ENVIRONMENTAL JUSTICE IN CALIFORNIA STATE GOVERNMENT

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ENVIRONMENTAL JUSTICE IN CALIFORNIA STATE GOVERNMENT

PREFACE

> **Environmental Justice** (EJ) means "the fair treatment of people of all races, cultures and income with respect to development, adoption and implementation of environmental laws, regulations and policies."
>
> Government Code § 65040.12(c)

In California, we have spent over a century and billions of dollars to preserve and protect the environment for current and future generations. The EJ movement asks us to put real people in that environment, particularly the most vulnerable populations such as ethnic minorities, low-income persons, the young and the elderly. In a nutshell, EJ can be said to be the vision and process of creating socially just, sustainable human and ecological systems, where all participate fully in decisions affecting their lives.

The Governor's Office of Planning & Research (OPR) assists the Governor and the Administration in land use planning, research, liaison with local government, small business advocacy, rural policy, and various interagency taskforces. 1999 legislation defined EJ in California law and also established OPR as the coordinating agency in state government for environmental justice (EJ) efforts. The placement of the central EJ program within OPR demonstrates the Legislature's understanding that EJ efforts require coordination at the highest level of state government. Indeed, California is the only state that has placed its EJ effort within the Chief Executive's Office.

The legislation establishing OPR as the "coordinating agency in state government for environmental justice programs" (California Government Code § 65040.12) directs the OPR director to consult with state agencies and interested members of the public and private sectors in this state, coordinate its efforts and share information regarding EJ programs with federal agencies, and review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities.

This policy report is intended to provide a brief history of EJ, report on the status of OPR's efforts, and provide an outline of EJ findings, goals and policies for future EJ efforts within state government. Much work remains to ensure that the most vulnerable of Californians, including people of color and low-income persons, are treated with dignity and respect regarding environmental decisions. OPR views its work thus far as a modest, although significant beginning.

CHAPTER 1: CONTEXT & HISTORY OF ENVIRONMENTAL JUSTICE

Community organizations and EJ activists spearheaded the environmental justice movement across the country. In essence, the EJ movement was the grass-roots response to both public and private sector actions which oftentimes, either intentionally or unintentionally, targeted communities of color and low income populations and/or excluded such communities from the processes by which environmental decisions were made. Historically, many EJ communities have raised issues related to the unequal enforcement of environmental, civil rights, and public laws; differential exposure of minority and low-income populations to health risks in the home, school, neighborhood, and workplace; and, faulty assumptions by government agencies and private entities in calculating and assessing risks to minority and low-income populations. In addition, discriminatory zoning and land use practices and exclusionary policies and practices have limited the effective participation by minority and low-income residents in governmental processes and have fueled the EJ movement.

Many say that the story of modern EJ movement began in the early 1980's in Warren County, North Carolina. There, residents fought the location of a toxic waste landfill in a small town where authorities wanted to bury 32,000 cubic yards of soil contaminated with polychlorinated biphenyl (PCB). The town of Afton was both predominantly African-American and low income. Although the landfill was eventually constructed, national attention was brought to the situation where race, poverty, and inequity seemed to intersect.[1]

Closer to home, in the early 1990's, national attention was focused on a small community in Kings County, California. Kettleman City hosts the largest toxic waste dump west of Alabama and in 1988, the more than 95% Latino farmworker community was faced with the prospect of the creation of another major toxic waste incinerator in their area. Despite the largely Spanish-speaking community, the Environmental Impact Report of nearly 1,000 pages, initially, was not translated into Spanish, nor were adequate translation services provided at the public hearings. In a subsequent lawsuit, the judge ruled that the Kettleman City residents were effectively precluded from meaningful involvement in the California Environmental Quality Act (CEQA) review process. By September 1993, the project proponent, Chem Waste, withdrew its proposal for the toxic waste incinerator.

The City of Bell Gardens, California (in southern Los Angeles County) also garnered national attention in the 1990's. An increased risk for cancer, miscarriage, and catastrophic illness brought focus on two chrome plating plants in particular, but also the several factories and plants located in the largely Hispanic, lower income community. The Suva Elementary and Intermediate Schools are located next to one of the metal plating plants. The high pollution concerns caught the attention of California lawmakers who sought to reform health standards to levels that protect children and not just adults. Although the proposed legislation, AB 278 (Escutia), the Children's Environmental Health Protection Act, was vetoed by then Governor Wilson, the community's point was proven when the Department of Toxic Substances Control concluded its investigative

report of the elementary school. The investigation found an excessive cancer risk to the population and required the plant to reduce its air emissions.

Although initial EJ efforts focused on traditional permitting and siting situations, current thought is that EJ pertains to all facets of life – where people live, play, work, and go to school.

At the national level, EJ policy was spearheaded on February 11, 1994 when President Clinton signed Executive Order (EO) 12898 regarding "Federal Actions to Address EJ in Minority Populations and Low-Income Populations." The EO followed a 1992 U.S. EPA report indicating that "communities of color and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution."

Prior to the passage of recent EJ laws in California, multiple anti-discrimination laws were already in the books. For example, state planning law prohibits any local entity from denying any individual or group of individuals the enjoyment of residence, land ownership, tenancy, or any other land use in California because of the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the individual or group of individuals (California Government Code § 65008). In addition, the Fair Employment and Housing Act (FEHA) specifically prohibits housing discrimination on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, disability, or source of income (California Government Code §12900 et seq.).

California's anti-discrimination laws, combined with the more recently passed EJ-specific laws in California, are a potent combination that calls on California state government to avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations; to prevent the denial of, reduction in, or significant delay in the receipt of lawful benefits by minority and low-income populations of California; and to ensure that the full and fair participation by all potentially affected communities in the decision-making processes.

CHAPTER 2: CALIFORNIA'S ENVIRONMENTAL JUSTICE FRAMEWORK

California has remained a national leader in taking the initiative to protect the environment and the public from environmental and health risks. Governor Davis has signed eight EJ-related bills into law over the last five years, resulting in an EJ framework that provides flexibility and encourages state agencies to explore ways to encourage and ensure EJ. As a whole, California's statutory EJ framework demonstrates a public policy that governmental activities that affect human health or the environment should be conducted in a manner that considers the most vulnerable populations, and ensures that environmental justice principles are adhered to.

In 1999, Governor Davis signed **SB 115 (Solis),** making California the first state in the nation to codify a definition of "environmental justice." SB 115 defined EJ as "the fair treatment of people of all races, cultures and income with respect to development, adoption and implementation of environmental laws, regulations and policies" and established OPR as the coordinating agency for state EJ programs. The bill further required the California Environmental Protection Agency (Cal/EPA) to take specified actions in designing its mission for programs, policies, and standards within the agency, and to develop a model EJ mission statement for its boards, departments, and offices.

In September 2000, the Governor signed a related bill, **SB 89 (Escutia, 2000),** which complements SB 115 by requiring the creation of an EJ working group and a public advisory committee to assist Cal/EPA in developing an interagency EJ strategy. Further, SB 828 (Alarcón, 2000) added due dates for the development of CalEPA's interagency EJ strategy and required CalEPA to address program obstacles impeding EJ.

In 2001, the Governor signed **AB 1553 (Keeley, 2001),** which required OPR to create advisory guidelines addressing EJ considerations in the General Plan Guidelines. In short, these guidelines would propose methods for the equitable distribution of new public facilities, public services, industrial facilities and uses, new schools, and residential dwellings, and expanding opportunities for transit-oriented development.

During Legislative Session 2001-02, the Legislature passed and the Governor signed into law several more bills, which establish the balance of the existing EJ framework for California. **SB 32 (Escutia, 2001)** authorized local governments to investigate and cleanup small parcels of property contaminated with hazardous waste and required the development of a guidance document to assist communities, developers, and local governments in understanding the complicated factors and procedures used for cleaning up hazardous waste. SB 32 also established a pilot project for assessing the usefulness and impact of informational screening numbers, for encouraging the remediation of contaminated property in a study area located in Southern California.

AB 1390 (Firebaugh, 2001) required that air districts with more than one million residents expend specified emission reduction funds in communities with the most significant exposure to air contaminants and in communities of minority and/or low-

income populations, and encouraged districts with less than one million residents to do the same.

SB 1542 (Escutia, 2002) required the Integrated Waste Management Board to provide EJ models and information to local jurisdictions for siting landfills. In addition, SB 1542 added four additional representatives to the existing EJ Advisory Committee from two EJ organizations, one federally-recognized Indian Tribe, and one small business association.

AB 2312 (Chu, 2002) established an EJ Small Grant Program administered by CalEPA. It will provide grants of up to $20,000 to local community nonprofit organizations for projects that address EJ issues.

CHAPTER 3: OPR'S ENVIRONMENTAL JUSTICE PROJECT

There are over 100 state agencies, departments, boards and commissions in California state government. Named in statute as the coordinating body for EJ work within state government, OPR's serves as a clearinghouse of information and central point of contact for EJ efforts involving state government. It also serves as a convenor of multi-agency efforts to address issues of mutual concern. Simultaneously, it serves as the means by which positive, successful examples of public sector EJ work are shared throughout state government. OPR has a number of methods by which it accomplishes its work, the most prominent of which are highlighted below.

EJ Coordinating Committee. OPR has formed a Coordinating Committee made up of the directors of all State Agencies, Boards, Departments, and Constitutional Offices to coordinate the State's EJ efforts. The Coordinating Committee meets quarterly to encourage the state agencies to incorporate EJ into their missions, policies, programs and activities. These meetings have provided state agencies the opportunity to learn about EJ and begin to coordinate their efforts to address EJ issues.

EJ Steering Committee. OPR has also established a steering committee made up of designees of state agency and department directors, which meets monthly to identify ways in which the state can address EJ concerns through statutory, regulatory, or policy and practice reform. The committee makes recommendations to the OPR Director based on its findings. In addition, the steering committee members act as EJ liaisons for their respective departments and agencies and help to achieve a coordinated state response to this very important environmental and civil rights issue.

EJ Listening Sessions & Tours. OPR has encouraged state government officials to learn more about potential EJ issues in their communities by participating in listening sessions and on-site tours. These tours have been led by community-based organizations that coordinate and narrate visits to sites related to EJ issues from the perspective of local community-based organizations. OPR has either participated or organized tours in a number of communities, including Los Angeles, Richmond. San Francisco (Bayview Hunters Point), Daly City (Midway Village), Fort Ord, and Salinas.

Development of Models for Community Partnerships. OPR works with communities across the state to examine ways that State Government can encourage sustainable change in impacted communities of color and/or low-income communities. The Bayview/Hunter's Point community of Southeast San Francisco is one of those communities. The are more than 300 toxic sites in this community as well as a power plant. More than 70% of the residents are African-American. OPR has convened a working group of stakeholders to identify ways to address the EJ issues presented in this community. The stakeholder group includes government agencies, non-profit organizations, the private sector, and residents. The current focus of this effort is the creation of alliances that will bring clean industries and sustainable job development to the area, as well as studying ways to close down the older power plant units while insuring electrical generation and reliability for the San Francisco Bay Area.

State Agency Policy Development. OPR has worked with various state agencies to develop EJ policies and practices. OPR assists these agencies by sharing information about existing policies, statements, and activities, providing individual consultation to agency officials, and providing feedback on proposed policies. In general, these policies address such areas as public participation and outreach, public access to state agency activities and data, research and data collection, enforcement of applicable statutes, and, employee training. five state agencies now have adopted EJ policies and/or EJ statements. In addition, several other state agencies are working toward development of policies. Those agencies that have adopted policies or statements include the California Air Resources Board, Department of Transportation (Caltrans), State Lands Commission, Cal/EPA, and the California Bay Delta Authority.

Employee Training. OPR holds monthly one-day workshops to teach state agency personnel about what EJ is, federal and state laws that address EJ, and how to address EJ issues in their work. As of mid-2003, staff from over 50 state agencies and departments has participated in the training. Thus far, nearly 800 state agency employees have been trained regarding the fundamentals of EJ. At the close of 2002, OPR also arranged for staff from five state agencies to attend a five-day, Training for Trainers workshop, developed by the National Environmental Justice Training Collaborative[2] and sponsored by U.S. EPA, Region IX. Those agencies receiving this advanced training included the California Energy Commission, the Department of Water Resources, the CALFED Bay-Delta Authority, the Department of Toxic Substances Control, and the Department of Health Services.

Cal/EPA EJ Interagency Working Group. OPR is a member of the EJ Interagency Working Group (IWG), established by SB 89 (Escutia, 2000), comprised of the Director of OPR, the Secretary of Cal/EPA, and the directors of each of Cal/EPA's Boards, Departments and Offices. The IWG is charged with identifying gaps in environmental laws, regulations and policies as they relate to EJ and creating a strategy to address such gaps.

Briefings for State Agencies. Over the last several years, OPR has provided briefings to a multitude of state agencies, departments, boards and commissions. These presentations have typically been geared to the needs of the individual organizations, with special attention paid to the level of management and staff being briefed, as well as the mission and objectives of the organization.

