in order to deal with rain water that enters the dilapidated sewer lines – instead of fixing the lines first, and then determining the real plant capacity requirements.

As a result of the negligence of the City and the RWQCB, WRF project costs are excessive. The public is expected to pay for:

- Plant oversizing that would be needed to process large amounts of rain water.
- Water reclamation infrastructure intended, in part, to deal with the negative impacts of nitrate contamination of the aquifer that supplies several City wells.

Elevated facility operation and maintenance costs would also be borne by residents.

Evidence

Following is the evidence of:

- Infiltration and exfiltration in damaged Morro Bay sewer lines
- Government knowledge of, and failure to act upon, significant evidence of exfiltration and infiltration in the City's dilapidated sewage collection infrastructure

Due to the volume and complexity of the information, the evidence is presented, in chronological order, as a series of numerous interconnected events that took place from 2000 through 2018. We have not endeavoured to document every event related to infiltration, but have endeavoured to provide the most significant information.

To assist the reader in following the connections between events, we provide links to material within this document, as well as some links to external material. After following a link to material within this document, the reader can return to the starting place by simultaneously clicking the Alt and reverse arrow keys.

2000

Video inspection program in place: As of April, and possibly earlier, the City had a sewer line video inspection program in place. 20 inspection logs are contained in a document by Simon Sewer Maintenance, dated April 19, 2000. The logs include documentation of 28 video inspections covering a total of 5501 feet of the Main Street trunk line. This line lies below the water table during significant rainfall events.

Problems identified in this set of logs indicate significant pipe damage that could allow infiltration of rain water during extreme weather events, and potential exfiltration of sewage into the ground in dry weather. Damage documented includes:

- Roots in 5 joints
- 10 offset joints
- 8 cracks

- 7 pipe sags/bellies
- 1 “heavily rusted” area across creek

EPA exfiltration study published: The Amick and Burgess study “[Exfiltration in Sewer Systems](#)”, done for National Risk Management Research Laboratory Office of Research and Development U.S. Environmental Protection Agency, was published in December, 2000. According to the document,

“This publication has been produced as part of the Laboratory’s strategic long-term research plan. It is published and made available by EPA’s Office of Research and Development to assist the user community and to link researchers with their clients.”

This document is important as it was cited by the City of Morro Bay’s consultant, Cleath and Associates, as evidence that exfiltration in the City’s sewer system would be minimal. In a reference contained in the December, 2007 “Morro Basin Nitrate Study”, the consultant used [an out-of-context Amick and Burgess reference](#). The reference left out the last sentence of an Amick and Burgess statement. This omission gave the impression that Amick and Burgess believed that exfiltration potential was minimal.

In fact, the Amick and Burgess study recognizes and discusses the severity of exfiltration from dilapidated sewer lines and demonstrates that substantial amounts of sewage can exfiltrate from defective lines. For example, information on high rates of exfiltration calculated during testing in Berkeley, California was provided on page 15 of the study:

- Pardee Street:, 320 linear feet of 8-inch diameter vitreous clay pipe (VCP): Using continuous flow monitoring, 5,649 gpimd¹ (34% of flow); using hydrostatic testing, 6,327 gpimd
- 7th Street: 298 linear feet of 6-in. -diameter VCP: Using continuous flow monitoring, 5,283 gpimd; using hydrostatic testing, 5,649 gpimd (56% of flow)

2002

Sudden nitrate level increase in well water: In November, nitrate levels in Morro Basin municipal well water suddenly and inexplicably (at that time) soared, exceeding the maximum contaminant level of 45 mg/l for the first time since 1954, when the City started keeping records. The spike in nitrate levels occurred with the first use of the Morro Basin municipal wells following a 2-year Mtbe remediation project at the nearby site of a former gasoline station at the corner of Main Street and Atascadero Road.

This was activists’ first clue that there was significant exfiltration from Morro Bay sewer lines – meaning that during wet weather, significant infiltration was possible. However, activists did not put the pieces together [until 2007](#).

The following chart, from the City’s 2007 [Morro Basin Nitrate Study](#), illustrates the sudden spikes over the maximum contaminant level, that began occurring in 2002 and continued to occur every November when the wells were in use. Since 1997, Morro Bay’s primary water source has been the California State Water Project. However, that supply is cut off every November during the maintenance shutdown.

¹ gpimd is gallons per inch diameter per mile length per day

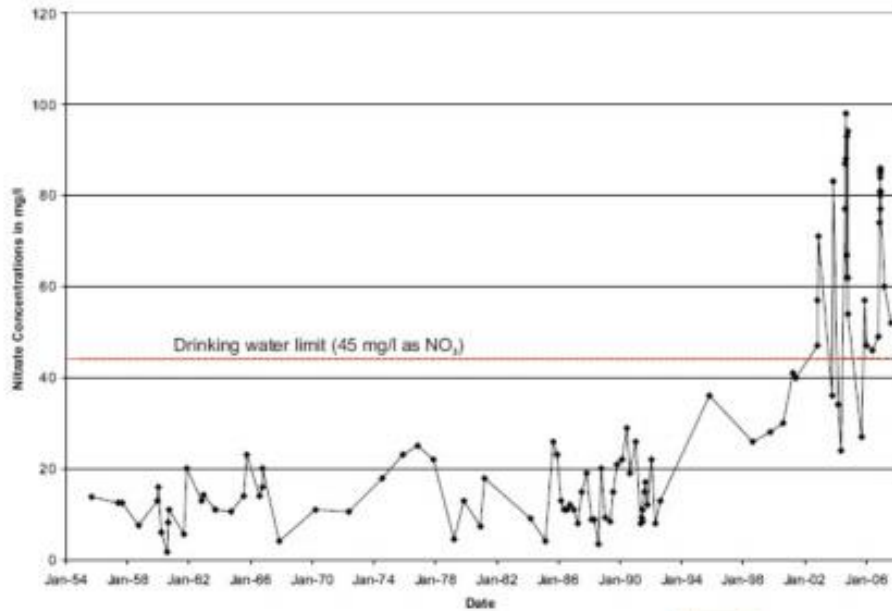


Figure 4
Well MB-3
Nitrate Concentrations
Morro Basin Nitrate Study
City of Morro Bay
Cleath & Associates

2003

Inflow and infiltration study commissioned: The City retained Wallace Group to conduct flow monitoring of each of the City's sewer system basins to establish the magnitude of sewer inflow and infiltration. The study began in late 2003

2004

Inflow and infiltration study conducted: The Wallace study began. Because rainfall over the winter of 2003-2004 was low Wallace Group was unable to gather sufficient data, and recommenced the infiltration study in late 2004.

2005

Inflow and infiltration study completed: Wallace group completed the inflow and infiltration study and issued its report. Results of the Study were later incorporated into the City's "Final Report Sewer Collection System Master Plan Update, May, 2006". The study demonstrated that:

- Winter flows to the treatment plant during wet weather increased "over 3-fold" compared to average flows.
- Summer (dry weather) flows into the plant were far lower - approximately 1.5 times average flows despite increased load on the sewer system due to summer tourism.

2006

Legally-required sewer system management plan published: In May, The City issued its legally-required Sewer System Management Plan (SSMP). The plan was mandated by State Water Resources Control Board (SWRCB) enacted Order No. 2006-0003. The City document was titled "[Final Report Sewer Collection System Master Plan Update, May, 2006](#)".

Basis for the plan appears to have been very limited. On page ES-2 is this statement:

"The recommended capital improvement projects were identified based on: 1) two seasons of sewer in-line flow monitoring, to assess flow conditions during wet weather conditions; 2) detailed evaluation of the collection system by flow calculations, projections and modeling; and 3) detailed review of the City's three lift stations. Table ES-1 provides a summary of near-term and future recommended capital improvements recommended in this Report."

