



August 15, 2005

Mr. Barry Hill
Director, Office of Environmental Justice
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: EJ Strategic Plan Comments

Dear Mr. Hill:

I. Executive Summary

The Center for Law in the Public Interest submits these public comments regarding the EPA's "Framework for Integrating Environmental Justice," and "Environmental Justice Strategic Plan Outline" (Strategic Plan).

Four of the central lessons of the environmental justice movement are that (1) communities of color and low income communities disproportionately suffer from environmental degradation, (2) are denied the benefits of public benefits including parks, (3) lack the information necessary to understand the impact of environmental policies on all communities, and (4) are denied full and fair public participation in the decision making process.¹

EPA must explicitly consider the impact of environmental laws, regulations, and policies on people of color and low income communities. EPA cannot legitimately ignore race, ethnicity, color, national origin or income in assessing the impact of environmental laws, regulations, and policies.

¹ See generally, Robert García et al., *Policy Brief: Healthy Children, Healthy Communities: Schools, Parks, Recreation, and Sustainable Regional Planning* (Center for Law in the Public Interest 2004), Robert Garcia et al., "We Shall Be Moved: Community Activism as a Tool for Reversing the Rollback," chapter in Denise C. Morgan, et al., eds., *Awakening from the Dream: Pursuing Civil Rights in a Conservative Era* (2005).

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II. Race, Ethnicity, Color, National Origin or Income and Environmental Justice

The EPA's Strategic Plan 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."²

The appropriate approach is found in the California statutory definition of environmental justice: "[E]nvironmental 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."³

The evidence below overwhelming demonstrates the need for EPA to explicitly consider the impact of environmental laws, regulations, and policies on people of color and low income communities.

III. Parks, Green Space, and Environmental Justice

Many communities suffer from the lack of parks and recreation, but low income people of color suffer first and worst. For example, Los Angeles is park poor, and there are unfair disparities to parks and recreation based on race, ethnicity, income, and access to a car. Los Angeles has fewer acres of parks per thousand residents than any other major city in the country, with less than one acre per thousand residents compared to the national standard of six to ten acres. Disproportionately wealthy and white communities have 1.7 acres of park space per thousand residents, while the inner city has only 0.3 acres.⁴

² U.S. Environmental Protection Agency, "Environmental Justice Strategic Plan Fact Sheet," available at <http://www.epa.gov/compliance/resources/publications/data/planning/strategicplan/ej/ej-sp-factsheet.html>.

³ California Gov't Code § 65040.12(e).

⁴ Robert Garcia et al., *Anatomy of the Urban Park Movement: Equal Justice, Democracy and Livability in Los Angeles*, chapter in Robert Bullard, ed., *The Quest for Environmental Justice: Human Rights and the Politics of Pollution*, published by the Sierra Club (2005), attached as Tab 1. See also Robert García, Erica Flores, et al., "We Shall Be Moved: Community Activism as a Tool for Reversing the Rollback," chapter in the book *Awakening from the Dream: Pursuing Civil Rights in a Conservative Era*, edited by Denise Morgan et al., 2005,), attached as Tab 2; Robert García & Erica Flores, *Free the Beach! Public Access, Equal Justice, and the California Coast* (Center for Law in the Public Interest Policy Report 2005), attached as Tab 3.

The lack of parks in communities of color in Los Angeles is not an accident of unplanned growth, but the result of a history and pattern of discriminatory land use planning, racially restrictive housing covenants, federal mortgage subsidies limited to racially homogenous neighborhoods, and discriminatory funding. Professor Lawrence Culver has prepared a detailed analysis of the history of race and recreation including beaches in Los Angeles, *The Garden and the Grid: A History of Race, Recreation, and Parks in the City and County of Los Angeles*.⁵

According to a survey on Californians and the environment by the influential Public Policy Institute of California, 64% of Californians say that poorer communities have less than their fair share of well-maintained parks and recreational facilities. Latinos are far more likely than non-Hispanic Whites (72% to 60%) to say that poorer communities do not receive their fair share of parks and recreational facilities. A majority of residents (58%) agree that compared to wealthier neighborhoods, lower-income and minority neighborhoods have more than their fair share of toxic waste and polluting facilities.⁶

Using 2000 census data and GIS (geographic information systems) mapping tools, the Center has prepared a series of maps illustrating the inequities in access to parks and recreation. The most dramatic map (Tab 4) shows that children of color living in poverty with no access to a car have the least access to parks and recreation. In a cruel and ironic twist, disproportionately white and wealthy people with fewer than the county average number of children have the greatest access to parks and recreation.