Conferences and Seminars. OPR has actively participated in various conferences and events related to EJ. Of particular importance to OPR have been those seminars and events which speak to the interaction of state agencies to impacted EJ communities of color and low-income persons. Among the notable conferences and seminars in this category is the 2nd National People of Color Environmental Leadership Summit, held in Washington DC in 2002 and the National Summit on Equitable Development, Social Justice and Smart Growth, held in Los Angeles, CA in 2002.

CHAPTER 4: STATE AGENCY ENVIRONMENTAL JUSTICE ACTIVITIES

Since the first EJ legislation was signed, many state agencies and departments have embarked on a broad range of EJ activities. From EJ policy development *to* publishing handbooks to engage the public in public processes *to* addressing EJ in environmental documents, these state activities are to be commended for their leadership and helping to lay the foundation for the future of environmental justice. Below are some examples of the most notable efforts.

California Air Resource Board (ARB)
ARB has also take extraordinary steps to address EJ. ARB was the first state entity to adopt an EJ policy. To date, ARB has taken various steps to implement the policy, including, but not limited to, modeling best-practices for public meetings, publishing a public participation handbook for agencies and the public in both English and Spanish, and developing an Air Quality Handbook on Land Use. The draft Air Quality Handbook on Land Use (Handbook) is intended to serve as a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. The Handbook was developed with the assistance of OPR and its 2003 General Plan Guidelines. ARB has also convened a multi-stakeholder EJ group to serve as a forum to discuss its EJ program.

California Bay-Delta Authority (CALFED)
Through CALFED's EJ program, it has made the commitment to address EJ challenges related to the management of water in the Bay-Delta watershed. This commitment has been demonstrated through the establishment of an EJ subcommittee comprised of stakeholders representing people of color and low-income residents of the watershed. The subcommittee has played an active role in disseminating information on water management issues, to EJ communities, including a fact sheet on EJ in both English and Spanish geared towards agencies and the public. CALFED also established an EJ Annual Plan and an EJ Workplan, which outlines a two-tiered approach to addressing a broad set of environmental justice issues in the context of CALFED program implementation. OPR has provided consultation to the Authority in its EJ work.

California Department of Education
The Department's Office of Environmental Education (OEE) is in the process of developing EJ curriculum for K-12 classrooms that can be applied as a part of the environmental curriculum. OEE has presented the materials to OPR's EJ Steering Committee for input and consultation. OPR has shared examples of its EJ curriculum with OEE to assist OEE in its efforts.

California Environmental Protection Agency (CalEPA)
CalEPA has established a model EJ program that involves an Interagency Working Group on Environmental Justice, a multi-stakeholder Advisory Committee made up of 17 members to guide program and policy development and to develop an EJ Strategy for the Agency. Following an 18-month public process, the Advisory Committee approved their Recommendations on Environmental Justice by consensus, with one dissenting vote, on

September 30, 2003. The Interagency Working Group, which includes the Office of Planning and Research (OPR), will consider the Recommendations as it develop its EJ Strategy. Additionally, CalEPA is in final phase of writing regulations for an EJ Small Grants Program to support grassroots communities in finding solutions to environmental issues. Other entities within CalEPA have also engaged in EJ activities. For example, the Department of Toxic Substances Control has released a draft EJ policy for public comment.

California Department of Health Services (DHS)
In recognition of the possible links between environmental hazards and chronic diseases, DHS has embarked on a historic effort in the state to develop the California Environmental Health Tracking Program (CEHTP). The CEHTP is a collaborative initiative of the Department of Health Services, the Office of Environmental Health Hazard Assessment, and the University of California. It involves the systematic collection, integration, analysis, interpretation, and dissemination of data about environmental hazards and exposure to environmental hazards.

The CEHTP originated with funding from the Centers for Disease Control and Prevention (CDC) to develop a nationwide environmental health tracking network and to increase environmental health tracking capacity within state and local health departments. By developing new information about the links between health and environmental factors, California may be able to replace costly treatment of chronic disease with cost-effective prevention. To date, an expert working group and a planning consortium, including a representative of OPR, has convened to provide guidance for the development of the tracking system. The three-year effort will yield invaluable insight regarding environmental exposures and California communities, including communities of color and low-income persons.

California Resources Agency
The Resources Agency has finalized an Environmental Justice Policy that includes a mission statement, background, policy statement, and a framework for its implementation program. In addition, Resources Agency convenes interagency meetings of EJ staff involved to discuss EJ efforts. OPR has provided consultation to Resources in its policy development and as it embarks on phase two of CEQA amendments to address EJ.

Various departments within The Resources Agency have also taken the initiative to address EJ. For example, the Director of the Department of Water Resources has distributed a letter affirming DWR's commitment to EJ and has also appointed an EJ point-of-contact for all EJ matters. This contact has since received training to conduct the Fundamentals of Environmental Justice training, along with an EJ contact within the California Energy Commission (CEC). DWR has also included EJ as a core training requirement for all DWR staff. Additionally, the California Conservation Corps (CCC) is taking steps to integrate EJ into its programs and policies. More specifically, the CCC is folding EJ information into their traditional environmental education curriculum.

California Energy Commission (CEC)
The CEC has conducted EJ analyses as part of its certification process for more than 50 large thermal power plants over the past eight years, and also has been an active and long-term participant in the OPR EJ Steering Committee. The CEC has provided presentations on its EJ approach at OPR EJ Coordinating Committee meetings and at various other environmental justice related forums sponsored by government and private entities. The CEC has made many improvements to its EJ analysis approach over the years, and has also begun providing in-house EJ training to its staff.

California State Lands Commission (SLC)
SLC adopted an EJ policy in October 2002 after distributing an interim policy to 51 EJ and community organizations throughout California for comment. In its policy, the SLC "pledges to continue and enhance its processes, decisions, and programs with EJ as an essential consideration." The policy also cites the definition of EJ in state law and points out that this definition "is consistent with the Public Trust Doctrine principle that the management of trust lands is for the benefit of all of the people."[3] The SLC was aided in its drafting efforts by OPR, which provided background information and examples of EJ policies and statements from both the public and private sector.

California Department of Transportation (Caltrans)
Caltrans has also proven to be state department that is committed to EJ. Caltrans released a Director's Policy and a Deputy Directive in November of 2001, which lists specific responsibilities for various levels of staff to address EJ. Caltrans has also administered the Environmental Justice: Context-Sensitive Planning Grant Program over the last three fiscal years. The purpose of this EJ grant is to promote more public involvement by diverse and under-served communities in the planning for transportation projects to prevent or mitigate disproportionate, negative impacts of plans and projects while improving their mobility, access, equity, and quality of life. Outside state agency staff also assist in reviewing these EJ grant application, including the OPR. OPR has also assisted Caltrans in providing EJ training to local communities.

California State and Consumer Services Agency
The State and Consumer Services Agency (SCSA), encompassing twelve departments, commissions, and boards, has been an active participant in the OPR EJ Steering Committee. The SCSA has sponsored an EJ briefing for its Executive Team. SCSA houses such key entities as the Departments of General Services and Fair Employment and Housing. Both departments have participated in OPR's EJ training course.

In addition, the Department of Consumer Affairs, Bureau of Automotive Repair (BAR), which implements California's Smog Check program, has made its "Smog Check Assistance Program" accessible to low-income communities in California through a targeted outreach effort. Its Assistance Program pays up to $500 in emissions-related diagnostic and repair services to those car owners who meet eligibility criteria. The program assists in removing tons of harmful pollutants from the air. BAR staff have taken the program to specific areas of the state, not usually benefiting from the program, including inner cities and the Central Valley.

Chapter 5: Environmental Justice and Social Equity

During our lifetimes, the state's population has grown at an unprecedented pace: the change in the racial and ethnic composition of the population has been more than dramatic. Indeed both changes have happened within a very narrow window of time.

More than 40 percent of California's diverse population of 34 million people are now people of color. Major ethnic groups include Hispanic (32.4%), Asian (10.9%), and African American (6.7%). In addition, California has a significant Native American population, whose culture and religious practices have implications for the type of environmental activities that lie at the hear of OPR's planning and policy development responsibilities.

The demands on state government to address the challenges of such growth and change are enormous. How do we meet such needs as housing, workforce development, education, and environmental protection so that California can continue to thrive? And just as importantly, how we can promote a synergy among the environment, the economy and the people to create sustainable change. In a nutshell, EJ can be said to be the vision and process of creating socially just, sustainable human and ecological systems. With California being the largest economy in the nation and the fifth largest in the world, much is at stake. OPR has also engaged in numerous activities to explore the relationship between environmental justice, social equity and sustainability. Below is a summary of some of these activities.

EJ Forums. In January and February of 2002, OPR hosted four EJ Forums around the state. These Forums were an opportunity for OPR and its partner state agencies to hear first-hand information from EJ communities and Tribes as to how government can improve public processes to encourage public participation in governmental decision making. The comments received during the Forums proved to be invaluable to the development of the General Plan Guidelines discussed below.

General Plan Guidelines. For the first time, EJ concepts and considerations are addressed in the general plan guidelines, as required by AB 1553 (Keeley, 2001). This is particularly important given the fact that land-use decisions can oftentimes be used to promote or discourage EJ efforts. Although, as noted above, the original EJ movement was focused on permitting and siting decisions by government agencies, most EJ advocates today define EJ broadly. These advocates have moved the EJ concept beyond the tie to the natural environment, and apply it to virtually all aspects of peoples' lives – where people live, work, play, and learn. Thus, from this

> "The primary purpose of planning, and the source of government authority to engage in planning, is to protect the public health, safety, and welfare. Incompatible land uses may create health, safety, and welfare issues for the community… environmental justice problems indicate a failure of land use planning to deliver on its original promise—reducing the harmful effects of incompatible land uses."
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> *General Plan Guidelines (2003)*

vantage point, EJ cannot be severed from all other aspects of government decision-making, whether that be in the realm of economic development, transportation, housing, energy, or the natural environment.

The General Plan Guidelines (GP Guidelines) emphasize that problems of EJ can be broken down into two categories: procedural inequity and geographic inequity. In other words, unfair treatment can manifest itself in terms of process or in terms of results. In the Environmental Justice Chapter of the GP Guidelines, public participation is discussed in terms of the way in which community involvement in the planning process is an integral part of EJ. A full chapter in a different part of the GP Guidelines is dedicated to the topic of Public Participation. A central theme to the EJ discussion in the GP Guidelines is that of compatibility, a seminal land use concept. The GP Guidelines point out that residential and school uses are harmed by incompatible land uses that result in such environmental effects as noise, air emissions (including dust), and exposure to hazardous materials. The compatibility problem also operates in reverse. Incompatible uses adjacent to residential units, schools, or environmentally sensitive areas may also suffer negative consequences in the form of higher mitigation costs or the curtailment of economic activities. Specific examples of land use incompatibility are provided.

Finally, an important addition to the 2003 GP Guidelines is the discussion on the relationship between environmental justice and the general plan. In this discussion, the various options of how cities and counties may want to approach environmental justice integration in their respective general plans are provided.

> "As the primary agency with responsibility for approving changes in boundaries, LAFCOs play an important role in coordinating growth and ensuring that proposed changes are consistent with environmental justice obligations."
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> *LAFCO Municipal Service Review Guidelines (2003)*

LAFCO Guidelines. Local Agency Formation Commissions (LAFCO) are quasi-legislative local agencies created in 1963 to assist the state in encouraging the orderly development and formation of local agencies. LAFCOs were created to act, where appropriate, to minimize the effects of unchecked urban sprawl upon finite prime agricultural and open space land resources, through their decisions on city incorporations, city annexations, and service district boundary changes. AB 2838, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) made substantial changes to how LAFCO's operate and increased the specific authorities and responsibilities of LAFCOs related to environmental justice and smart growth. OPR was charged with developing guidelines for LAFCOs to follow when considering city incorporations and municipal service reviews.

The 2003 Municipal Service Review (MSR) Guidelines describe the framework for developing an effective municipal review process which reflects the laws and policies related to civil rights and environmental justice. EJ has implications for municipal service reviews, as the nine determinations relate to the provision of services to whole communities including those that may have been historically underserved and/or environmentally overburdened.

The 2003 MSR Guidelines address EJ by encouraging greater transparency in the LAFCO decision making process through greater public participation and education, clearly articulated local policies and procedures, minimum public review periods, and adoption of a long range work plan. The 2003 MSR Guidelines also encourage multi-county service reviews where appropriate, and incorporation of municipal service reviews with other LAFCO approvals/actions. The guidelines also encourage LAFCOs to act as facilitators for community concerns, recognize communities of interest, and incorporate municipal service reviews with other LAFCO approvals/actions.

The Environmental Goals & Policy Report. The Governor is required to prepare a comprehensive State Environmental Goals and Policy Report (EGPR) every four years. The report must contain: (a) A long-range (20-30 year) overview of state growth and development; (b) A statement of approved state environmental goals and objectives, including those directed to land use, population growth and distribution, development, conservation of natural resources, and air and water quality; and (c) A description of new and revised state policies, programs, and other actions of the executive and legislative branches required to implement the approved goals.[4] The goals included in the EGPR must be consistent with the three state planning priorities established under AB 857 (Wiggins, 2002), which are intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety in the state, including in urban, suburban, and rural communities. These priorities are to: (1) promote infill development and equity; (2) protect environmental and agricultural resources; and (3) encourage efficient development patterns.