The plan discussed the extensive testing done by Wallace in 2003, 2004, 2005, and how that testing demonstrated serious infiltration problems. For example:

Pages ES-15 and ES-16

INFLOW AND INFILTRATION MONITORING

During the winter months, the wastewater treatment plant experiences a substantial increase in wastewater flows, both from the City's collection system and the Cayucos SD system. In 2003, the City retained Wallace Group to conduct flow monitoring of each of the City's basins during the winter of 2004 to establish the magnitude of I/I coming from each basin. Unfortunately, the 2003-2004 rainy season was very mild, which resulted in only one significant rain event during the two-month flow monitoring period. Wallace Group recommended to complete additional flow monitoring on specific basins during the following 2004-2005 rain season.

The results of this program identified the "target" areas that the City needs to focus attention on, to further assess and reduce I/I to the collection system and WWTP. The program also confirmed that wet weather flows are a major flow contributor to the WWTP and collection system during the wet season. Priorities for addressing the I/I problem, by Basin, is presented in Chapter 4 and summarized in this Executive Summary.

Page 4-13

Goals for Infiltration/Inflow Reduction Program

All wastewater collection systems will exhibit some degree of inflow and infiltration, and the degree and extent of these sources of flow depend on a number of factors, including age of the collection system, materials of construction, groundwater and drainage conditions, and others. The City's I/I reduction efforts will benefit not only the collection system, but the operations at the treatment plant as well. Identification and mitigation of all sources of I/I is not an easy task, and takes time and effort to conduct necessary

detailed investigations. However, focusing on the priority areas where significant I/I issues were identified is a good start to addressing the impacts associated with infiltration/inflow. **It is difficult to determine a realistic goal for I/I reduction, and the benefits relative to costs for I/I reduction must be weighed. However, with focused efforts on reducing I/I in these identified areas, the City should expect to achieve an overall 40 to 50% reduction in I/I, at a reasonable cost. This degree of I/I reduction is significant, and certainly would benefit the City by preserving collection system capacity for needed sanitary service, and averting added treatment costs at the wastewater plant.**

Page 5-5

For both existing and build-out flows, the inflow/infiltration wet weather flow (added on top of dry weather diurnal peak flow) component contributes to many of the pipeline hydraulic deficiencies. This is important to note as consideration is given to whether a particular gravity sewer needs replacement in the future or not. The majority of the City's collection system is adequate for existing and future build-out conditions under peak dry weather flow conditions. This is due, in part, to the fact that the City's current wastewater flows have decreased by nearly 40 percent from 2 decades ago.

First time nitrate levels in municipal water exceed maximum contaminant level: In November, 2006, [Water delivered to Morro Bay municipal water customers had nitrate levels was over the maximum contaminant level](#) of 45 mg/l. Concerned residents noted that the problem occurred after a City test that involved heavy use of the Morro Basin municipal wells During a test.

Resident activists would later (in 2008) [identify the connection](#) between the nitrate spikes and the condition of the sewer lines.

2007

City newsletter describes poor condition of sewer lines: In September, a City newsletter, "Water and Wastewater News", indicated that the City was aware of the condition of the lines; in particular the Main Street trunk line. It was stated that repairs would begin in 2008:

"We prepared a Collection System Master Plan, adopted by the City Council in 2006, that gave us a blueprint for the upgrade, repair and rehabilitation of the System to provide the ability to collect and deliver wastewater to the treatment plant long into the future. Most of our Collection System is now over 50 years old and is showing it's age. The vast majority of the system is comprised of vitrified clay piping. A number of pipeline segments are now too small or have cracks, offsets and similar problems. Many of the problems can be attributed to land movement. "

"The Master Plan's computer model identified a number of sewer pipeline segments as being currently overcapacity during highest wet weather flow conditions. The major pipe segment

identified in this condition is along Main Street from Vashon to Atascadero Road and on Atascadero Road from Main Street to Park Street². We have started design on the upgrade of this pipeline and plan to construct it in Fall 2008. This is also a costly project but it promises to reduce the risk of raw sewage spills.”

Independent study of sewer line condition published: In October, Richard Sadowski, [CWEA-certified](#) grade 4 collections system operator and Marla Jo Bruton, clean water activist, issued their report, [“Condition of the Morro Bay Wastewater Collection System - Video Inspection Review and Analysis”](#). It presented detailed information on the condition of the sewer lines. Copies of the report were sent to the Morro Bay City Council and to the Central Coast Regional Water Quality Board (CCRWQCB). Following are some quotes from the report:

Page 1

“We have conducted an independent review of a sample of videotapes, and, where available corresponding written logs chronicling the inspections of approximately 1.52 miles of various wastewater collection system lines in Morro Bay. We also reviewed a sample of logs for tapes that we did not view. Those logs cover inspections of approximately 1.89 miles of collection lines.”

“Our findings, documented in this report, include hundreds of defects, most of which are, or indicate the presence of, openings in the pipes. These openings are identified in various logs as offsets, separations, dislocations, cracks, joint openings, broken joints, chips, structural damage, holes, and root intrusions (an opening must be present for roots to enter a line). The data presents clear and irrefutable evidence that much of, and probably nearly all of, the City’s collection system is in a shocking state of disrepair.”

Page 3

Findings

“The tapes and logs that we reviewed provide irrefutable evidence that the Morro Bay wastewater collection system is in a serious state of disrepair. There are hundreds of defects, many of them major, in the collection lines included in the inspection tapes and logs we reviewed. Because our sample came from a variety of areas of the City, because most of the system is old, and because of many years of deferred maintenance, we believe it is reasonable to assume that most of the system is in similar condition.”

“In some cases, multiple defects are present at one pipe joint, or in one area of a pipe. For example, we might have an offset and separation at one joint, or a crack and root intrusion in one section of a pipe. Therefore, the total number of defects is not representative of the total number of points in the lines where there are defects. For example, at 49 joints, we found both offset and

² Subsequently, a small portion of the promised pipeline upgrade – the part on Atascadero Road - was rehabilitated. As of February, 2019, the rest of it, the part on Main between Vashon and Atascadero Road, has not been repaired.

separation. Still, these numbers are high enough to be very alarming. Any offset, separation, dislocation, crack, or break can, depending on its location and other conditions, present the risk of raw sewage leaking into the soil.

If we look only at offset joints, we find that, given our totals of 589 offsets, with 8,065 feet of pipe inspected, we have on average an offset joint every 13.7 feet.

If we now take the number of separated joints, 163, and adjust for the fact that 49 joints have both separation and offset, we now have 114 more defective joints. Adding this figure to the 589 joints with offset, we now have a total of 703 defective joints. Now, given our total 8,065 feet of pipe inspected, we have an average of one defective joint every 11.4 feet. Every 11.4 feet, on average, we have the potential for, depending upon conditions, inflow and infiltration (I&I) and/or exfiltration – the leakage of raw sewage into the soil.”

Bruton and Sadowski noted that the video inspections showed damage increasing over a 7-year period, with no repairs made.

“For one section of the Morro Bay Trunk Line, running from manhole 73 to 3, a distance of about 770 feet, we viewed an inspection tape made in 2000, and another made in 2007. Thus, we were able to observe deterioration of the line over a seven year period. Manhole 73 is located at Main and Island streets, followed, to the south, by manholes 1, 2, and 3. Table 2, below, compares the defects found in the tape made in 2000 with those found in the tape made in 2007.”

The referenced table shows that in 2000, there were 39 offset joints. In 2007, in the same section of pipe, there were 68 offset joints. In 2000, there were 5 separated joints, and in 2007, there were 11. In 2000, there were 2 cracks, and in 2007, 10 cracks, most severe.

Thus, it was clear that while the City had been doing the required video inspections over the years, it had taken absolutely no action to address the problems the inspections revealed.