The National Forest Service has documented the disparities in the enjoyment of national forests by people of color. Southern California is surrounded by four national forests—Angeles, San Bernardino, Los Padres, and Cleveland National Forest. They serve an increasingly diverse population of over 20 million people who live within an hour's drive of them.⁷ Between 77% and 83% of visitors to the Angeles, Cleveland, and Los Padres National Forests are non-Hispanic

⁵ (Forthcoming 2005). See generally Douglas Flamming, *Bound for Freedom: Blacks in Los Angeles in Jim Crow America* 271-72 (2005). For example, the Federal Housing Administration manual of 1938 states: "If a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same racial classes. A change in social or racial occupancy generally contributes to instability and a decline in values." See also Mike Davis, *City of Quartz* 160-64 (1990); Mike Davis, "How Eden Lost Its Garden, chapter in Allen J. Scott and Edward W. Soja, *The City* (2000).

⁶ Mark Baldasare, *Public Policy Institute of California Statewide Survey: Special Survey on Californians and the Environment* vi (June 2002).

⁷ Hispanics are 40% of the population in the five county Southern California region of Los Angeles, San Bernardino, Ventura, Riverside, and Orange Counties; non-Hispanic Whites are 39%, Asians 10%, and African Americans 6%. Source: GreenInfo Network, 2000 census data.

White in a region that is disproportionately people of color and in a state in which White are in the minority. Fully 93% of visitors to wilderness areas in Los Padres are non-Hispanic Whites.⁸ Only 1% of visitors to the Angeles National Forest are African-Americans. Zero percent of the visitors to the wilderness areas of the Angeles National Forest are African-Americans.⁹ It is important to understand why such disparities exist when it comes to the national forests. This is why it is important to consider race, ethnicity, color, national origin, and income in any environmental justice analysis.¹⁰

Race and income are a crucial factor when analyzing access to parks, forests, beaches, and other public benefits. It would be unjust for the EPA to not consider race or income when making and evaluating legal and policy decisions.

IV. Health and Environmental Justice

The connection between environmental justice and human health is profound.¹¹

If current trends in obesity and inactivity continue, today's youth will be the first generation in this nation's history to face a shorter life expectancy than their parents.¹² This health crisis costs the United States over \$100 billion each year. The epidemic of obesity, inactivity, and related

⁸ Forest Service Draft Environmental Impact Statement for the Four Forests of Southern California at 3-267.

⁹ Race/Ethnicity of Visitors to the Angeles National Forest (2000 Survey). Source: U.S. Forest Service (available at www.losangelesalmanac.com/topics/Parks/pa07.htm).

¹⁰ See generally Robert García, Erica Flores, and Christopher T. Hicks, The Center for Law in the Public Interest Policy Brief, *Diversifying Access to and Support for the Forests: Remarks at the National Forest Service Centennial Conference* (Center for Law in the Public Interest Policy Brief 2004), attached as Tab 5.

¹¹ Robert García and Erica Flores Baltodano, "Healthy Children, Healthy Communities, and Legal Services," published in a special issue on Environmental Justice for Children in the *Journal of Poverty Law and Policy* by the National Center on Poverty Law and the Clearinghouse Review, May-June 2005, attached as Tab 6; Robert García, Erica Flores, and Sophia Chang, "Healthy Children, Healthy Communities: Parks, Schools, and Sustainable Regional Planning," article in the Urban Equity Symposium in 31 *Fordham Urban Law Journal* 101, 2004, attached as Tab 7; Robert García and Erica Flores, *Healthy Children, Healthy Communities: Schools, Parks, Recreation, and Sustainable Regional Planning* (Center for Law in the Public Interest Policy Brief 2005), attached as Tab 8.

¹² Eloisa Gonzalez, MD, MPH, L.A. County Dept. of Public Health, testimony Jan. 21, 2004, LAUSD Citizens' School Bond Oversight Committee. Robert García is chair of that Committee. See generally Editorial, *The Schools Go Flabby*, L.A. Times, May 22, 2004; Jennifer Radcliffe, *Going to War against the Epidemic of Childhood Obesity*, Jan. 27, 2004; Cara Mia DiMassa, *Campus Crowding Can Make PE a Challenge*, L.A. Times, Nov. 19, 2003.

diseases like diabetes is shortening children's lives and destroying the quality of their lives. In California, 73% of fifth, seventh, and ninth graders are not physically fit under minimum physical fitness standards in 2004. In the Los Angeles Unified School District (LAUSD), 87% of students are not physically fit.¹³ This crisis is not just the result of individual eating or exercise habits. Children do not have enough places to play and engage in active recreation. Urban areas like Los Angeles fail to provide enough open space for recreation in schools, or in parks, as discussed above.¹⁴ School yards are devoured by portable classrooms. Physical education classes are bloated with up to 75 students. Physical education is not required after 10th grade. Without exercise at school, children are unlikely to get enough elsewhere.