> "Although health disparities [in low-income populations and people of color] are attributable to a number of other factors, including genetics, health problems are exacerbated by low wages, lack of educational attainment, poor housing conditions, poor access to health care facilities, and environmental injustice."
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> *Environmental Goals and Policy Report (2003)*

The 2003 EGPR marks the first time in 25 years that a Governor of California has attempted to address the issue of growth and development on a statewide scale. It analyzes the current context of our environmental, economic and social setting; the driving forces behind growth and development; and the outside influences that affect many of the State's actions, policies, and programs. Based on this analysis of existing conditions and influences, the EGPR proposes several cross-cutting and integrated goals and policies for the State of California which will allow it to achieve the overarching goal of sustainable development.

The 2003 EGPR addresses EJ in the context of the bigger social equity problem. Sustainable development is discussed as an attempt to reduce the negative impacts associated with development of our land and our communities. It does this by attempting to balance the effects of development on the environment, the economy and equity, or the "Three Es". Equity is the least understood and most overlooked of these three, perhaps because it is the hardest to define and measure. Equity is achieved when community resources are equally distributed to, and accessible by all segments of the population. Equity is often referred to as social equity, but the topic of equity includes economic and

environmental issues when they are related to quality of life. The 2003 EGPR recognizes EJ in terms of environmental inequity. It also reveals that health problems are only exacerbated by low wages, lack of educational attainment, poor housing conditions, poor access to health care facilities, and environmental injustice.

CHAPTER 6: ENVIRONMENTAL JUSTICE FINDINGS, GOALS, AND POLICIES

California's environmental justice efforts are no longer in its infancy stages. Rather, the Legislature and public agencies have laid a foundation that is strong, embarked on public processes that are thriving, and developed relationships that are continuing to grow. This momentum must continue. To ensure the continued direction toward environmental justice, state agencies must consider the following goals and policies in their respective programs, policies, medium- and long-range plans, and environmental decision-making.

Acting in OPR's statutory role as the coordinating agency in state government for environmental justice programs (Government Code § 65040.12), following is a listing of findings by OPR in its work with various public agencies.

FINDINGS

- EJ issues involve emotion, race, poverty and power; raise broad community concerns; are sometimes difficult to identify; usually cross government agency boundaries; often reveal a lack of trust in institutions; take time and excellent communication skills; do not lend themselves to any "one" solution; often involve legal authorities and legal challenges; and often present complex environmental and economic issues.

- An effective EJ program will address at least five programmatic areas, including leadership and accountability, planning and priority setting, adequate allocation of resources, public participation and capacity building with communities, and sustainability.

- State agencies have significant flexibility to move beyond meeting minimum environmental requirements and can employ their discretionary decision-making in creative and appropriate ways to address EJ issues within their purview.

- Those state agencies that have made the most progress:

  - Have developed or are in the process of developing long-term partnerships with the communities they serve. In this case, this includes the collaborative participation of local government officials, the business and academic communities, and EJ advocates and residents;
  - Have been willing to ask themselves the oftentimes difficult questions of who gains benefits and who loses benefits by proposed actions or decisions; and
  - Have been willing to identify at-risk communities and target their resources to those communities. Those same state agencies have begun to examine their own data collection practices to determine whether or not they need to gather data at new or different levels than previously done.

The goals and policies set forth below are in part a response to OPR's findings and in part echoed in some of the recommendations adopted by the Cal/EPA EJ Advisory Committee

and subsequently endorsed by the Cal/EPA Interagency Working Group on a conceptual level as they developed their agencywide EJ strategy.[5]

OBJECTIVE

To ensure 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.

GOAL 1 A state government that is inclusive and responsive to people of all races, cultures and incomes with respect to development, adoption and implementation of environmental laws, regulations and policies.

Policy A The state shall promote meaningful public participation.

Action Items

- OPR shall provide state agencies and other interested parties with criteria, guidelines, and technical assistance for successful meaningful public participation programs.

Policy B The state shall promote community capacity building to allow affected communities and interested individuals to be effective participants in the development of state plans and policies, and decision-making processes.

Policy C The state shall encourage increased civic engagement through increased public access to information, technical assistance, and resources necessary for meaningful participation in the development of state plans and policies, and decision-making processes.

Policy D The state shall encourage the collaboration between public agencies and community-based organizations, community adult-education programs and youth development groups in order to increase awareness and engagement by under-represented groups in the development of government plans and policies, and decision-making processes.

Action Items

- OPR shall extend staff training opportunities to stakeholders, including state and local agencies that interact with communities on EJ-related issues.

GOAL 2 A state where people of all races, cultures and incomes are ensured a healthy environment.

Policy A The state shall integrate environmental justice into the development, adoption and implementation of environmental laws, regulations and policies.

Action Items

- OPR shall provide offer training to state agencies and other interested parties on the fundamentals of environmental justice.
- OPR shall collaborate with other state agencies to tailor environmental justice training for technical staff (e.g., those responsible for power plant permitting, etc.)
- OPR shall conduct an annual survey of state agencies of their year-to-date EJ activities.
- OPR shall convene a conference of all state agencies to examine their progress toward EJ with a focus on how they can contribute to capacity building with ethnic and low-income communities so that the communities can be full partners with state government in identifying and meeting EJ challenges.
- Appropriate state agencies and departments shall collaborate with local governments, federal agencies, environmental justice and community groups

Policy B The state shall encourage the approach that it is not necessary or appropriate to wait for actual, measurable harm to public health or the environment before evaluating alternatives that can prevent or minimize harm.

Policy C The state shall examine the possibility of developing EJ-related language for the next update to the *CEQA Guidelines*.

GOAL 3 A state with environmental justice leadership and stewardship across all state agencies.

Policy A The state shall make a commitment to achieving environmental justice.

Action Items

- The Governor shall release an executive order expressing California's commitment to environmental justice.
- The Director of OPR shall release implementation and technical guidance in order to assist state government agencies.

Policy B The state shall ensure effective cross-media coordination in addressing environmental justice issues.

APPENDICES

California State Government Environmental Justice Contacts

Name	Agency	Division	Phone	Email
Murchison, Linda	Air Resources Board		(916) 322-5350	lmurchis@arb.ca.gov
Prasad, Shankar B.	Air Resources Board		(916) 323-2559	sprasad@arb.ca.gov
Chang, John	Board of Equalization		(213) 239-8506	joan.groener@boe.ca.gov
Kenneth McGhee	California Bay-Delta Authority	Environmental Justice Coordinator	(916) 445-0740	kmcghee@calwater.ca.gov
Miller, John	California Conservation Corps		(916) 341-3171	Jmiller@ccc.ca.gov
Rodriguez, Richard	California Conservation Corps		(916) 341-3153	RicoR@ccc.ca.gov
Edwards, Dale/Ellie Townsend-Hough	California Energy Commission	Cultural, Visual and Socioeconomics Unit	(916) 654-5139/ 654-3843	dedwards@energy.state.ca.us
Pascual Romel/Malinda Hall	California Environmental Protection Agency		(916) 324-8425	RPascual@CALEPA.ca.gov/ mhall@calepa.ca.gov
Perez, Stan	California Highway Patrol		(916) 445-3253	Sperez@chp.ca.gov
Brown, Vincent P.	California Public Employees' Retirement System	Financial and Administrative Services	(916) 658-1251	vince_brown@calpers.ca.gov
Davis, Pamela	California State Library	California Research Bureau	(916) 653-5562	pdavis@library.ca.gov
Loehr, Nicholas	Department of Alcohol Beverage Control		(916) 263-6896	N.Loehr@abc.ca.gov
Fisher, Joy	Department of Boating & Waterways		(916) 263-0782/ 263-1331	jfisher@dbw.ca.gov
Morhar, Lee	Department of Child Support Services		(916) 464-5181	lee.morhar@dcss.ca.gov
Baskerville, Anastasia	Department of Conservation		(916) 323-6733	abaskerv@consrv.ca.gov
Crooks, Steven R.	Department of Fair Employment and Housing		(916) 227-2883	steven.crooks@dfeh.ca.gov
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Robertson, Allen	Department of Forestry & Fire Protection		(916) 657-0300	allen.robertson@fire.ca.gov
Jones, Lisa	Department of General Services	Office of Public School Construction	(916) 322-1043	Lisa.Jones@dgs.ca.gov
Sleppy, Bob	Department of General Services	Real Estate Services	(916) 376-1600	Bob.Sleppy@dgs.ca.gov
Mack, Maura D.	Department of Health Services	Occupational & Environmental Disease Control	(510) 622-4414	mmack@dhs.ca.gov
Neutra, Raymond	Department of Health Services	Occupational & Environmental Disease Control	(510) 622-4905	rneutra@dhs.ca.gov
Smith, Steven C.	Department of Industrial Relations	Occupational Safety and Health	(916) 574-2996	ssmith@hq.dir.ca.gov
Lee, Nancy O.	Department of Insurance		(916) 492-3503	nlee@insurance.ca.gov
Peter, Ellen M.	Department of Justice	Attorney General's Office	(916) 324-5359	Ellen.Peter@doj.ca.gov

California State Government Environmental Justice Contacts

Name	Agency	Division	Phone	Email
Booth, Harry	Department of Mental Health	Hospital Operations	(916) 654-2652	hbooth@dmhhq.state.ca.us
Mitchel, Sedrick	Department of Parks & Recreation		(916) 654-2144	smitc@parks.ca.gov
Jolley, Lynelle	Department of Personnel Administration		(916) 322-5193	Lynelle.jolley@dpa.ca.gov
Helliker, Paul	Department of Pesticide Regulation		(916) 445-4000	phelliker@cdpr.ca.gov
Surjan, Nicholas	Department of Pesticide Regulation	Agriculture Program	(916) 324-4100	nsurjan@cdpr.ca.gov
Brendia, Randy	Department of Real Estate		(916) 227-0770	Randy_Brendia@dre.ca.gov
Wilson, Melinda G.	Department of Rehabilitation	Administration	(916) 263-8997	mgwilson@dor.ca.gov
Rodriguez, Jeanne	Department of Social Services		(916) 654-2474	Jrodrigez@dss.ca.gov
King, Gregory P.	Department of Transportation	Cultural and Community Studies	(916) 653-0647	greg_king@dot.ca.gov
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Cross, Barbara L.	Department of Water Resources	Land and Water Use Section	(916) 653-5150	bcross@water.ca.gov
Lowder, Mark	Employment Development Department		(916) 653-7990	mlowder@edd.ca.gov
Gonzalez, Lorena	Lieutenant Governor's Office	San Diego Office	(619) 525-4305	Lorena.Gonzalez1@ltg.ca.gov
Myers, Larry	Native American Heritage Commission		(916) 653-4082	lm_nahc@pacbell.net
Zocchetti, David	Office of Emergency Services		(916) 845-8510	David_Zocchetti@oes.ca.gov
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STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

INTERAGENCY WORKING GROUP ON ENVIRONMENTAL JUSTICE

RESOLUTION

October 14, 2003

WHEREAS, the California Environmental Protection Agency (Agency) Interagency Working Group on Environmental Justice (IWG) – consisting of the Secretary of the Environmental Protection Agency (Secretary), the Chairpersons of the California Air Resources Board, the State Water Resources Control Board and the California Integrated Waste Management Board, and the Directors of the Office of Environmental Health Hazard Assessment, the Department of Toxic Substances Control, and the Department of Pesticide Regulation, and the Director of the Governor's Office of Planning and Research – was established by Public Resources Code section 71113 and convened by the Secretary for the purpose of developing an environmental justice strategy for the Agency;

WHEREAS, the California Environmental Justice Advisory Committee (Committee) consisting of 17 members representing the perspectives of land use planning agencies, air pollution control districts, Certified Unified Program Agencies, environmental organizations, large and small businesses, community organizations, federally recognized Indian tribes and environmental justice organizations was established by Public Resources Code section 71114 and appointed by the Secretary for the purpose of advising the IWG concerning the development of the Agency Environmental Justice Strategy;

WHEREAS, the Committee has conducted an extensive process to solicit and consider public input into its recommendations and advice to the IWG concerning the issues to be considered, goals to be set and actions to be taken concerning environmental justice and the development of the Intra-Agency strategy, and has developed and presented on October 1, 2003 a comprehensive Report and Recommendations to the IWG;

WHEREAS, the members of the IWG have reviewed the Committee Report and Recommendations, and having discussed them at an open and public meeting and following hearing of public comment and input on October 14, 2003, accepts the Report

and Recommendations from the Committee and fully supports the concepts included in the four goal statements in the report:

1. Ensure meaningful public participation and promote community capacity building to allow communities to be effective participants in decision-making processes.

2. Integrate environmental justice into the development, adoption, implementation and enforcement of environmental laws, regulations and policies.

3. Improve research and data collection to promote and address environmental justice related to the health and environment of communities of color and low-income populations.