City-commissioned nitrate study published: In December, the “[Morro Basin Nitrate Study](#)” was published. The study was commissioned by the City after the November, 2006 incident in which municipal water with unsafe nitrate levels was delivered to Morro Bay water customers, was completed and a report was published

Although significant evidence of exfiltration was present, the study concluded that the source of the nitrates was fertilizer. The study ignored and/or dismissed evidence that supported the theory that the nitrate problems in the City wells were from the City’s own sewage. Instead, the study blamed fertilizer used by Morro Valley farmers.

Some of the compelling evidence against fertilizer as the culprit included timing issues:

Beginning in 2002, nitrate concentrations in MB-3 have exceeded the drinking water standard on a seasonal basis (Figure 4). The pattern of fluctuations, however, appears linked to well field production. Nitrate concentration peaks between 2002 and 2006 coincide with full scale production at the well field, which occurs annually around November during State Water Project shut downs. Historically, nitrate concentrations in November were in decline, rather than peaking.

In the effort to blame fertilizer for the problem, the consultant used the following reference, which was later found to have been supplied to them by a City employee:

Pages 17 and 18, Morro Basin Nitrate Study

"Despite a hydraulic potential for exfiltration along Main Street when the City well field is pumping, gravity sewer leaks quickly become plugged by sewer film and settleable solids in the sewage, theoretically reaching steady-state leakage rates in approximately one hour. A research study conducted in several locations in Germany, where sewer systems are generally older and in poor condition, showed that when system pressure heads are below the sewer pipe crown (typical for gravity sewers) exfiltration rates were minimal (Amick and burgess, 2000)"

The source of the above reference is mentioned in a [12/7/2007 Email from Spencer Harris of Cleath and Associates to Bill Boucher, subject, "Nitrate final report status"](#).

"Have had some problems creating the pdf, so the final will go out early next week...

on the bright side' FYI here's a new paragraph that I put in the report to incorporate Dylan's reference. I think it's pertinent.

Despite a hydraulic potential for exfiltration along Main Street when the city well field is pumping, gravity sewer leaks quickly become plugged by sewer film and settleable solids in the sewage, theoretically reaching steady-state leakage rates in approximately one hour. A research study conducted at several locations in Germany, where sewer systems are generally older, and in poorer condition, show that when system pressure heads are below the sewer pipe crown (typical for gravity sewers, exfiltration rates were minimal. (Amick and Burgess 2000)"

The email appears to demonstrate that City staff were providing the consultant with material that they would like to have included in the study. The person named "Dylan" mentioned in the email is presumed to be then-Morro Bay City staff member Dylan Wade.

The reference provided to the consultant by "Dylan" left out something very important. What Amick and Burgess really said, on page 17 of their study, included another very important fact (in large font, below):

"At a pressure head below the sewer crown, which is typically the case in gravity flow sewer lines, exfiltration rates were minimal. At a pressure head of one pipe diameter, the exfiltration rate increased dramatically, to more than 26 gal/hour (gph) per joint in some segments. This high leakage rate can, in part, be attributed to the generally poor condition of the old sewer systems. A linear correlation between pressure head and exfiltration rate for several types of sewer defects was noted for pressure heads greater than 500 mm (20 inches). It was also noted that at lower flows and pressure heads, the exfiltration rate decreases exponentially, most likely from self-

sealing from sewer film and settleable solids in the sewage. If the flow and pressure head increases, however, this self-sealing property is broken and the exfiltration rate increases rapidly.”

2008

Rebuttal to City-commissioned nitrate study published: In April, activists Marla Jo Bruton and Richard Sadowski issued a rebuttal to the 2007 consultant report that blamed soaring nitrate levels on fertilizer. The Bruton/Sadowski report, titled, [“Morro Basin Nitrate Study – Issues and Concerns”](#), was done with the help of a consulting chemist, and was sent to the Morro Bay City Council, the CCRWQCB, and to Coastal Commission staff. The report pointed out numerous problems in the Cleath nitrate study; for example.

- Failure to identify any change in farming practices that would cause the nitrate levels to suddenly soar every November
- Contradictions and illogical conclusions in oxygen and nitrate isotope studies
- Failure to take into account the potential connection to extensive excavations done for an Mtbe remediation project – excavations that might have created breaches in the aquifer boundary and allowed sewage to be pulled in by the wells.
- The Amick and Burgess study reference missing a critical final sentence that completely changes meaning.

The Bruton/Sadowski document also noted that for the years 2002 through 2005, the City had published false and misleading nitrate data in its annual water quality reports, referred to as “Consumer Confidence Reports”.

The reports are available online on the City Web site: [2002](#) [2003](#) [2004](#) [2005](#)

The highest well water nitrate level reported by the City for those years 41. Meanwhile, the actual high number was more than double that amount.

The [nitrate levels detected in the wells and reported to the California Department of Public Health](#) were significantly higher than the numbers recorded in the documents provided to water customers. For example, in November, 2003, the nitrate level in City well 03 was 83. In September, 2004, it was 98.

City staff had easy access to this data, but chose to use artificially low numbers in their official reports to water consumers. This practice changed after activists noted the discrepancies. **It appears that the City purposely deceived the public by publishing artificially-low well water nitrate levels**, but why?

Coastal Commission letter instructs City to address sewer line issues: In December Coastal Commission staff, apparently responding to information in the [2007 Bruton/Sadowski report](#), “Condition of the Morro

Bay Wastewater Collection System - Video Inspection Review and Analysis”, told the City that the sewer plant draft environmental impact report (DEIR) must address sewage collection system issues.

The December 8 2008, from Coastal Commission staff member Mike Watson to Morro Bay Director of Public Services Bruce Ambo, was titled, “Notice of Preparation Comments, Morro Bay Wastewater Treatment Facilities Upgrade (SCH#2008101138)”. In the letter, Watson stated,

“Critical Facilities. In the recent past there have been WWTP reliability issues (including piping, pump, and lift stations that have caused spills, contamination, and diversion of untreated wastewater into the Bay and coastal waters). As you know, the Commission recently acted on an appeal brought by local residents claiming that breaches in the City’s wastewater pipes was causing the City’s potable water wells to be cross-contaminated with undesirable constituents. Although the Commission chose not to take jurisdiction over the CDP in that case, it was clear from our review of the appeal that there may be problems with the City’s wastewater infrastructure. Thus, the DEIR should address how the proposed upgrade will also correct any deficiencies in these related WWTP facilities to eliminate future spills or contamination and ensure that coastal water quality is appropriately protected.”

2009

Sewer plant in-place upgrade becomes project to build new plant: Without any vote by the Council or the existing sewer plant’s Joint Powers Agreement (JPA) governing body, City staff quietly, and essentially “under the radar”, changed the project from an in-place plant upgrade to the building of a new plant.

There was absolutely no indication in any formal meeting agenda or official vote. Agenda items and meeting discussions were so misleading that members of the public apparently did not notice this sleight of hand, and the consequences, already serious and costly, continue to impact Morro Bay residents.

Noticing and discussion in August and September 2009 JPA meetings were deceptive. Minutes for the September JPA meeting indicate that the change from an in-place upgrade to a new plant was referred to by City staff as “WWTP Upgrade Project modifications” and defining “the project box”. It was stated that, in order to move the EIR, and thus the project, forward, it was necessary to redefine that “box”. No agenda item or motion mentioned a new plant.

The [agenda for the September 8, 2009 JPA meeting](#) included the following item:

“B. Old Business:

- 1. Consideration to select WWTP Upgrade Project Modifications as identified in the Carollo Facilities Master Plan – Amendment No. 1 for inclusion in the project EIR”*

[Minutes for the September 8, 2009 meeting](#) include this item:

“VOTE: City of Morro Bay: Mayor Janice Peters made a motion to define the Project as Box indicated here and proceed with the EIR; Rick Grantham seconded and the action passed with opposing votes from Betty Winholtz and Noah Smukler. Motion passes three in favor two opposed.