Obesity rates have doubled in children and tripled in adolescents in the past 20 years.¹⁵ Thirteen to 14% of children ages 6 to 19 are overweight nationwide.¹⁶ Overweight children face greater risks of lung disease, diabetes, asthma, and cancer.¹⁷ Adult-onset diabetes is now called Type II diabetes because of its growing prevalence among children.¹⁸ Mexican-American and African-American children are twice as likely as non-Hispanic white children to be overweight.¹⁹

Physical inactivity is more prevalent among women than men, among blacks and Hispanics than whites, among the less affluent than the more affluent, and among older than younger adults.²⁰ Diabetes, one result of obesity, is the seventh-leading cause of death in the U.S. The mortality rate increases when deaths caused by complications from diabetes, such as heart disease and

¹³ California Dep't of Education website, www.cde.ca.gov/ta/tg/pf/index.asp; Cara Mia DiMassa, Here's the Skinny: Most Students Aren't, L.A. Times, Nov. 25, 2004.

¹⁴ See Richard J. Jackson, MD, MPH and Chris Kochtitzky, MSP, Sprawl Watch Clearinghouse Monograph Series, Public Health/Land Use Monograph, "Creating a Healthy Environment: The Impact of the Built Environment on Public Health" 17 ("Jackson"), available at www.sprawlwatch.org.

¹⁵ National Alliance for Nutrition and Activity (NANA), *Obesity and Other Diet- and Inactivity-Related Diseases: National Impact, Costs, and Solutions* 1-3 (2003) ("*Obesity and Inactivity-Related Diseases*"), available at <http://www.cspinet.org/nutritionpolicy/briefingbookfy04.ppt>.

¹⁶ U.S. Dept. of Health and Human Services, *The Surgeon General's Call to Action To Prevent and Decrease Overweight and Obesity* 12-14 (2001) ("*Call to Action*").

¹⁷ California Center for Public Health Advocacy, *An Epidemic: Overweight and Unfit Children in California Assembly Districts* 18 (Dec. 2002) ("*An Epidemic*").

¹⁸ Gold Coast Collaborative, *A Health Crisis in Paradise* 3 (Sept. 2003).

¹⁹ *An Epidemic* at 17-18.

²⁰ *Surgeon General at 200*; Patricia Barnes, *Physical Activity Among Adults: United States, 2000*, Advance Data, No. 333, U.S. Dept. Health and Human Services (May 14, 2003); Policy Link, *Regional Development and Physical Activity: Issues and Strategies for Promoting Health Equity* 9-12 (Nov. 2002) ("*Policy Link*").

stroke, are included.²¹ In California, African Americans, Native Americans, Latinos, and older Asians have higher rates of diabetes than do whites.²² During the past decade, hypertension increased the most among black women and the least among white men.²³

EPA cannot legitimately consider the impact of environmental policies and practices and human health without considering race, ethnicity, color, national origin or income.

V. Transportation Justice

Transportation is an essential component of achieving environmental justice for all.

Los Angeles is the car capital of the world, but for the working poor and other people with limited or no access to a car who depend on public transit, it can be almost impossible to get to work, school, the market, parks, forests and beaches, doctors, or many other basic needs of life.

The Los Angeles County Metropolitan Transportation Authority (MTA) is under a court order to improve transit for all the people of the Los Angeles region by investing over \$2 billion in the bus system. MTA agreed to a Consent Decree to settle a historic environmental justice class action charging MTA with operating separate and unequal bus and rail systems that discriminated against bus riders who were disproportionately poor and people of color, the largest civil rights settlement ever. MTA agreed to improve public transit by reducing overcrowding on buses, lowering transit fares, and enhancing county-wide mobility. The case documented the disparities in access to transportation based on race, ethnicity, color, national origin, and income. The attached chapter chronicles this historic struggle for transportation justice: "Crossroad Blues: the MTA Consent Decree and Just Transportation," in the book on transportation justice edited by Professor Karen Lucas, *Running on Empty* (2005), attached as Tab 9.

²¹ *Surgeon General* at 125.

²² UCLA Center for Health and Policy Research, *Diabetes in California: Findings from the 2001 Health Interview Survey*.

²³ Ihab Hajjar, "Trends in Prevalence, Awareness, Treatment, and Control of Hypertension in the United States, 1988-2000," *Journal of the American Medical Association* 199-201 (July 9, 2003).

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Without the use of race and income data MTA would not have to provide adequate transportation for the working poor. The necessity for such information and analysis could not be better highlighted.

VI. Conclusion

EPA must explicitly consider the impact of environmental laws, regulations, and policies on people of color and low income communities. EPA cannot legitimately ignore race, ethnicity, color, national origin or income in assessing the impact of environmental laws, regulations, and policies. Simply stated, when it comes to environmental quality and environmental equality, race and income matter.

Very truly yours,



Robert García
Executive Director



Christopher T. Hicks
Policy Director