4. Ensure effective cross-media coordination and accountability in addressing environmental justice issues.

WHEREAS, the IWG agrees with the concepts contained in the various recommendations included in the Committee's report and intends, within its legal authority to do so and as resources allow, to implement those recommendations the Agency and its BDO's determine to be reasonable and feasible;

WHEREAS, the IWG finds that:

The Committee Report and Recommendations is substantially consistent with the requirements of Public Resources Code section 71113(b) that requires the IWG, with the help of the Committee to:

(1) Examine existing data and studies on environmental justice, and consult with state, federal, local agencies, and affected communities.

(2) Recommend criteria to the Secretary for Environmental Protection for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.

(3) Recommend procedures and provide guidance to the California Environmental Protection Agency for the coordination and implementation of intra-agency environmental justice strategies.

(4) Recommend procedures for collecting, maintaining, analyzing, and coordinating information relating to an environmental justice strategy.

(5) Recommend procedures to ensure that public documents, notices, and public hearings relating to human health or the environment are concise, understandable, and readily accessible to the public. The recommendation shall include guidance for determining when it is appropriate for the California Environmental Protection Agency to translate crucial public documents, notices, and hearings relating to human health or the environment for limited-English-speaking populations.

(6) Hold public meetings to receive and respond to public comments regarding recommendations required pursuant to this section, prior to the finalization of the recommendations. The California Environmental Protection Agency shall provide public notice of the availability of draft recommendations at least one month prior to the public meetings.

(7) Make recommendations on other matters needed to assist the agency in developing an intra-agency environmental justice strategy.

NOW, THEREFORE BE IT RESOLVED that, the IWG endorses the Committee Report and agrees to use the goals and recommendations contained in it to provide the structure for development of the Intra-Agency Environmental Justice Strategy.

BE IT FURTHER RESOLVED that the IWG will work with the Committee to develop the Strategy document by not later than December 31, 2003, including implementation plans that set out the steps the Agency, each BDO and OPR will individually and collectively, as appropriate, take to begin working toward achievement of the goals set out in the Report.

The undersigned Interagency Working Group on Environmental Justice does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the Interagency Working Group held in Sacramento, California on October 14, 2003.

Winston H. Hickox
Secretary, California Environmental Protection Agency &
Chair, Interagency Working Group on Environmental Justice

Tal Finney
Interim Director, Governor's Office of Planning & Research

Alan Lloyd
Chair, CA Air Resources Board

Ed Lowry
Director, Department of Toxic Substances Control

Linda Moulton-Patterson
Chair, CA Integrated Waste Management Board

Paul Helliker
Director, Department of Pesticide Regulation

Celeste Cantú
Executive Director, State Water Resources Control Board

Joan Denton
Director, Office of Environmental Health Hazard Assessment

OPR Environmental Justice Workshops

WHEN: Every Fourth Tuesday of each Month
9:00 a.m. to 5:00 p.m.

WHERE:
Gregory Bateson State Office Building
Office of Statewide Health Planning & Development
1600 Ninth Street, Rm. 470
Sacramento, CA

The Governor's Office of Planning and Research (OPR) conducts a one-day Environmental Justice workshop on the Fourth Tuesday of each month. According to California law, Environmental Justice (EJ) is the "fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws and policies." (Government Code § 65040.12(c))

These free workshops are geared primarily towards California State agency and department heads, their designees, and key personnel. These workshops are NOT lectures, so be prepared to roll up your sleeves and get actively involved. We will be addressing issues such as:

- What is environmental justice?
- Why should I care?
- What functions does my agency or department perform that may have significant effects on the environment and human health regardless of whether such functions are traditionally thought of as environmentally related?
- How can my agency better ensure that Californians who are of color or are poor are not disproportionately burdened by environmental hazards?
- What are other state agencies doing to implement environmental justice in their work?

The Workshops are free to State agency personnel. Space is limited, so if you are interested, please RSVP your reservation to Tricia Valenzuela at Tricia.Valenzuela@opr.ca.gov. Light reading and a survey will be assigned by e-mail prior to the workshop after receipt of your e-mailed RSVP. If you have special accomodation or language needs, please contact Tricia Valenzuela at 322-3932. Thank you.

STATE OF CALIFORNIA

Governor's Office of Planning and Research

Environmental Justice Resource List

Studies & Reports

- **Environmental Justice: A Review of State Responses 2001**
  In an effort to provide guidance to the California Environmental Justice Workgroup in implementing SB 115, this report provides a brief overview of the federal environmental justice framework and a more comprehensive look at state environmental justice programs.
  http://www.uchastings.edu/plri/PDF/environjustice.pdf
- **EJ in Los Angeles** http://www.bol.ucla.edu/~ajays
- **Brookings Institute on EJ** http://www.brook.edu/gs/envjustice/ej_hp.htm
- **National Academy of Public Administration – Environmental Justice in EPA Permitting** http://www.napawash.org/napa/index.html

State Links

- **Governor's Office of Planning and Research – Environmental Justice**
  http://www.opr.ca.gov (EJ on right hand side of webpage)
- **California Environmental Protection Agency Environmental Justice Program**
  http://www.calepa.ca.gov/EnvJustice
- **Caltrans, Office of Policy Analysis and Research – Environmental Justice Grants** http://www.dot.ca.gov/hq/tpp/offices/opar/titleVI.htm

Federal Links

- **CALFED Bay-Delta Program** http://calfed.ca.gov
  - **CALFED Agencies**
    http://calfed.ca.gov/adobe_pdf/CALFED_Agencies1.pdf
- **Federal Agency Environmental Justice Information** http://es.epa.gov
- **National Environmental Justice Advisory Council**
  http://es.epa.gov/oeca/main/ej/nejac/index.html
- **U.S. Department of the Interior (DOI)** http://www.doi.gov/oepc/ej2.html
- **U.S. Department of Transportation, Federal Highway Administration/Federal Transit Administration (FHWA/FTA)**
  http://www.fhwa.dot.gov/environment/ej2.htm
- **U.S. EPA Office of Environmental Justice** http://es.epa.gov/oeca/main/ej
- **U.S. EPA, Office of Solid Waste & Emergency Response (OSWER)**
  http://www.epa.gov/swerosps/ej/html-doc/ejpolicy.htm

1400 10th Street
Post Office Box 3044
Sacramento, California 95812-3044
(916)322-2318 FAX(916)324-9936 www.opr.ca.gov

- **U.S. EPA Region 9 Environmental Justice Program**
  http://www.epa.gov/region09/cross_pr/ej
- **U.S. EPA – Environmental Justice Small Grants Program**
  http://es.epa.gov/oeca/oej/grlink1.html

California Environmental Justice Legislation

- **Assembly Bill 970** (Ducheny, Statutes of 2000)
- **Assembly Bill 1390** (Firebaugh, Statutes of 2001)
- **Assembly Bill 1553** (Keeley, Statutes of 2001)
- **Assembly Bill 857** (Wiggins, Statutes of 2002)
- **Assembly Bill 2312** (Chu, Statutes of 2002)

- **Senate Bill 115** (Solis, Statutes of 1999)
- **Senate Bill 89** (Escutia, Statutes of 2000)
- **Senate Bill 32** (Escutia, Statutes of 2001)
- **Senate Bill 828** (Alarcon, Statutes of 2001)
- **Senate Bill 1542** (Escutia, Statutes of 2002)

Suggested changes or additions? Please let us know:

- **Sandra Salazar-Thompson**, OPR Environmental Justice Program Director
  Sandra.Salazar-Thompson@opr.ca.gov
  (916) 324-6660
- **Bonnie Chiu**, OPR Environmental Justice Program Assistant Director
  Bonnie.Chiu@opr.ca.gov
  (916) 323-9033

Senate Bill No. 115

CHAPTER 690

An act to add Section 65040.12 to the Government Code, and to add Part 3 (commencing with Section 72000) to Division 34 of the Public Resources Code, relating to environmental quality.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 115, Solis. Environmental justice.

Under existing law, the Office of Planning and Research serves the Governor and his or her Cabinet as staff for long-range planning and research, and is the comprehensive state planning agency. Existing law, the California Environmental Quality Act, requires the office to prepare, and the Secretary of Resources to certify and adopt, guidelines for use in implementing the act.

Existing law establishes the California Environmental Protection Agency, which is responsible for enhancing the state's protection of the environment.

This bill would provide that the office is the coordinating agency in state government for environmental justice programs. The bill would require the Director of Planning and Research to consult with the secretaries of specified state agencies, and other parties to coordinate the office's efforts and, share specified information with certain federal agencies, and review and evaluate other federal information, as provided. The bill would define ''environmental justice'' to mean the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies. The bill would require the California Environmental Protection Agency to take specified actions in designing its mission for programs, policies, and standards within the agency, and to develop a model environmental justice mission statement for boards, departments, and offices within the agency, by January 1, 2001.

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

SECTION 1. Section 65040.12 is added to the Government Code, to read:

65040.12. (a) The office shall be the coordinating agency in state government for environmental justice programs.

(b) The director shall do all of the following:

(1) Consult with the Secretaries of the California Environmental Protection Agency, the Resources Agency, the Trade and Commerce Agency, the Business, Transportation, and Housing Agency, any other appropriate state agencies, and all other interested members of the public and private sectors in this state.

(2) Coordinate the office's efforts and share information regarding environmental justice programs with the Council on Environmental Quality, the United States Environmental Protection Agency, the General Accounting Office, the Office of Management and Budget, and other federal agencies.

(3) Review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities under federal Executive Order 12898.

(c) 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.

SEC. 2. Part 3 (commencing with Section 72000) is added to Division 34 of the Public Resources Code, to read:

PART 3. ENVIRONMENTAL JUSTICE

72000. The California Environmental Protection Agency, in designing its mission for programs, policies, and standards, shall do all of the following:

(a) Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

(b) Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations in the state.

(c) Ensure greater public participation in the agency's development, adoption, and implementation of environmental regulations and policies.

(d) Improve research and data collection for programs within the agency relating to the health of, and environment of, people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

(e) Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the agency.

72001. On or before January 1, 2001, the California Environmental Protection Agency shall develop a model

environmental justice mission statement for boards, departments, and offices within the agency. For purposes of this section, environmental justice has the same meaning as defined in subdivision (c) of Section 65040.12 of the Government Code.

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APPENDIX F

STATE AGENCY EJ POLICIES

California Environmental Protection Agency (Cal/EPA)
Air Resources Board (ARB)
Department of Pesticide Regulation (DPR)
Department of Toxic Substances Control (DTSC)

California Resources Agency
California Bay-Delta Authority (CALFED)
State Lands Commission (SLC)

California Department of Transportation (Caltrans)

Winston H. Hickox
Agency Secretary, Cal/EPA

State of California
California Environmental Protection Agency

Gray Davis
Governor

Air Resources Board | Department of Pesticide Regulation | Department of Toxic Substances Control
Integrated Waste Management Board | Office of Environmental Health Hazard Assessment | State Water Resources Control Board | Regional Water Quality Control Board

MEMORANDUM

TO: All Cal/EPA Employees

FROM: Winston H. Hickox
Agency Secretary

Winston H. Hickox

DATE: March 29, 2002

SUBJECT: CAL/EPA'S COMMITMENT TO ENVIRONMENTAL JUSTICE

California has long been a pioneer in taking initiative to reduce environmental and public health risks posed by air and water pollution, solid and hazardous waste management, and pesticide application. In this tradition, our Golden State stands as one of the nation's leaders on the issue of environmental justice, being one of the first states in the Nation to have passed legislation to codify environmental justice in state statute; in fact, Governor Davis signed six bills related to environmental justice since 1999.

Cal/EPA is firmly committed to the achievement of environmental justice. Environmental justice for all Californians is an Agency priority.

Accordingly, we must continue to seek opportunities to implement environmental justice principles, **especially those with a concerted, cross-media approach** to ensure the integration of environmental justice into all programs, policies, and activities within our Boards, Departments, and Office (BDOs).

Our environmental justice mission reflects the Agency's commitment to this issue:

> *"To accord the highest respect and value to every individual and community, the Cal/EPA and its BDOs shall conduct our public health and environmental protection programs, policies and activities in a manner that is designed to promote equality and afford fair treatment, full access and full protection to all Californians, including low income and minority populations."*

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, check out www.flexyourpower.ca.gov.

1001 I Street | Sacramento, CA 95814
phone: 916.445.3846 | fax: 916.445.6401

SUBJECT: CAL/EPA'S COMMITMENT TO ENVIRONMENTAL JUSTICE

As I've stated before, "Protecting human health and the environment is a job that is never done" and indeed, the opportunities for analysis and action for environmental justice in California are varied and great. The goal of our mission will be attained when all Californians, regardless of race, culture, or income, enjoy the same degree of protection from environmental and health hazards and equal access to our decision-making processes.

Environmental justice is defined in statute 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." (Government Code Section 65040.12)

Statute obligates the Agency and its BDOs to do the following:

- Conduct all programs, policies, and activities within Cal/EPA and it's BDOs in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State;

- Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of all Californians, irrespective of race, culture, and income;

- Ensure greater public participation from environmental justice stakeholders in the development, adoption, and implementation of environmental regulations and policies;

- Improve research and data collection for programs relating to the health and environment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State.

- Identify among people of different socioeconomic classifications differential patterns of consumption of natural resources for our programs.