VOTE: Cayucos Sanitary District: Bud McHale made a motion to define the project as Box indicated. Hal Fones seconded with on opposing vote from Michael Foster. Motion passes four in favor one opposed”

2010

DEIR for new plant published: A DEIR was prepared for the new plant, referred to at that time as the “WWTP”. There was no mention of repairing any sewer lines despite the instructions given to the City by CCC staff member Mike Watson in his December, 2008 letter.

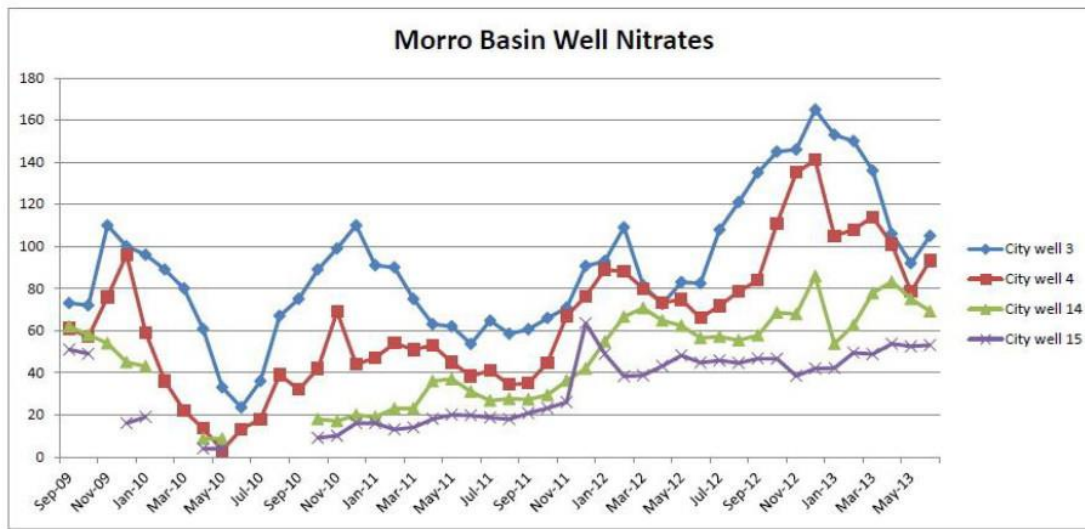
Activists discover significant nitrate pattern in City wells: Referring to official nitrate data reported to the California Department of Public Health, and the County of San Luis Obispo, activists discovered and recorded the fact that at the same times that nitrate levels in the Morro Basin municipal wells were high, the levels in Morro Bay Mutual Water wells (private wells on power plant property) were consistently low.

This information provides more evidence that significant amounts of sewage are exfiltrating from the dilapidated Morro Bay sewer system, and specifically, from the trunk line that runs along Main Street from Atascadero Road north. The same cracks, holes and separated pipe joints in that line are suspected of allowing substantial infiltration during the wet winter months, substantially increasing the load on the sewer plant.

The wells all draw their water from exactly the same source - the Morro Basin aquifer. The aquifer consists of slow-moving underground streams that carry water westward, from beneath agricultural areas in the Morro Valley to the sea. If the nitrates in City wells were from fertilizer used in the Morro Valley, one would expect to find similar nitrate levels in the Morro Bay Mutual Water wells. [That, however, was not the case.](#)

Activists pointed out that the Morro Bay Mutual Water wells are farther away from the suspected source of leaking Morro Bay sewage than are the Morro Bay municipal wells. Subsequently, data obtained from the California Department of Public Health proved that the farther a well is from the suspected sewage source, the lower the nitrate levels are.

Significant pattern of nitrate levels in the wells



Well 3 is closest to the suspected exfiltrated sewage source. Well 4 is next- closest, followed by wells 14 and 15, in that order. As the chart demonstrates, the greater the distance from the sewage source, the lower the nitrate levels. Water Board staff attempted to explain this by claiming that Morro Creek was diluting the water in the wells closer to it. However, the creek dries up in the summer months, while the nitrate pattern remains constant.

2011

Sewer system management audit report published: A [City of Morro Bay Sewer System Management Plan AUDIT REPORT 2011](#) was issued. The report discussed maintenance and repair of sewer lines in terms of preventing surface sewage spills, but did not mention the importance of reducing the infiltration problem.

Given the [optimistic statements in the 2006 “Final Report Sewer Collection System Master Plan Update”](#), and that document’s discussion of the severity of the infiltration situation, little work to repair the sewer lines appears to have been accomplished in 5 years, “Section I repairs, Orcas Way Pipe-Bursting”.

page 7

Goal, Maintaining and improving the sewer infrastructure within the City in a manner consistent with the adopted Sewer Collections System Master Plan now and into the future.

Compliance, In adherence to the SSMP, the City of Morro Bay’s staff reviews CCTV inspection reports and provides a summary of the findings for engineering to make a final assessment and create CIP programs to minimize SSO.

Improvements, completed to date to meet this goal include the Section I repairs, Orcas Way Pipe-Bursting, and Man-Hole Lining Rehabilitation Project.

Future projects, currently under development, include the rehabilitation of Section 6, sewer line rehabilitations, the Laurel Easement sewer line within Section 4, and the rehabilitation of Lift Station #2

2013

Sewer system management audit report published: In 2013, [a new “City of Morro Bay Sewer System Management Plan Audit Report”](#) was issued. According to the document, this was the second audit since the 2006 plan was developed. Again, discussion of infiltration focused on avoiding surface spills; not on the impacts on the plant.

During this period, more work was done to deal with sewer line problems. 4,900 feet of line were installed, and 2,100 feet of line were rehabilitated.

However, the City has 50 to 60 miles of line, and a large portion of it is seriously dilapidated. The work done to install and rehabilitate a total of 7,000 feet of line , plus to the minimal work accomplished between 2006 and 2011 (described in 2011 audit report) was woefully inadequate to address the extensive damage in the sewer collection system.

Some work was done specifically to reduce infiltration, but that work was done on manholes; not sewer lines.

Page 7

Goal 1: *Maintain and improve the sewer infrastructure within the City in a manner consistent with the adopted Sewer Collections System Master Plan updated in 2006 now and into the future.*

Compliance: *Ongoing. The City of Morro Bay's staff reviews CCTV inspection reports and provides a summary of the findings for engineering to make a final assessment and create CIP programs to minimize SSO's per SSMP policies.*

Improvements: *completed to date to meet this goal include:*

- *Rehabilitated Lift Station 2 and 3 complete with new 20 ft depth wet wells and above ground chemical and electrical structure to minimize confined space entry.*
- *Installed 2,200 linear feet of 8 inch PVC force main.*
- *Installed 2,700 linear feet of 8 inch gravity main.*
- *Rehabilitated portions of Section 6: Lined 2,100 feet of sewer main, on Balboa Ave. and Quintana Rd. and replaced eight manhole lids along the rehabilitated sewer main with Pamrex sealing manhole rings and covers.*
- *Rehabilitated portions of Section 1 & 3: Replaced twenty-one manhole lids and rings with Pamrex sealing manhole rings and covers along North Main St.*

Future projects: *currently under development:*

- *Sewer line repair/replacement, manhole rehabilitation, and continued manhole ring and cover replacement with sealing manhole rings and covers.*
- *The Laurel Easement sewer line within Section 4*
- *Various rehabilitation projects for sections 3,4,5 and 12. Future plans include upgrades to Lift Station #1.*

2014

Activists make presentation to RWQCB regarding well nitrate issues: On May 22, activists made a [presentation to the RWQCB](#). The presentation laid out extensive evidence that the Morro Basin well nitrate problem is caused by exfiltrating sewage; not fertilizer. After the presentation, the Board authorized minimal testing to look for signs of sewage in Morro Bay wells.