Clearly, there is no one simple solution to environmental injustice, but rather a host of existing procedural and programmatic tools available to address the issue. In order to achieve meaningful environmental justice, we should, as a procedural and practical matter:

- Enhance our mechanisms for public involvement and input at all levels of the decision-making process to ensure early, accessible and meaningful participation of all stakeholders (e.g. fact sheets, availability of language translation, and enhanced public outreach);

- Invest in capacity development of all stakeholders, particularly those historically not engaged in the decision making process (e.g. technical assistance at the community level and leveraging of resources to support local environmental justice efforts);

- Explore opportunities to address environmental justice within current statutory and regulatory structures and identify any necessary changes or clarifications;

- Create partnerships with stakeholders in the environmental decision-making process, understanding that environmental justice requires a collaborative approach at all levels;

- Utilize research and proactive tools and approaches to environmental justice issues, such as cumulative impact analysis and pollution prevention to inform how we prioritize, develop, and implement our efforts to reduce and/or eliminate environmental pollution and deliver the benefits of environmental protection; and

- In light of our State's current economic situation, we must be more vigilant in ensuring environmental justice remains a priority and resources continue to be directed this key issue.

I have asked each of the Boards, Departments, and Office to incorporate environmental justice into their overall strategic plans. This has been accomplished and now we need to move forward in earnest to implement those plans. To assist in our efforts, there are a number of resources I recommend you become familiar with and take advantage of as follows:

- **The Interagency Working Group on Environmental Justice (IWG):** I chair, this Group along with the Governor's Office of Planning and Research Director, including all the heads of the Boards, Departments, and Office within Cal/EPA. The IWG is responsible for guiding programmatic and policy development related to environmental justice;

SUBJECT: CAL/EPA'S COMMITMENT TO ENVIRONMENTAL JUSTICE

- **The External Cal/EPA Advisory Committee on Environmental Justice:** This Committee is made up of various EJ stakeholders from community groups, environmental organizations, business, local/regional planning agencies, air districts, and Certified Unified Program Agencies to provide advice and consultation on environmental justice to Cal/EPA;

- **The Cal/EPA Environmental Justice Website** (www.calepa.ca.gov/EnvJustice/): The website contains the most current information on environmental justice concerns including a Calendar of Events on environmental justice occurring throughout the State.

- **Cal/EPA Environmental Justice Fundamentals Training Program** (http://epanet/EnvJustice/training): The training is offered at various times throughout the year to bring greater awareness of environmental justice issues within Cal/EPA.

Let's continue to work in this spirit to ensure environmental justice is not a series of paper exercises, but is a tangible goal attained for and by all Californians. The Assistant Secretary for Environmental Justice, Romel Pascual, and his staff are available to assist you. Mr. Pascual can be reached at (916) 324-8425 or via email at: rpascual@calepa.ca.gov.

I appreciate your continued support in this matter.

POLICIES AND ACTIONS FOR ENVIRONMENTAL JUSTICE

Approved on December 13, 2001

California Environmental Protection Agency
AIR RESOURCES BOARD

AIR RESOURCES BOARD

POLICIES AND ACTIONS FOR ENVIRONMENTAL JUSTICE

Introduction

The California Air Resources Board (ARB/Board) is committed to making the achievement of environmental justice an integral part of its activities. State 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.[1] The Board approved these Environmental Justice Policies and Actions (Policies) on December 13, 2001, to establish a framework for incorporating environmental justice into the ARB's programs consistent with the directives of State law. These Policies apply to all communities in California, but recognize that environmental justice issues have been raised more in the context of low-income and minority communities. A number of specific actions support each Policy.

While these Policies focus on ARB as an organization, they also reflect the need for the local air pollution control and air quality management districts (local air districts) and other local agencies to play their part. The local air districts are most directly responsible for the regulation of air pollution from businesses and industries in California. Local land-use agencies are directly responsible for the siting of new air pollution sources, and local air districts also play an important role by issuing permits for new sources of air pollution. We are committed to working as partners with these agencies to improve the available information that local agencies use to make planning and permitting decisions. We are also committed to continuing our aggressive program to control motor vehicle pollution, the principal source of air toxics and other emissions leading to the violation of clean air standards. By working together to improve siting and mitigation practices, and further controlling sources within ARB's jurisdiction, we can help address environmental justice issues at the community level throughout California.

Over the past twenty years, ARB, local air districts, and federal air pollution control programs have made substantial progress towards achieving federal and State air quality standards. These achievements have reduced the exposures of California's residents to air pollution. Remarkably, during this same period, the State population has increased almost 45 percent and the daily number of vehicle miles traveled in the State has increased almost 90 percent.

REDUCTIONS IN AIR POLLUTANTS *
1980 – 1999

Ozone	**- 53%**
Carbon Monoxide +	**- 35%**
Particulate Matter –	**- 21%**

* Ambient air quality standards exist for these air pollutants; statewide average, as measured by air monitoring stations.
\+ State ambient air quality standard achieved in all but a portion of Los Angeles County and the City of Calexico.
– 1988 – 1999, non-desert areas.

[1] Senate Bill 115, Solis, 1999; California Government Code § 65040.12(c).

Despite this progress, many areas in California still exceed health-based air quality standards for ozone and particulate matter. Air monitoring shows that over 90 percent of Californians breathe unhealthy levels of one or both of these air pollutants during some part of the year. Attaining the health-based standards for ozone and particulate matter is essential to protect the health of all Californians.

Statewide health risk from the most widespread toxic air pollutants has also been substantially reduced through the combined efforts of ARB and local air district actions. Nevertheless, there is a general consensus that the statewide health risk posed by toxic air pollutants remains too high. In addition, some communities experience higher exposures than others as a result of the cumulative impacts of air pollution from multiple mobile, commercial, industrial, and other sources.

REDUCTIONS IN TOXIC AIR POLLUTANTS *
1990 – 1999

Lead +	**- 95%**
Benzene	**- 67%**
Hexavalent Chromium	**- 59%**
Perchloroethylene	**- 59%**
1,3-Butadiene	**- 45%**
Diesel Particulate	**- 40%**
Methylene Chloride	**- 39%**

* Identified by the Board as cancer-causing toxic air contaminants; statewide average, as measured by air monitoring stations.

\+ 1980 –1999

The Board shall dedicate resources and work with local air districts to develop narrowly tailored remedies to reduce emissions, exposures, and health risks in communities. The ARB's Diesel Risk Reduction Program is our most important priority for reducing toxic air pollutants because particulate matter from diesel-fueled engines accounts for 70 percent of the known cancer risk in communities that is attributed to exposure to toxic air pollutants. This Program alone is designed to achieve a 75 percent reduction in the emissions and associated health risk by 2010. However, other control efforts will be necessary to address the health risks posed by toxic air pollutants. We will continue to prioritize our efforts to reduce cumulative emissions of toxic air pollutants by considering the public exposure to, and the health risk caused by, those toxic air pollutants.

Underlying these Policies is a recognition that we need to engage community members in a meaningful way as we carry out our activities. People should have the best possible information about the air they breathe and what is being done to reduce unhealthful air pollution in their communities. In particular, we will work to make information related to air pollution and community health more accessible to the residents of low-income and minority communities so that they can take a more active role in decisions affecting air pollution in their communities. We are also committed to working with local air districts to enhance existing complaint-resolution processes, and to listen to and, as appropriate, act upon community concerns.

These Policies are intended to promote the fair treatment of all Californians and cover the full spectrum of ARB activities. While our primary focus is meeting ambient air

quality standards and reducing health risks from toxic air pollutants, efforts such as air monitoring and research are needed to better understand the connections between air pollution and health. Effective enforcement of air pollution control requirements in all communities is also critical to achieving environmental justice. Education and outreach complete the picture in terms of providing the opportunity for the full participation of all communities. Finally, we recognize our obligation to work closely with all stakeholders—communities, environmental and public health organizations, industry, business owners, other agencies, and all other interested parties—to successfully implement our Environmental Justice Policies.

ARB Policies and Actions for Environmental Justice

I. It shall be the ARB's policy to integrate environmental justice into all of our programs, policies, and regulations.

As an organization, we will make environmental justice considerations a standard practice in the way we do business. Our programs are comprehensive and include adopting regulations, funding clean air projects through incentive programs, and conducting air monitoring, emissions assessments, employee training, enforcement, research, public outreach, and education. In each program area, we will keep an environmental justice perspective as we set priorities, identify program gaps, and assess the benefits and adverse impacts of our programs, policies, and regulations.

Specific actions include the following:

- Add an explicit discussion of whether proposed major programs, policies, and regulations treat fairly people of all races, cultures, geographic areas, and income levels, especially low-income and minority communities.

- Work with local air districts and stakeholders to address, as appropriate, community concerns about air pollution emissions, exposures, and health risks, including enhanced public outreach.

- Work with stakeholders to review current ARB programs to address potential environmental justice implications and add new or modified elements consistent with these Policies where there are program gaps.

- Develop and incorporate an environmental justice program element into our employee-training curriculum.

- Annually provide a staff briefing to the Board at a public meeting regarding ongoing and planned activities. Issue a written annual status report identifying action items accomplished and a proposed work plan outlining the action items for the next year. The work plan shall include

quantitative goals for emissions reductions and promote the use of pollution-prevention strategies by ARB to achieve those goals.

- Conduct special air-monitoring studies in communities where environmental justice or other air-quality concerns exist, with the goal of assessing public health risks. Compare that information to relevant regional data. Current studies include Oakland, Barrio Logan (San Diego), Boyle Heights, and Wilmington.

- Work with local air districts to develop guidelines for implementation of AB 1390 (Firebaugh, 2001.) (This new law provides that not less than 50 percent of the funds for certain mobile source programs, such as the Carl Moyer Air Quality Standards Attainment Program and programs for the purchase of reduced-emissions school buses, are expended in communities with the most significant exposure to air contaminants, including, but not limited to, low-income and minority communities.)

II. It shall be the ARB's policy to strengthen our outreach and education efforts in all communities, especially low-income and minority communities, so that all Californians can fully participate in our public processes and share in the air quality benefits of our programs.

We want to enhance the participation of the public in State and local decision-making processes. To accomplish this, we will solicit input from communities, develop additional information on air quality in communities, make this information more accessible, and educate communities on the public process used to make State and local decisions. In partnership with local air districts, we will provide communities, including low-income and minority communities, the opportunity to participate in the decision-making processes.

Specific actions include the following:

- Hold meetings in communities affected by our programs, policies, and regulations at times and in places that encourage public participation, such as evenings and weekends at centrally located community meeting rooms, libraries, and schools.

- Assess the need for and provide translation services at public meetings.

- Hold community meetings to update residents on the results of any special air monitoring programs conducted in their neighborhood.

- In coordination with local air districts, make staff available to attend meetings of community organizations and neighborhood groups to listen to and, where appropriate, act upon community concerns.

- Establish within the Chairman's Office of Community Health a specific contact person for environmental justice issues.

- Increase public awareness of ARB's actions in protecting public health through the K-12 education system and through outreach opportunities at the community level.

- Make air-quality and regulatory information available to communities in an easily understood and useful format, including fact sheets, mailings, brochures, and Web pages, in English and other languages.

- Distribute fact sheets in English, and other languages, regarding the Children's Environmental Health Program, the Community Health Program, and our Environmental Justice Policies.

- Develop and maintain a web-site dedicated to community health that includes information on children's health issues, neighborhood air monitoring results, pollution prevention, risk reduction, and environmental justice activities.

- Develop and maintain a web-site that provides access to the best available information about sources of air pollution in neighborhoods. Include on the web-site ongoing activities to improve the quality of the information, and note the limitations and uncertainties associated with that information.

- Allow, encourage, and promote community access to the best available information in our databases on air quality, emission inventory, and other information archives.

- Distribute information in multiple languages, as needed, on how to contact the Chairman's Office of Community Health and our Public Information Office to obtain information and assistance regarding the Board's EJ programs, including how to participate in public processes.

- Create and distribute a simple, easy-to-read, and understandable public participation handbook.

- Consistent with State statutes, minimize, reduce, and, where practicable, eliminate fees for public information and enhance access to that information, and encourage local air districts to do the same.

III. It shall be the ARB's policy to work with local air districts to meet health-based air quality standards and reduce health risks from toxic air pollutants in all communities, especially low-income and minority communities, through the adoption of control measures and the promotion of pollution prevention programs.

Preventing and reducing air pollution is the Board's highest priority. In doing so, we are committed to achieving environmental justice. The public health framework of our efforts to reduce air pollution is the attainment of State and federal ambient air quality standards and reduction of health risks from toxic air pollutants. The framework includes a variety of measures that must be adopted at the local, State, and federal level. As part of these efforts, we must focus on both the regional and neighborhood levels.

In reducing statewide emissions of toxic air pollutants, we will prioritize our efforts by focusing on those pollutants contributing the majority of the exposure and public health risk, including those pollutants identified by the Office of Environmental Health Hazard Assessment under the Children's Environmental Health Protection Program as potentially causing infants and children to be more susceptible to illness. In the prioritization process, we will consider ARB and local air district air quality assessments and other available data.

Specific actions include the following:

- Develop the ARB Clean Air Plan to assist in the achievement of federal and State ambient air quality standards and to reduce health risks posed by toxic air pollutants.

- Prioritize toxic air pollutant control efforts, including the ARB Diesel Risk Reduction Program, by targeting measures that provide immediate and achievable air-quality benefits, such as emissions reductions from transit buses, refuse trucks, and tanker trucks.

- Develop control measures for other mobile sources of diesel particulate matter.

- Work with local air districts to develop control measures to reduce diesel particulate matter from stationary, portable, and marine diesel engines.

- Review, revise, and develop, as appropriate, modeling tools and control measures for sources of toxic air pollutants that may present significant near-source risks to residents and are common to communities across the State, including consideration of proximity. For example, ARB is reviewing the control measure to reduce

hexavalent chromium from plating facilities and evaluating additional perchloroethylene emission reduction opportunities from dry-cleaning facilities.

- Review existing and evaluate new or revised control measures for toxic air pollutants identified by the Office of Environmental Health Hazard Assessment (OEHHA) under the Children's Environmental Health Protection Program as potentially causing infants and children to be more susceptible to illness. These toxic air pollutants include lead, acrolein, diesel particulate matter, polycyclic organic matter, and dioxins.

- Develop new control measures that will reduce exposure to toxic air pollutants across the State. This analysis will include the consideration of proximity of sources to sensitive populations. Currently under development is an air toxics control measure (ATCM) for formaldehyde from composite wood products. These products are often used in portable buildings and manufactured housing and are of concern due to public exposure and health impacts to children.

- As part of our pollution-prevention efforts, promote and encourage the deployment of zero- and near-zero emissions technologies in communities, especially low-income and minority communities. These technologies include alternate power units for trucks and ZEVs.

- Work with the local air districts to implement incentive programs in communities, especially low-income and minority communities, with the most significant exposure to air pollution, consistent with AB 1390 (Firebaugh).

- Work with local air districts to establish a pilot pollution-prevention outreach program for auto body refinishers to minimize emissions from spray applications.

- Conduct special ambient dioxins monitoring and stationary source-testing study in California.

- Work with the Bureau of Automotive Repair to conduct additional low-income vehicle repair and assistance programs and promote the Smog Check Consumer Assistance Program in low-income and minority communities.

IV. It shall be the ARB's policy to work with the local air districts in our respective regulatory jurisdictions to strengthen enforcement activities at the community level across the State.

The ARB will work with local air districts to improve statewide compliance with all applicable air quality requirements for air pollution sources, whether under ARB or local air district jurisdiction. We want to assure that all complaints are promptly investigated and feedback is provided to the public on actions taken in response to those complaints. We will review our own enforcement activities and redirect efforts where we can achieve a more direct community benefit and will incorporate an environmental justice element into our enforcement training curriculum.

Specific actions include the following:

- In coordination with local air districts and considering input from stakeholders, prioritize field inspection audits to address statewide categories of facilities that may have significant localized impacts and make those audit reports easily accessible to the public.

- Conduct roadside inspections of heavy-duty diesel vehicles in all regions of the State, especially in low-income and minority communities.

- Develop and incorporate an environmental-justice awareness element into our enforcement-training curriculum to promote fair enforcement for all communities.

- Support local air district efforts to ensure that when there is facility noncompliance, the air-pollution-reduction projects or mitigation fees imposed in lieu of penalties will benefit the air quality of the impacted communities.

- Work with the local air districts to develop enhanced complaint-resolution processes for addressing environmental justice issues, including procedures that ARB staff will follow when complaints are made to the ARB.

- Work with the local air districts to improve accessibility of information regarding enforcement activities and actions, including notices of violations, monetary penalties, and other settlements of those violations.

- Assist local air districts on specific issues of community concern.

V. It shall be the ARB's policy to assess, consider, and reduce cumulative emissions, exposures, and health risks when developing and implementing our programs.

While health risks occur from exposures to cumulative emissions from all sources, motor vehicles are the single, largest contributor on a statewide basis. Current ARB air-quality programs—diesel risk reduction, ozone attainment, particulate matter attainment, zero- or low-emission motor vehicles, air toxics control measures, and consumer products—all help to improve the air quality and reduce cumulative health risks statewide. Nevertheless, current State and federal air quality standards are still exceeded in many areas of California, and there is a general consensus that the statewide health risk posed by toxic air pollutants remains too high. In addition, some communities experience higher exposures than others as a result of the cumulative impacts of air pollution from multiple sources—cars, trucks, trains, ships, off-road equipment, industrial and commercial facilities, paints, household products, and others. We will continue to work with local air districts to reduce emissions as needed to achieve and maintain State and federal air quality standards. For air toxics, we will continue to assess emissions and the associated public exposure and health risk. We will look for new opportunities to reduce cumulative health risk in all communities and to achieve emissions reductions where such reductions are shown to benefit public health, consistent with existing statutory authorities.

We must improve our ability to understand the cumulative public health impacts of air pollution by better assessing emissions, exposures, and health risks within communities. The Office of Environmental Health Hazard Assessment will help us define the health risks for potentially significant toxic air pollutants, and we will reduce emissions where such emissions reductions are shown to benefit public health. We will provide this information publicly in an easily understood way. As many of these activities are dependent upon data available at the local level, we will work very closely with the local air districts to prioritize and focus resources on those activities that will provide the greatest public health benefit.

Specific actions include the following:

- Publicly release and place on the ARB Web-site maps showing estimated cancer health risks on a regional basis, using the best available scientific methodologies and noting the limitations and uncertainty associated with the data and methodologies.

- Develop and place on the ARB Web-site local and regional maps showing air pollution emissions sources using the ARB emission inventory database.

- Develop technical tools for performing assessments of cumulative emissions, exposure, and health risk on a neighborhood scale and

provide maps showing the results at the neighborhood level. Such tools will be validated and peer-reviewed prior to use as a regulatory tool.

- Conduct field studies to support the air quality modeling efforts in communities throughout the State, including low-income and minority communities. Current studies underway include Barrio Logan in San Diego County and Wilmington in Los Angeles County.

- Update mapping data on an ongoing basis.

- Identify necessary ARB risk reduction and research priorities based on the results of the neighborhood assessments and other information.

VI. It shall be the ARB's policy to work with local land-use agencies, transportation agencies, and air districts to develop ways to assess, consider, and reduce cumulative emissions, exposures, and health risks from air pollution through general plans, permitting, and other local actions.

We recognize that local agencies have a primary role in decisions affecting land use, community health, and welfare. Local land-use agencies and transportation agencies are directly responsible for the planning and siting of new air pollution sources, and local air districts also play an important role by issuing permits for new industrial sources of air pollution. As such, we are committed to working as partners with these agencies and other stakeholders to develop the technical tools and guidance necessary to consider the cumulative impacts of local sources of air pollution. The technical tools and guidance are intended to assist the local agencies in their planning and permitting actions, including the consideration of siting alternatives and air pollution mitigation measures, and shall be peer reviewed and technically valid.

We will develop these technical tools and guidance to address, as appropriate, cumulative emissions, exposures, and health risks from sources of air pollution. We will follow ARB's existing science-based approach of evaluating public health impacts. This approach will ensure that issues are addressed from a broad, programmatic perspective and provide certainty to local agencies, the business community, and the public that decisions regarding cumulative impacts are addressed fairly and consistently. Once the technical tools and guidance are jointly developed and peer-reviewed, we will work with local agencies to best incorporate them into their existing permitting and land-use processes.

Specific actions include the following:

- Conduct joint programs with local air districts, land-use agencies (i.e., cities and counties), school districts, transportation agencies, and other

stakeholders to understand local issues and develop ways to incorporate cumulative-impacts analyses into local air district and land-use agency processes.

- Provide education and outreach to local agencies on the use of the technical tools and guidance in land-use decisions.

- Work with the local air districts to provide technical guidance to local agencies on measures that could be used to reduce or eliminate air quality impacts for specific types of sources.

- Work with the local air districts and others to maintain and compile a list of possible mitigation measures to reduce air pollution impacts for specific types of projects and the siting of sensitive receptors (e.g., schools).

- Work with Cal/EPA and the Office of Planning and Research to address environmental justice matters in city and county general plans, as required by AB 1553 (Keeley, 2001).

VII. It shall be the ARB's policy to support research and data collection needed to reduce cumulative emissions, exposure, and health risks, as appropriate, in all communities, especially low-income and minority communities.

The ARB's health research program continues to advance our ability to identify and understand air pollution's health effects. California's communities have a diversity of sensitive populations, and the health research program is increasing our understanding of the health effects of air pollution on those populations, including children, asthmatics, those with heart and lung disease, elderly, and other groups that may have a special sensitivity to air pollution. However, more research is needed to better characterize the variety of potential air pollution exposures within specific communities and people's health status as it relates to air pollution.

Specific actions include the following:

- Investigate non-cancer health effects associated with acute, peak-pollutant episodes and long-term low-level exposures that may trigger increases in the incidence of respiratory problems and neurological, developmental, and reproductive disorders.

- Characterize near-source dispersion patterns for toxic air pollutants, from selected point sources, area sources, and roadways.

- Develop better methods to monitor community exposures through controlled scientific studies. To support this effort, develop continuous monitoring systems and miniaturized monitoring technologies.

- Identify biomarkers for air pollutants and assess individual exposures within specific communities.

- Develop geographic-based information systems for assessing health-based information within communities, and correlating that information to air pollution and socioeconomic factors.

- Conduct periodic surveys to establish a baseline and to measure progress in reducing air pollution-related health concerns, with initial emphasis in low-income and minority communities.

- Refine models to estimate cumulative emissions, exposures, and health risks at the neighborhood level, compare those risks to the risk at the regional level, and have those models peer-reviewed.

Conclusion

The ARB is committed to integrating environmental justice into all of its programs, policies, and regulations. We will continue to improve our outreach efforts in all California communities, ensuring that everyone has an opportunity to participate fully in the development and implementation of those programs, policies and regulations. As an oversight agency and partner with local air districts, and as an advisory agency to land-use agencies, we will work with these and other stakeholders to jointly develop the technical tools and guidance necessary to consider the cumulative air pollution impacts of local sources of air pollution. We will participate in the Cal/EPA Environmental Justice Working Group as environmental justice policies are developed for the entire agency. Even while this work is being done, we are taking steps today to reduce exposure and health risks in communities. Our goal is to ensure that all Californians, especially children and the elderly, can live, work, learn, and play in a healthful environment.

Environmental Justice Implementation Plan
for the California Department Of Pesticide Regulation
DRAFT
(March 2003)

Environmental Justice Definition: "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." (Government Code Section 65040.12)

BACKGROUND

California Environmental Protection Agency Mandates
California law mandates broad responsibilities for California Environmental Protection Agency (Cal/EPA) and its boards, departments, and offices (BDOs) to incorporate environmental justice goals into their policies and programs. The law requires the formation of an interagency working group made up of the Cal/EPA Secretary, BDO chiefs, and the director of the State Office of Planning and Research (OPR). It also mandates formation of an external advisory group to the working group. These groups are to assist Cal/EPA in developing an agencywide environmental justice strategy and to provide procedural recommendations to ensure meaningful public participation in Cal/EPA activities.

Cal/EPA is specifically required by statute to do the following:

1. Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority and low-income populations of the state.
2. Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority and low-income populations in the state.
3. Ensure greater public participation in the Agency's development, adoption, and implementation of environmental regulations and policies.
4. Improve research and data collection for programs within the agency relating to the health and environment of people of all races, cultures, and income levels, including minority and low-income populations of the state.
5. Coordinate efforts and share information with the U.S. Environmental Protection Agency.
6. Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the Agency.
7. Consult with, and review any information received from, the working group on environmental justice established to assist Cal/EPA in developing an agency-wide strategy that meets the above requirements.

Development of the Cal/EPA Environmental Justice Strategy must include the following activities, as required by Public Resources Code section 71113:

1. Examine existing data and studies on environmental justice and consult with state, federal, and local agencies, and affected communities.
2. Identify and address any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.
3. Develop procedures for the coordination and implementation of intra-agency environmental justice strategies.
4. Collect, maintain, analyze, and coordinate information relating to environmental justice.
5. Develop procedures to ensure that public documents, notices, and public hearings relating to human health or the environment are concise, understandable, and readily accessible to the public. Develop guidance for determining when it is appropriate for Cal/EPA or its BDOs to translate crucial public documents, notices, and hearings relating to human health or the environment for limited English-speaking populations.
6. Make a draft available to the public and hold public meetings to receive and respond to public comment before finalizing the strategy.

DPR Implementation

This is an implementation plan for incorporating environmental justice principles into Department of Pesticide Regulation (DPR) programs, policies, and activities. DPR's environmental justice policy follows Cal/EPA's Environmental Justice Strategy.