Sewer system management plan update issued: The City issued [new Sewer System Management Plan](#). The document refers to the "Morro Bay Sewer Collection System Master Plan Update, May 2006" noting, on page 34, that it is,

"...the City's adopted planning document, describes short-term and long-term projects that focus on proper management and protection of the collection system infrastructure. This document

delineates Capital Improvement Projects (CIPs) necessary to provide an adequate and operable sewer system for both current and future customers.

No explanation was given as to why an 8-year-old document would still be considered an appropriate basis for capital improvement projects to repair the sewer lines. Given the fact that the lines continue to deteriorate over time, the problem would be expected to be much worse in 2014 than it had been in 2006.

2015

Proposition 218 rate increase proposal earmarks funds for sewer line repair: A Proposition 218 rate increase earmarked \$7.6 million for sewer infrastructure repairs and \$75 million for the new WRF.

“Fund high-priority sewer system infrastructure needs. The City has identified \$7.6 Million of sewer system infrastructure improvements needed within the next 5 years, mainly for rehabilitation and replacement of aging sewer pipelines, many of which are over 60-years old. In addition, the City faces over \$2 Million of deferred maintenance and rehabilitation at the existing wastewater treatment plant. That work is needed in order for the current plant to remain in compliance with state permit requirements until the new treatment facility becomes operational.”

Well tests prove presence of sewage: RWQCB-approved testing for signs of sewage in Morro Basin wells was conducted. Sucralose, considered to be the most reliable indicator, as it does not break down, was found in all wells downgradient of Morro Bay sewer lines

RWQCB declines to take action on well sewage contamination: At its [May 28, 2015 meeting](#), the RWQCB considered the sucralose evidence. The Board stated that it had other priorities, and that long as the City had an adequate supply of potable water it would do nothing about the sewage in the wells.

2016

Sewer system management audit report published: City of Morro Bay [Sewer System Management Plan AUDIT REPORT 2016](#) was published. This was the third audit since the master plan was developed in 2006.

It appears that, since the 2013 audit, the only repairs to any sewer lines were “point repairs” on Sicily, Ironwood Ave., Beachcomber, Norwich streets.

As in prior SSMP documents, there is no mention of infiltration on the plant.

Page 7

“Goal 1: Manage, maintain and improve the City’s collection system infrastructure within the City in a manner consistent with the adopted SSMP and 2006 Sewer Collections System Master Plan now and into the future.

Compliance: Ongoing. The City of Morro Bay’s staff manage numerous programs including CCTV inspections, line cleaning, manhole assessments, root control programs, and source control

programs. Collections and Engineering staff gather information from these programs to develop a CIP schedule and minimize SSO's per SSMP objectives.

Improvements: The following projects were completed during this audit cycle:

- *Rehabilitated Lift Station 1 with epoxy lined wetwell, new high-efficiency pumps and pre-rotation bases, above ground standby pump fixtures, motor control center pedestal, new discharge piping, valving, and valve vault.*
- *Replaced approximately 50 conventional manhole ring and lids in drainage channels with Pamrex sealing manhole rings and lids. This is part of the City's ongoing I/I reduction measures.*
- *Epoxy lined approximately 10 manholes.*
- *Ongoing flow metering per 2006 Sewer System Masterplan.*
- *Point repairs on Sicily, Ironwood Ave., Beachcomber, Norwich.*
- *Establish an in-house main line point repair program.*
- *Developed an electronic manhole assessment program.*
- *Continue Manhole Rehabilitation Program as part of the CIP.*

Future projects:

- *Sewer line repair/replacement, manhole rehabilitation, and continued manhole ring and cover replacement with sealing manhole rings and covers.*
- *North Main Street repair and rehabilitation.*
- *Embarcadero repair and rehabilitation.*
- *New Water Reclamation Facility development and collection system realignment."*

There was mention of potential sewer line repairs on page 21 of the document:

"City adopted a new sewer fee schedule in May 2015 that includes annual increases to sewer fees over five-year period. The fee increase is to both cover development and construction of a new water reclamation facility as well as fund improvements to the sewer collection system identified in the 2006 Master Plan as possibly deficient."

2017

Residents learn of new proposed sewer rate increase: Having accepted a [2015 rate increase](#) to fund the WRF project, Morro Bay residents learned that the City wanted more money to build the facility. On its official WRF Web site, [the City attempted to explain away the issue](#) by saying:

"The 2015 rate increase was structured to fund a project with a total cost of \$75M. At the time of 2015 rate increase, it was assumed that the cost of the project would be split between the City and Cayucos Sanitary District, and therefore the City's contribution would be \$56.2M"

Some basic arithmetic debunks this claim.

- The difference between \$75 million and \$56.2 million is \$18.8 million
- The current estimated cost of the plant is \$126 million.

- The difference between \$126 million and \$75 million is \$51 million – quite a lot more than \$18.8 million.

Furthermore, with [the departure of Cayucos](#), which is building its own plant, some size-and-scale cost savings should be possible.

[At the August 8, 2017 Council meeting, responding to an angry resident](#), City staff and one Council member indicated that the money from the 2015 Proposition 218 rate increase (\$75 million for a plant, and \$7.6 million for sewer system infrastructure) had just been to pay interest on loans.

At about 2:24:56 into the meeting, as recorded on the video time counter, Morro Bay resident Carole Truesdale read a letter into record. She questioned some content from a staff report attached to the meeting agenda:

“Worth noting is the currently approved sewer rate, and future year approved sewer rates, were never intended to build a \$75M sewer treatment plant, as the CSD was still a viable partner to pay roughly 25% or \$19M of that project cost. Additionally, current rates would not have “recouped” the \$56M in funding needed to pay Morro Bay’s share of the project for roughly 30 years.”

Ms. Truesdale said she felt duped by the 2015 rate increase process.

The following exchange between Council member Marlys McPherson and Public Works Director Rob Livick begins at about 2:35:56 on the video time counter.

McPherson: I was serving on PWAB at the time we passed that rate increase, and as I recall, the rate increase itself – we were planning on getting a loan and so the rate increase was to pay back on that loan for the five years that the rates were in effect. So that’s what that rate increase covered. Is that correct, Rob? That’s my recollection.

Livick: Yes, the project was going to be um, um, The project would be built through a loan funding and the rate increase would - would pay that back.

McPherson: Right

Livick: Similar to what we’re ...

McPherson: Exactly. But that would cover, that would be like over like 30 years

Livick: 30 years

McPherson: And so this was only the first five years

Livick: Right. I think If you look at Craig’s spreadsheet it shows we don’t have let alone 75 million dollars, in the wastewater fund bank. We don’t have the fifty six million dollars yet because that was gonna come over the next 30 years...

Mcpherson: Right

Livick: We can’t expect the community to fund a seventy - fifty-six million dollar project in five years.

Mcpherson: Right

Livick: It would be impossible

McPherson: Thank you

The rate notice did NOT say the rate increase was to cover loan debt service for 5 years. It led readers to believe it would cover the cost of the plant, specifically stating,

“The City is proposing to phase in a series of sewer rate increases over the next five years. Key factors driving the need for sewer rate increases include:

- *New \$75 Million wastewater treatment plant. After substantial community input and comprehensive evaluation of alternatives, project planning is underway for a new Water Reclamation Facility at the preferred Rancho Colina site along State Route 41. Based on preliminary engineering estimates, the City anticipates the facility will be designed and constructed over approximately the next 5 years at a cost of \$75 Million. The treatment plant will be designed to support future recycled water operations. The City plans to seek grants and subsidized loans to help minimize the financial burden on customers.”*

Hence, the 2015 rate increase notice asking for approval of funds for a new plant and for infrastructure repairs was, according to the Council and the Public Works director, intended to raise the money to pay the interest on the State and Federal loans the City plans to obtain.