We restate that environmental justice is the *fair treatment* and *meaningful involvement* of all people regardless of race, culture, and income with respect to the development, implementation, and enforcement of DPR regulations and policies. *Fair treatment* means that no one group of people, including race, culture, or socioeconomic, should bear a disproportionate share of negative health or environmental consequences resulting from pesticide use, or the execution of DPR programs and policies. *Meaningful involvement* means that: (1) potentially affected persons have an appropriate opportunity to participate in decisions that affect their environment and/or health; (2) the public's contribution can influence DPR's decision; (3) the concerns of all participants involved will be considered in the decisionmaking process; and (4) the decisionmakers seek out and facilitate the involvement of those potentially affected.

DPR Environmental Justice Plan Elements

DPR will incorporate environmental justice values and perspectives into all of our programs, policies, actions, and regulations.

Fair treatment of all people is an overarching value guiding how we do business. We will ensure that environmental justice values and perspectives inform and illuminate our standard operating practices.

Specific Actions

- Encourage DPR and county agricultural commissioner (CAC) staff to attend scheduled environmental justice training programs.
- Maintain staff awareness of the importance of environmental justice by placing a discussion of environmental justice principles and efforts to fulfill our commitment on the agenda of DPR's managers/supervisors staff meetings, on a regular basis.
- Recognize the importance of environmental justice priorities and accomplishments by highlighting them in DPR's annual progress reports.
- Improve the use of DPR's advisory committees to solicit recommendations on how DPR can improve its programs in an equitable manner.
- Consider environmental justice when creating or modifying policies and procedures.
- Ensure that hiring practices promote a diverse work force.

DPR will integrate environmental justice considerations in developing communication to ensure meaningful public participation and promote community outreach.

DPR wants to enhance the participation of the public in state and local decisionmaking processes, and ensure that potentially affected parties are not overlooked and excluded from the process. We recognize that public participation involves two-way communications, with DPR receiving information, comments, and advice, as well as disseminating information on possible approaches, analyses, and decisions. To ensure meaningful participation, DPR will actively solicit input from communities, develop additional information on pesticides, make this information more accessible, and educate communities on the public process used to make state and local decisions. The Department recognizes the validity and importance of community knowledge, and the value of local and grassroots experiences in issues and decisions that affect them. The Department has an obligation to ensure that those affected by decisions are equal players in the decisionmaking processes. DPR recognizes the limitations on the capacity of some communities to participate in processes.

Specific Actions

- Seek out and facilitate the involvement of those primarily affected by DPR's decisions, programs, and policies, recognizing that in doing so we have made a commitment to seriously consider the input of the public.

- Hold meetings in affected communities at times and in places that encourage public participation, such as evenings and weekends, at centrally located and easily accessible meeting rooms, libraries, and schools.
- Ensure that affected people have the opportunity to participate in the development of policies and regulations.
- Identify opportunities to enhance accessibility to information, including translating materials and documents, making documents easily accessible in the community (either by physically providing copies at central locations, and/or posting them on DPR's Web site); and providing translation services at hearings and workshops as needed. Communicate to participants how their advice was or was not utilized.
- Consistent with right-to-know principles, improve access and utility of DPR data, especially pesticide use data.

DPR will conduct pesticide risk assessments in a way to consider the potential disproportionate environmental impacts on communities of color and low-income populations.

Human health and environmental research and assessment are cornerstones of informed decisionmaking to ensure a healthy environment. DPR must have a better sense of how to address issues of disproportionate impacts of pesticide use on communities. The goal is not to shift risks among populations, but to identify potential disproportionately high and adverse effects and identify alternatives that may mitigate these impacts.

Specific Actions

- Continue to conduct risk assessments taking into account sensitive populations, unique exposure scenarios, and cumulative impacts.
- Recognize that the impacts within minority populations, low-income populations, or Indian tribes may be different from impacts on the general population due to a community's distinct cultural practices. For example, data on different patterns of living, such as subsistence fish, vegetation, or wildlife consumption and the use of well water in rural communities may be relevant to the analysis. Incorporate these considerations into the data gathering and decisionmaking processes; for example, conducting studies to assess the potential exposure of Indian plant gatherers and users to forestry herbicides.
- Mitigate unacceptable risks for all the identified races, cultures, and incomes. Develop the mitigation measures with the involvement of the affected parties. Throughout the process of public participation, DPR will elicit the views of the affected populations on measures to mitigate a disproportionately high and adverse human health or environmental effect on a low-income population, minority population, or Indian tribe, and consider community views in developing and implementing mitigation strategies.

DPR will conduct its enforcement program and work with CACs to ensure the state-county program protects all races, cultures, and incomes.

DPR will work with the CACs to ensure the state-county enforcement program protects all races, cultures, and incomes. DPR and the CACs will work vigorously to enhance pesticide use

compliance, acknowledging that this increases protections for all California citizens. DPR wants to assure that all complaints are promptly and thoroughly investigated and feedback is provided to the public on actions taken. DPR will also prioritize our enforcement resources to maximize the greatest public good.

Specific Actions

- Examine opportunities to improve the pesticide use permitting processes by increasing public access to the process and protection of all races, cultures, and incomes.
- Ensure enforcement investigations are conducted in a way to reduce the potential for retaliation.
- Continue to develop and distribute materials in various languages describing how citizens can file complaints, including the right to file anonymous complaints.
- Make DPR written policies and procedures on filing and investigating complaints easily accessible, including posting on the Web site.
- Continuously evaluate compliance with pesticide rules and regulations to prioritize enforcement resources.
- Evaluate uniformity of compliance actions to ensure that communities receive equal protection.
- Prepare state enforcement priorities to address areas of greatest risk.
- Improve the state and local response to pesticide incidents, in part by working with CACs to develop effective complaint-resolution processes.
- Continue to improve the accessibility of information regarding enforcement activities and actions.

DPR will continue to reduce the pesticide risks to workers.

The occupational setting poses the greatest risk of pesticide exposure. Many occupational settings involve workers of low-income and minority populations. DPR will continue to evaluate the risks to workers, ensure their unimpeded access to information, the right to file complaints without fear of retaliation, and reduce worker illnesses.

Specific Actions

- Improve investigation procedures to reduce the potential for retaliation.
- Continue efforts to improve physician reporting of pesticide-related illnesses.
- Work with the Department of Industrial Relations on retaliation complaints.
- Improve the access to pesticide information, especially by limited English-speaking populations.
- Periodically assess the implementation, enforcement, and effectiveness of worker safety rules and regulations, revising them as necessary to address identified problems.
- Ensure farmworker representatives have substantial input into decisions affecting their constituents.
- Periodically review DPR's registration and evaluation policies and procedures to ensure that worker protections are actively and adequately considered. For example, deciding when to allow continued use of existing stocks of a cancelled pesticide.

Distribution of DPR's pollution prevention resources will be accessible to all races, cultures, and incomes.

Grants and other opportunities can result in changes in pest management that reduce the risks from pesticides. This is especially important in low-income and minority areas. Pest management in schools can be done in a way that poses the least risk.

Specific Actions

- Target grant programs in low-income and minority areas, particularly to assist community-based/grassroots organizations that are working on local solutions to local environmental problems.
- Facilitate the adoption of integrated pest management in schools, especially in rural and low-income areas.
- Provide informational materials in English and Spanish to the public about pesticide use and disposal.

DRAFT ENVIRONMENTAL JUSTICE POLICY

"The Department of Toxic Substances Control is committed to ensuring that all of the state's population, without regard to color, national origin or income, are equally protected from adverse human or environmental effects as a result of the Department's policies, programs or activities."

The Department will:

1. Ensure that, to the extent feasible, its decisions, actions and rulemaking avoid adding to disproportionate environmental and/or health impacts on affected communities and reduce disproportionate environmental and related health impacts on such communities.

2. Promote investigation/cleanup of contaminated sites in areas with minority and low-income populations using voluntary and enforcement tools, allocating limited Orphan Site State funds in a fair manner, and prioritizing active and backlog projects in order that public health and the environment are protected.

3. Continue regional efforts to remediate brownfields so that they are returned to productive use.

4. Allocate its permitting, enforcement and clean-up resources, to the extent feasible, so as to reduce disproportionate environmental and related health impacts on ethnic minority and low-income communities.

5. Explore available mitigation measures whenever a Department decision has the potential to adversely affect any community already experiencing disproportionate environmental and/or health impacts.

6. Consider regional impacts of the Department's decisions and activities, utilizing Geographic Information System (GIS), census and demographic data to more fully characterize areas surrounding sites and facilities, specifically indicating sensitive receptors, and other facilities and sites that may have an impact on community health.

7. Participate in area studies dealing with health, sensitive receptors, facility data, demographics or other pertinent issues to ensure that permitting and site remediation decisions within targeted communities fully incorporate environmental justice concerns; and evaluate the need to initiate permit modifications or consider modifications to remediation plans to address disparate impacts that are identified as part of the area studies.

8. Work with Cal/EPA and its boards, departments and offices, and within the Department to promote implementation of policies and procedures that ensure that low-income communities and/or communities with minority populations have access to environmental and health-related information. This will include conducting assessments to determine language and cultural needs of a specific community, providing information in appropriate languages, and encouraging early and continuous public involvement; and will include a commitment that site-related public participation documents are made available on the Department's web site in appropriate languages.

9. Work with Cal/EPA's External Advisory Committee for Environmental Justice to develop cross-media and cross-agency approaches to community concerns.

10. Provide ongoing training for Department staff and management regarding this policy and other fundamentals of environmental justice, emphasize environmental justice is the responsibility of all programs, and ensure implementation of this policy is incorporated into performance evaluations.

STATE OF CALIFORNIA
resources
AGENCY

GRAY DAVIS, Governor
MARY D. NICHOLS, Secretary

October 9, 2003

To: All Departments, Boards, Commissions and Conservancies

From: Mary D. Nichols, Secretary for Resources

Re: Resources Agency Environmental Justice Policy

Enclosed you will find the Resources Agency Environmental Justice Policy. We appreciate all the feedback we received from various departments on the earlier draft that was circulated.

Each Department, Board, Commission and Conservancy is encouraged to use this policy as a template to craft a policy that better suits your needs. Our policy will be posted on the agency website. Upon the adoption of an environmental justice policy tailored to the objectives and circumstances of your organization, you are encouraged to post your policy on your website.

If you have any questions, please feel free to contact Luree Stetson at 916-654-1885.

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 http://resources.ca.gov

California Conservation Corps • Department of Boating & Waterways • Department of Conservation • Department of Fish & Game • Department of Forestry & Fire Protection • Department of Parks & Recreation
Department of Water Resources • California Coastal Commission • California Tahoe Conservancy • Coachella Valley Mountains Conservancy • San Joaquin River Conservancy • Santa Monica Mountains Conservancy
Colorado River Board of California • Energy Resources, Conservation & Development Commission • San Francisco Bay Conservation & Development Commission • San Gabriel & Lower Los Angeles Rivers & Mountains Conservancy
Baldwin Hills Conservancy • State Coastal Conservancy • State Lands Commission • State Reclamation Board • Native American Heritage Commission

ENVIRONMENTAL JUSTICE POLICY
California Resources Agency

Mission Statement of the California Resources Agency

To restore, protect and manage the state's natural, historical and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration and respect for all the communities and interests involved.

Environmental Justice Definition

California law defines Environmental Justice as “the fair treatment of people of all races, cultures and income with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies” (Government Code Section 65040.12 and Public Resources Code Section 72000).

Background

The concept behind the term “environmental justice” is that all people – regardless of their race, color, nation or origin or income – are able to enjoy equally high levels of environmental protection. Environmental justice communities are commonly identified as those where residents are predominantly minorities or low-income; where residents have been excluded from the environmental policy setting or decision-making process; where they are subject to a disproportionate impact from one or more environmental hazards; and where residents experience disparate implementation of environmental regulations, requirements, practices and activities in their communities. Environmental justice efforts attempt to address the inequities of environmental protection in these communities.

Agency Actions

All Departments, Boards, Commissions, Conservancies and Special Programs of the Resources Agency must consider environmental justice in their decision-making process if their actions have an impact on the environment, environmental laws, or policies. Such actions that require environmental justice consideration may include:

- Adopting regulations
- Enforcing environmental laws or regulations
- Making discretionary decisions or taking actions that affect the environment
- Providing funding for activities affecting the environment
- Interacting with the public on environmental issues

Policy

It is the policy of the Resources Agency that the fair treatment of people of all races, cultures and income shall be fully considered during the planning, decision-making, development and implementation of all Resources Agency programs, policies and activities. The intent of this policy is to ensure that the public, including minority and low-income populations, are informed of opportunities to participate in the

development and implementation of all Resources Agency programs, policies and activities, and that they are not discriminated against, treated unfairly, or caused to experience disproportionately high and adverse human health or environmental effects from environmental decisions.

Implementation

The Resources Agency is committed to incorporating environmental justice in its processes, decisions, and programs by making reasonable efforts toward:

1. Identifying relevant populations that might be adversely affected by programs or projects submitted by outside parties, as appropriate.

2. Seeking out and consulting with community groups and leaders to encourage communication and collaboration prior to taking actions that may have an impact on the environment, environmental laws or policies.

3. Broadly distributing public information, in multiple languages if appropriate, to encourage participation in public processes.

4. Ensuring that public documents and notices relating to environmental issues that may have an impact on human health are concise, understandable, and readily accessible to the public, printed in multiple languages if appropriate.