Reclamation removed from WRF project phase I and later restored: In an apparent response to resident complaints about WRF project costs, the City removed the reclamation element from the current phase of the project in April. However, In October, they slipped it back into the current phase again, and [then denied that it had ever been removed.](#)

In response to a cease and desist letter protesting the Brown Act violation that occurred when the City failed to agendize restoration of reclamation to the ongoing phase of the WRF project, the City stated that, *“The City Council has never adopted any motion or taken any action that directed the WRF project not include water reclamation.”*

This response appears to be a “word game”. The motion was to take reclamation out of the current phase of the project and delay it to a later one. The meaning of the Council motion was clear to those who listened to it, and to the preceding discussion. That included a reporter whose [April 26, 2017 article in the Tribune](#) says,

“Faced with public opposition to building a \$167 million proposed new sewage treatment plant and water recycling facility in Morro Bay, the City Council has opted for a less expensive project that delays water reclamation. After a four-hour discussion Tuesday — including comments from several public speakers who supported keeping costs down — the council voted 3-2 to phase in a water recycling facility in the future.”

2018

Inflow and infiltration study is published: the [“Sewer Flow Monitoring and Inflow/Infiltration Study”](#), by V&A Consulting Engineers, described testing and test results. The infiltration results summary on page 43 showed significant infiltration of rain water into the Morro Bay sewage collection system.

Residents learn that plant design is significantly oversized: Residents noted that the plant the City seeks to build is significantly oversized. The WRF has been designed to handle major infiltration of water into

the dilapidated sewer lines. According to [the DEIR for the proposed WRF](#), that plant would treat a maximum peak daily flow of 2.75 mgd³. The peak wet weather flow for the new plant, according to project staff, would be 8.14 mgd.

The new WRF would have a peak dry weather flow capacity .39 mgd per day higher than the existing plant. The peak wet weather flow capacity would be 1.5 mgd higher.

Yet, the departure of Cayucos, which is building its own plant, will result in a net reduction of over 1,300 regular system users (based on current Cayucos population data and Morro Bay estimated buildout population data). In addition, the WRF will not have to handle the annual increase in sewage flows from Cayucos during tourist season.

In addition, according to the 2017 monitoring report for the existing plant, “The plant’s flow did not even approach, much less surpass any of these design limits during 2017.”

Yet, designers want to increase WRF capacity substantially over that of the existing plant. City staff has cited infiltration issues. Activists want the City to fix the lines first, then determine the real capacity needs, and design a plant to meet them.

Activists suggest that the refusal to fix the sewer lines is motivated, largely, if not totally, by a desire to use infiltration as an excuse to build a larger plant. Activist theories include undisclosed plans for major development and undisclosed plans to expand the desalination plant and process the brine at the WRF.

A companion theory is that staff and the RWQCB know that when the lines are fixed, the nitrates in City well water will decrease markedly, providing still more evidence that the nitrates are from sewage – something that staff has repeatedly denied.

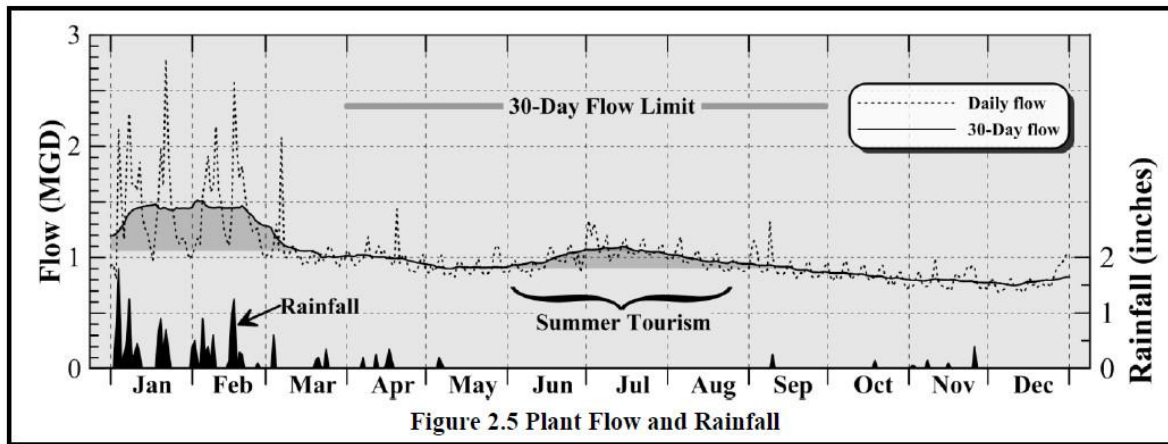
Citizen group workshop on project costs conducted: On March 15, Citizens for Affordable Living (CAL) conducted a [workshop](#) for residents concerned about WRF project costs. The workshop, which was attended by City officials and staff, identified infiltration impacts:

What Other Options Do We Have?

- Fix Pipes, Cayucos offline in 2 years, evaluate options
- Stop Funding beyond 2015 rate increases
- Fix all leaking pipes, which add volume to water treated
- When Cayucos is offline – water volume will be reduced by 25%
- Evaluate all operations & conditions
- Design a project based on our budget

The workshop called attention to infiltration evidence that has been published year after year in the City’s [sewer plant outflow monitoring reports](#). The annual reports include information on the correlation between annual rainfall patterns and inflow to the plant. The following chart appears on page 2-19 of the 2017 report, the most recent report available as of this writing:

³ million gallons per day



Residents learn Prop 218 funds spent illegally: Proposition 218 law, part of the State Constitution says that, “Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.” The City violated this part of the law.

The [2015 rate increase notice](#) has two separate sections. One is for water rates; the other for sewer rates. The sewer rate section specifies two, and only two purposes for the sewer rate increase.

- “New \$75 Million wastewater treatment plant”
- “Fund high-priority sewer system infrastructure needs. The City has identified \$7.6 Million of sewer system infrastructure improvements needed within the next 5 years, mainly for rehabilitation and replacement of aging sewer pipelines, many of which are over 60-years old. In addition, the City faces over \$2 Million of deferred maintenance and rehabilitation at the existing wastewater treatment plant”

The “Frequently Asked Questions” section of the [City’s WRF project Web site](#) includes this question: **“How have the funds collected from the 2015 rate increase been spent?”** The City’s response includes the following statements:

- “The funds that have been collected as a result of the 2015 rate increase have been used to support the planning effort for the WRF Program”
- “Revenue not used to fund the WRF Program, other water and sewer capital projects, or operations and maintenance costs have gone to accumulation. In fiscal year 2016/2017 the combined accumulation fund for the water and sewer enterprises was approximately \$9M. Accumulation funds will be used to reduce the amount the City will have to borrow for the WRF Program through bonds or low-interest loans.”

These statements appear to indicate that all 2015 sewer rate increase revenue was spent on the WRF, and that the City intends to spend all additional revenues for the same purpose.

That is illegal. \$7.6 million of the 2015 rate increase revenue was stated to be for funding “high-priority sewer system infrastructure needs” and \$2 million was for “maintenance and rehabilitation at the existing wastewater treatment plant.” The law does not allow those funds to be used for the WRF project.

The response to the question, **“Why are the 2015 rates not sufficient to fund a viable project?”** includes these statements:

- *“The main focus for the 2015 rate increase was the water rates, which had not been increased in almost 20 years.”*
- *“The City was also running an annual \$900,000 budget deficit and needed to fund near-term capital projects to improve the reliability of the water system.”*

This material is found on the City’s, “*City of Morro Bay Water Reclamation Facility Project*” online site. It seems reasonable to assume that the question quoted above refers specifically to the WRF project.

The 2015 rate notice had separate rate increase sections for water and sewer. Revenue from the sewer rate increase cannot be used to fund water system projects, and revenue from the water rate increase cannot be used to fund sewer projects.

Yet, stated reasons why the 2015 rate increase revenue was insufficient to fund the WRF project refer to water system issues. This appears to indicate that the City spent some of the sewer rate increase on capital projects to *“improve the reliability of the water system”*. That is illegal.

It appears that the City believes it can use the 2015 rate increase funds for anything it wishes, so long as the uses have something to do with water and/or sewer and/or the WRF project. It cannot.

Obvious results of the City’s failure to follow the law include the ongoing sewer line infiltration and exfiltration problems. Additional results could include problems with the State and Federal loans the City wants to obtain to fund the WRF project.

Statements made during [discussion at the August 8, 2017 City Council](#) meeting indicated that the 2015 rate increases were intended to pay the interest on future State and Federal loans. The City has already misused 2015 rate increase revenue in violation of State law. The effects that this financial mismanagement may have on the City’s ability to obtain loans are unclear.

Serious questions raised regarding viability of water reclamation plans: The City has stated its plans to reclaim water, and thus enhance its drinking water supply. According to the City, this is to be accomplished by injecting treated WRF effluent into the ground above the Morro Basin aquifer east of the “Narrows”, and then recovering the water using the City’s Morro Basin municipal wells. However, residents have pointed out that the City has no evidence that this scheme will work, and that there are significant reasons to believe that it will not.

It has not been established that the aquifer can accept all of the treated water from the proposed plant. There are serious concerns that attempts to inject large amounts of water into the aquifer could result in damaging surface flooding. Two consulting firms, Fugro West, and CGI, have recommended further study of groundwater recharge potential.

There is significant evidence indicating that recovery of the treated water through City wells would be limited, at best. Residents have suggested that even if treated water can be injected into the aquifer, the ability to recapture that water through City wells is questionable.

The aquifer consists of underground rivers and streams that flow westward to the ocean. Residents note that no means has been defined to “route” the injected water through specific underground rives and streams that are accessible by the wells, and have suggested that would be impossible.

Residents also suggest that the City's reclamation scheme was created primarily as a means to qualify for State and Federal loans; not because City government truly believes reclamation can enhance the water supply.

Summary and Conclusions

Substantial evidence demonstrates that, over a period of many years, the City of Morro Bay and the RWQCB have failed to deal with the damaging effects of infiltration and exfiltration in the City's severely-dilapidated sewer collection system. The impacts on Morro Bay have been serious and significant. The public has been paying for sewer plant processing of large volumes of rain water. Groundwater and hence, City wells, have been fouled with the City's own sewage.

City reports demonstrate that sewer line repair work has focused on potential problems that would be visible to the public; namely, surface sewage spills. Problems not visible to the public have been essentially ignored and at times, denied and even concealed.

Now, the City and the RWQCB expect the public to pay for a hugely-expensive WRF facility designed to deal with the damaging effects of their negligence:

- A sewage treatment plant that is oversized to process rain water that leaks into the sewer lines
- Water reclamation infrastructure intended to supplement a water supply negatively-impacted by leaking sewage

Building the WRF as designed would mean continuing and supporting the pattern of negligence and deceit that has continued over many years. It is time to deal with the real problem by fixing the sewer lines, and then re-evaluating the City's wastewater treatment needs. These tasks should be completed before any more public funds are spent on the WRF project.

From: Olivia VanDamme [mailto:olivia@citysurfproject.com]

Sent: Tuesday, February 19, 2019 3:24 PM

To: Selvaraj, Sumi@Coastal

Subject: Fwd: Reminder: 2/17/19 Final Day to Comment on Revised Draft Environmental Justice Policy

Hey Sumi!

I'm bummed I didn't get to get my comments over in time- but I hope that all the comments I met with you in person and notes you took count towards this. Here is my speech I gave at the Whale Tail grants item at the last Commission meeting!

"Hello Commissioners, my name is Olivia VanDamme- Program Director for City Surf Project a 501c3 based in San Francisco. We are a recommended grantee for the Whale Tail Grants this year and I'm here to share a bit more about our program, and show appreciation for this recommendation. In September 2018 a new subcategory for smaller, more grassroots organizations working with underserved communities was added to the grantmaking program, and I want to thank your staff for this- from our passionate grassroots team in SF.

In this year's pool of recommended grants, 74% of the projects focus entirely on underserved communities which is wonderful!

City Surf Project runs surfing 101 PE classes with 6 SFUSD high schools and 1 middle school- where we take students surfing almost everyday or the week year round. Last year we had 138 surf outings, brought over 400 students to the coast, for about 414 hours at the beach!

One of the guidelines was for the program to focus on cultural competency. I want to challenge the way that we perceive and hold stereotypes about the communities we are discussing. Many times my students are described as at-risk, disadvantaged, low-income, inner-city etc.

Most of this language is deficit based focusing on what's lacking and what's wrong or what could go wrong. Why not focus on what could go right? I encourage all of us in our work to use asset based language- my students are resilient, creative problem solvers, resourceful, excellent networkers, have potential and just need an invitation and support to engage with something like surfing. The reason I bring this up is because we all need to do better in addressing how we talk about our communities- the SF Chronicle wrote an article about our program in December and the headline described our students as inner-city youth- a few of my students whose photos were in the article were hurt, discouraged and confused on what this meant about them. They don't describe themselves as that, and the more we perpetuate these young people's minds and beliefs about themselves the more likely they are to go in that direction. How I encourage our team, supporters and volunteers to think of their role in our organization is to leverage their privilege, and assets to give our students more ownership of the program. And commissioners and CCC staff I appreciate your work in funding our program through the Whale Tail- and I leave you with this- what is the next step you can take to truly work towards environmental justice and equity in your communities- how can you leverage your privilege?

Thank you!"

From: Marc Brenman [mailto:mbrenman001@comcast.net]
Sent: Tuesday, February 19, 2019 7:30 PM
To: EnvironmentalJustice@Coastal
Cc: RobertGarciaNUwk
Subject: SUPPORT FOR COMMISSION'S ENVIRONMENTAL JUSTICE POLICY

Feb. 19, 2019

Chair Dayna Bocho

Honorable Commissioners

Executive Director John Ainsworth

California Coastal Commission

Via email to Commissioners and Staff:

environmentaljustice@coastal.ca.gov

Re: SUPPORT FOR COMMISSION'S ENVIRONMENTAL JUSTICE POLICY (Jan. 2019)

Dear Chair Bocho, Honorable Commissioners, and Director Ainsworth:

A diverse and growing alliance supports the California Coastal Commission's Environmental Justice Policy – Revised Public Review Draft (Jan. 2019) at its March 2019 public meeting. The Policy is available [here](#) (and [here en español](#)).

The Policy reads as follows:

The California Coastal Commission's commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to protect California's coast and ocean commons for the benefit of all the people. In keeping with that

visionary mandate, but recognizing the agency has not always extended this mission to many marginalized communities throughout California's history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities not be denied on the basis of background, culture, race, color, religions, national origin, ethnic group, age, disability status, sexual orientation, and gender identity.

The Commission will use its legal authority to advance clean, healthy, and accessible coastal environments for communities who have been disproportionately overburdened by pollution. Coastal development should be inclusive for all who work, live, and recreate on California's coast and provides equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with Public Resources Code Section 300136 and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.

Our alliance recommends that the Commission adopt and implement that Policy. Furthermore, we recommend the Commission implement that Policy through its forthcoming strategic plan and other key decisions on an ongoing basis.

Please distribute to all Commissioners.

Very truly yours,

Marc Brenman

IDARE LLC

2636 Bryant St.

San Francisco, CA 04110

mbrenman001@comcast.net

240-676-2436

From: Robert Garcia [<mailto:rgarcia@cityprojectca.org>]

Sent: Thursday, February 21, 2019 4:01 PM

To: Schwartz, Noaki@Coastal

Cc: Hannah Sumiko Daly

Subject: Coastal Justice and Support for Coastal Commission's Environmental Justice Policy

Dear Chair Bochco, Honorable Members of the Commission, Director Ainsworth, and Staff:

A diverse and growing alliance supports the California Coastal Commission's Environmental Justice Policy – Revised Public Review Draft (Jan. 2019) at its March 2019 public meeting. Our alliance recommends that the Commission adopt and implement that Policy. Furthermore, we recommend the Commission implement that Policy through its forthcoming strategic plan and other key decisions on an ongoing basis.

The Policy reads as follows:

The California Coastal Commission's commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to protect California's coast and ocean commons for the benefit of all the people. In keeping with that visionary mandate, but recognizing the agency has not always extended this mission to many marginalized communities throughout California's history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities not be denied on the basis of background, culture, race, color, religions, national origin, ethnic group, age, disability status, sexual orientation, and gender identity.

The Commission will use its legal authority to advance clean, healthy, and accessible coastal environments for communities who have been disproportionately overburdened by pollution. Coastal development should be inclusive for all who work, live, and recreate on California's coast and provides equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with Public Resources Code Section 300136 and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.

Please distribute to all commissioners.

Respectfully submitted,

Raul Macias, President, Anahuak Youth Sports Association

Marce Graudiņš, Founder and Director, Azul

Yvonne Golzalez Duncan, State Director, California LULAC

Aruna Prabhala, Urban Wildlands Director, Center for Biological Diversity

Robert García, Founding Director-Counsel, The City Project

Dan Howells, California State Director, Clean Water Fund

Raul García, Senior Legislative Counsel, EarthJustice

Mark Magaña, President and CEO, GreenLatinos

Dr. Mildred McClain, Founder and Executive Director, Harambee House Inc. / CFEJ

Marc Brenman, Managing Partner, IDARE LLC

Xavier Morales, Executive Director, The Praxis Project

Robert Bracamontes, Bob Black Crow, Yu-va'-tal 'A'lla-mal, Acjachemen Nation, Juaneno Tribe

Leslie Fields, National Environmental Justice Director, Sierra Club

Miguel Rodriguez, Organizer, Ventura LULAC

Brian Beveridge, Co-Director, West Oakland Environmental Indicators Project

Robert García
Founding Director-Counsel
The City Project / Proyecto del Pueblo
Community Faculty, Charles R. Drew University of Medicine and Science
Santa Fe Art Institute Equal Justice Resident 2017
1055 Wilshire Blvd., Suite 1660
Los Angeles, CA 90017
rgarcia@cityprojectca.org
213-260-1035
Visit our website and blog at
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*Anahuak Youth Sports Association * Azul * California LULAC (League of United Latin American Citizens) * Center for Biological Diversity * The City Project * Clean Water Fund * EarthJustice GreenLatinos * Harambee House, Inc. / Citizens for Environmental Justice (CFEJ) * IDARE LLC * Poverty, Race, and Research Action Council (PRRAC) * The Praxis Project Robert Bracamontes, Acjachemen Nation, Juaneno Tribe * Sierra Club * Ventura LULAC West Oakland Environmental Indicators Project*

February 21, 2019

Chair Dayna Bocho
Honorable Commissioners
Executive Director John Ainsworth
California Coastal Commission
Via email to Commissioners and Staff:
environmentaljustice@coastal.ca.gov

Re: SUPPORT COMMISSION'S ENVIRONMENTAL JUSTICE POLICY (Jan. 2019)

Dear Chair Bocho, Honorable Commissioners, and Director Ainsworth:

A diverse and growing alliance supports adoption of the California Coastal Commission's Environmental Justice Policy – Revised Public Review Draft (Jan. 2019) at its March 2019 public meeting. The Policy is available at bit.ly/2GCmmpd and *en español* at bit.ly/2txLghe.

The Policy reads as follows:

The California Coastal Commission's commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to protect California's coast and ocean commons for the benefit of all the people. In keeping with that visionary mandate, but recognizing the agency has not always extended this mission to many marginalized communities throughout California's history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities not be denied on the basis of background, culture, race, color, religions, national origin, ethnic group, age, disability status, sexual orientation, and gender identity.

The Commission will use its legal authority to advance clean, healthy, and accessible coastal environments for communities who have been disproportionately overburdened by pollution. Coastal development should be inclusive for all who work, live, and recreate on California's coast and provides equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal,

consistent with Public Resources Code Section 300136 and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.

Our alliance recommends that the Commission adopt and implement that Policy. Furthermore, we recommend the Commission implement that Policy through its forthcoming strategic plan and other key decisions on an ongoing basis.

Please distribute to all Commissioners.

Very truly yours,

Raul Macias, President, Anahuak Youth Sports Association

Marce Graudiņš, Founder and Director, Azul

Yvonne Golzalez Duncan, State Director, California LULAC

Aruna Prabhala, Urban Wildlands Director, Center for Biological Diversity

Robert García, Founding Director-Counsel, The City Project, rgarcia@cityprojectca.org

Dan Howells, California State Director, Clean Water Fund

Raul García, Senior Legislative Counsel, EarthJustice

Mark Magaña, President and CEO, GreenLatinos

Dr. Mildred McClain, Founder and Executive Director, Harambee House Inc. / CFEJ

Marc Brenman, Managing Partner, IDARE LLC

Megan Haberle, Deputy Director, Poverty & Race Research Action Council

Xavier Morales, Executive Director, The Praxis Project

Robert Bracamontes, Bob Black Crow, Yu-va'-tal 'A'lla-mal, Acjachemen Nation, Juaneno Tribe

Leslie Fields, National Environmental Justice Director, Sierra Club

Miguel Rodriguez, Organizer, Ventura LULAC

Brian Beveridge, Co-Director, West Oakland Environmental Indicators Project

From: Lucas Zucker [<mailto:lucas@causenow.org>]
Sent: Thursday, February 21, 2019 4:31 PM
To: Schwartz, Noaki@Coastal
Subject: CAUSE support letter for EJ policy

Hey Noaki,

Attached is CAUSE's letter of support for the CCC EJ policy. Thank you again for all your hard work on this!

Lucas Zucker
Policy and Communications Director
Central Coast Alliance United for a Sustainable Economy (CAUSE)
2021 Sperry Ave. #9
Ventura, CA 93003
(805) 658-0810 ext. 204

February 21, 2019

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Aracely Preciado

Community Organizer

Frank Rodriguez

Community Organizer

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Community Organizer

Dear California Coastal Commission,

Thank you for the opportunity to submit comments on the California Coastal Commission's draft Environmental Justice Policy. The Central Coast Alliance United for a Sustainable Economy (CAUSE) is a social, economic, and environmental justice organization working in the Central Coast region of California, which has worked for many years at the nexus of coastal issues and environmental justice.

We write in support of the proposed EJ policy and are pleased to see the evolution of this policy in much greater detail and substance thanks to the consideration of input from environmental justice organizations. In particular, we applaud the Commission staff on their inclusion of issues raised by CAUSE comments and feedback, including:

- Affordable housing and displacement issues impacting marginalized communities
- The role of the Commission in maximizing community benefits in coastal projects
- Negative impacts to public health from heavy industrialization of some coastal areas
- Consideration of alternatives, not just mitigation, in projects with EJ impacts
- Policing practices used to limit coastal access for communities of color
- How some sea level rise adaptations may reduce coastal public access
- The flooding risks of coastal toxic sites threatened by sea level rise
- Allowing for a diverse range of outreach measures for marginalized communities
- Prioritizing resources for community engagement and making meetings accessible
- Environmental justice review of Local Coastal Plans and other local policies
- Equity review of the Coastal Commission's existing programs and funding sources

Thank you to the staff who worked extensively to develop and improve this policy and seek broad-based community engagement. We urge the adoption of this historic Environmental Justice Policy by the Coastal Commission and look forward to continuing to work with your agency on implementation.

Sincerely,

Lucas Zucker

Policy Director

Central Coast Alliance United for a Sustainable Economy (CAUSE)

EXHIBIT 5

**STAFF RESPONSE TO COMMENTS
TO BE POSTED AS ADDENDUM**