5. Holding required public meetings, hearings, and workshops at times and in locations that encourage meaningful public participation by members of affected communities.

6. Working in conjunction with other federal, state, regional, and local agencies to ensure consideration of disproportionate impacts on relevant populations.

7. Fostering broad access to existing and proposed data sets and technology to better identify, analyze, and respond to environmental justice issues.

8. Providing appropriate training to staff on environmental justice issues so that recognition and consideration of such issues are incorporated into daily program activities.

This policy is intended only to improve the internal management of the Resources Agency and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the State of California, its agencies or instrumentalities, its officers or employees, or any other person.

CALFED Bay-Delta Program
Environmental Justice Workplan

This CALFED Bay-Delta Program Environmental Justice Workplan ("workplan") outlines a two-tiered approach to addressing a broad set of environmental justice issues in the context of CALFED program implementation. The first tier outlines a long-term planning process that will (1) develop environmental justice goals and objectives, (2) establish an overall environmental justice strategy for the CALFED program to achieve those goals and objectives, and (3) develop annual plans to implement that strategy. The second tier recognizes that, in the absence of the more comprehensive environmental justice strategy described above, there are still a number of critical interim actions that can and should be taken this year. Therefore, this workplan includes as an attachment *(see attachment 1)* the preliminary 2001 Annual Plan and outlines a process for continuing to refine that annual plan following its initial consideration by the CALFED Policy Group in December 2000. The CALFED agencies, program managers, and environmental justice stakeholders recognize that these documents are "works in progress" that have been developed with limited input and under a tight schedule. For those reasons, the documents will continue to be refined.

Purpose Statement

The purpose of this workplan is to outline how the CALFED agencies intend to ensure, in the context of implementation of the CALFED program, fair treatment of people of all races, cultures and incomes, such that no segment of the population bears a disproportionately high and adverse health, environmental, social or economic impact resulting from CALFED's programs, policies or actions.

Introduction

On August 28, 2000, the CALFED agencies signed the Record of Decision (ROD) for the Final Programmatic EIS/EIR. Both the ROD and one of its attachments, the Implementation Memorandum of Understanding, include provisions related to the issue of environmental justice. Specifically, the ROD includes a series of "implementation commitments" that are intended to guide management of the entire CALFED program as it moves from planning to full-scale implementation during Stage 1. One of those implementation commitments states that, consistent with Federal and State authorities that require agencies to address environmental justice issues within the scope of their programs and activities, including Federal Executive Order 12898, Title VI of the Civil Rights Act and recent state legislation, the CALFED agencies are committed to addressing environmental justice challenges related to water management in the Bay-Delta watershed.

The ROD acknowledges the importance of examining the potential effects of water management reforms on rural communities and the public health and financial impacts of ecosystem and water quality program actions on the large numbers of minorities and disadvantaged people living in

urban areas. With that understanding, the CALFED Program and agencies are committed to seeking fair treatment of people of all races, cultures, and incomes, such that no segment of the population bears a disproportionately high and adverse health, environmental, social or economic impact resulting from CALFED's programs, policies, or actions. The Implementation Memorandum of Understanding reiterates these same commitments in the form of an "implementation principle."

In order to turn these commitments and principles into action, the ROD requires the CALFED agencies, by the end of 2000, to collaborate with environmental justice and community stakeholders to develop a comprehensive environmental justice workplan across all program areas. This workplan was intended to ensure that the CALFED agencies developed the capacity and process to understand, monitor, and address environmental justice issues as the program moves into implementation, including identifying and developing specific methods to address and mitigate environmental justice impacts.

In addition to the commitment to develop an environmental justice workplan, the ROD includes a broader set of provisions that address concerns related to environmental justice and implementation of the CALFED Program *(see attachment 2)*.

Background

The basic concept behind the term "environmental justice" is that all people – regardless of their race, color, nation of origin, or income – are able to enjoy equally high levels of environmental protection. Environmental justice communities are commonly identified as those where residents are predominantly minorities or low-income; where residents have been excluded from the environmental policy setting or decision-making process; where they are subject to a disproportionate impact from one or more environmental hazards; and where residents experience disparate implementation of environmental regulations, requirements, practices and activities in their communities. Environmental justice efforts attempt to address the inequities of environmental protection in these communities. Legal authorities to support these efforts include both statutory and common law protections. Both the Federal government and the State of California have taken formal steps in recent years to address this issue.

An important milestone in the Federal government's environmental justice actions occurred in 1994 when President Clinton signed Executive Order 12898 to establish environmental justice as a national priority *(see attachment 3)*. The Order states that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." In addition, the Order directs all Federal agencies to develop, by March 1995, an Environmental Justice Strategy that identifies and addresses any disproportionately high and adverse effects of their programs, policies, and activities. The Order includes several additional specific provisions related to human health data collection, impact analysis in environmental documentation, and subsistence

consumption of fish and wildlife. All Federal agencies are also required under the Order to ensure that all of their programs and activities receiving federal funding comply with Title VI of the 1964 Civil Rights Act. Title VI bans discrimination on the basis of race, color, or national origin in federally-funded projects and decisions. Implementation of this workplan will help to ensure that, in the context of the CALFED program and its proposed actions, the Federal agencies are in compliance with the Executive Order.

Similarly, the State of California's laws include explicit provisions related to the issue of environmental justice. Existing laws (Public Resources Code Section 72000 and Government Code Section 65040.12) establish the Office of Planning and Research as the coordinating agency in state government for environmental justice programs and defines environmental justice to mean "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies." In addition, the Governor recently signed two pieces of legislation – Senate Bill 115 (Solis) and Senate Bill 89 (Escutia) – that amend existing statutes and expand the State's environmental justice responsibilities. The new laws require California's Secretary for Environmental Protection, by January 2002, to convene an interagency Working Group on Environmental Justice to develop and begin implementation of an interagency environmental justice strategy and to develop a model mission statement for the California Environmental Protection Agency. In addition to a broader set of requirements, the laws also call for the creation of a multi-stakeholder advisory committee by January 2002 to assist the working group in its efforts *(see attachment 4)*. Implementation of this workplan will help to ensure that, in the context of the CALFED program and its proposed actions, the State agencies are in compliance with the provisions of state law.

Under California law, water resources and some associated ecological resources are held in trust for the public by the State. The public trust doctrine originated in common law and has been expanded by State courts to apply to certain recognized public uses and values. The State has the obligation to protect these resources where feasible for all citizens of California. Thus, the basic principle of the public trust doctrine, that water resources are held in trust for all citizens, supports the main tenant of environmental justice, that no persons or communities should be disproportionately affected by the use or protection of those resources.

Tier One – Long-Term Planning Process

As noted above, this section outlines a long-term planning process that will develop environmental justice goals and objectives, establish an overall environmental justice strategy for the CALFED program to achieve those goals and objectives, and develop annual plans to implement that strategy.

A. Development of Goals and Objectives

- Under this task, environmental justice goals and objectives will be established for the CALFED Bay-Delta program. These goals would likely reflect provisions of the Federal Executive Order, State law, existing Federal agency environmental justice

strategies, the CALFED mission statement and/or CALFED solution principles by applying the principles of environmental justice to the existing goals and objectives of the CALFED Program. It is envisioned that both an overarching set of goals and objectives, outlining how the CALFED Program will address environmental justice and meet its state and federal requirements, and specific goals and objectives for each program area will be developed, as appropriate.

- By the end of February 2001, the CALFED Environmental Justice Coordinator will work with the new broad public advisory committee to convene an Environmental Justice Workgroup that will operate as a public advisory group. Specifically, the new broad public advisory committee will collaborate with the Environmental Justice Steering Committee, the broader Environmental Justice Coalition, CALFED program managers, the agencies, and other community stakeholders throughout the state to ensure the inclusion of an appropriate and geographically diverse set of qualified participants. The appropriate size of the group, qualifications for membership, and organizational protocols will be established by the broad public advisory committee, working with the Coordinator. In doing so, the National Environmental Justice Advisory Committee (NEJAC) will be considered as a model.

- By the end of April 2001, the Environmental Justice Coordinator and the Environmental Justice Workgroup, in coordination with the CALFED agencies and program managers, will convene a series of regional workshops (geographically dispersed across the state) to hold discussions and gain input on environmental justice issues related to CALFED implementation (e.g., an appropriate and comprehensive set of environmental justice goals and objectives, an overall long-term strategy) and to generally enhance outreach and education on the CALFED program for minority and low-income communities.

- By the end of May 2001, appropriate meetings of the Environmental Justice Workgroup will be initiated to develop a set of environmental justice goals and objectives for the CALFED program. These goals and objectives will be developed based largely on input from the regional workshops and will involve the participation of the CALFED agencies and program staff. By the end of June, a set of goals and objectives will be finalized by the CALFED Program.

- By the end of July 2001, the goals and objectives will be formally reviewed by and submitted for approval to the CALFED Management Team and the Bay Delta Advisory Committee (or its successor) and adopted by the CALFED Policy Group (or its successor).

B. Development of an overall CALFED Environmental Justice Strategy

- Under this task, a CALFED Environmental Justice Strategy will be developed to ensure that the goals and objectives will be achieved. This strategy represents a broad description of the activities and mechanisms that CALFED must develop and institutionalize to ensure implementation of the goals and objectives. The specific tasks themselves will be detailed in the annual plans described below. Much of this effort will be accomplished concurrently with the process outlined above.

- Specifically, by the end of March 2001, the Environmental Justice Coordinator will initiate a series of planning meetings with the Environmental Justice Workgroup (or some subgroup) to begin review of existing environmental justice strategies and to outline the necessary components of a CALFED strategy.

- The regional workshops, to be convened by the end of April 2001, will involve the active participation of the Environmental Justice Workgroup and will allow the workgroup to gain input on appropriate provisions of a CALFED environmental justice strategy. Members of the workgroup representing community-based organizations will serve as key liaisons in their respective regions.

- By the end of June 2001, after meetings have been held to develop an appropriate set of goals and objectives, meetings of the Environmental Justice Workgroup (or some subgroup) will be initiated to develop the broad long-term environmental justice strategy for the CALFED program. If plausible, an attempt will be made to do this concurrently with the development of the goals and objectives described above.

- During this process, the Environmental Justice Coordinator will initiate meetings between the Environmental Justice Workgroup, related program-specific advisory or workgroups (e.g., Watershed Workgroup, Delta Drinking Water Council, Water Use Efficiency Public Advisory Committee), and the CALFED Science Program to (1) ensure consistency between the evolving environmental justice strategy and individual program plans and (2) develop appropriate measures of success for each program area to determine whether the strategy is effectively achieving environmental justice goals and objectives. The Environmental Justice Strategy will be finalized by the CALFED Program by the end of August 2001.

- By the end of September 2001, the Environmental Justice Strategy will be formally reviewed by and submitted for approval to the CALFED Management Team and the Bay Delta Advisory Committee (or its successor). The CALFED Policy Group (or its successor) will review and adopt the strategy by the end of October 2001, prior to submission of the CALFED Annual Report to Congress and the Legislature.

C. Development of Annual Plans

- Under this task, the CALFED Program and agencies will develop each year an Annual Plan to implement the CALFED Environmental Justice Strategy.

- By the end of February each year, the Environmental Justice Coordinator will facilitate program-specific meetings between the Environmental Justice Workgroup and CALFED program managers (e.g., storage, ecosystem restoration), advisory groups, workgroups and the CALFED Science Program to (1) review the previous year's workplan, (2) consider and evaluate its effectiveness in achieving goals and objectives in each program area, (3) adaptively manage the workplan to make appropriate adjustments in actions for the next Annual Plan to ensure that goals and objectives are achieved. All such Workgroup meetings will provide an opportunity for public comment. As much as possible, this annual plan development process should move forward with and rely on the program managers' existing efforts to develop annual operating/implementation plans for their particular program.

- By the end of May each year, the Environmental Justice Coordinator, the Environmental Justice Workgroup and CALFED program managers will develop a draft Annual Plan that identifies specific actions and milestones for the next calendar year and outlines program funding and costs, processes for ensuring participation of affected communities, and steps to incrementally evaluate and achieve measures of success. These same measures should be included, as appropriate, in the program managers' annual operating/implementation plans for their particular program.

- By the end of June each year, one or more open public meeting(s) of the Environmental Justice Workgroup will be convened (potentially in geographically diverse locations) to gain input on the draft Annual Plan. As necessary, the Environmental Justice Workgroup will assist the CALFED Program in revising and finalizing the draft plan based on input from the meeting(s).

- By the end of August each year, the Annual Plan will be formally reviewed by and submitted for approval to the CALFED Management Team and the Bay Delta Advisory Committee (or its successor). The CALFED Policy Group (or its successor) will review and adopt the strategy by the end of September each year, prior to submission of the CALFED Annual Report to Congress and the Legislature.

Tier Two – 2001 Annual Workplan Process

While Section C above outlines the general process to guide development of annual plans, that process will likely be most useful in developing the plan for 2002 and subsequent years. Nevertheless, in the absence of a comprehensive set of goals and objectives and an overall Environmental Justice Strategy at this time, there are still a number of specific interim actions that

need to be taken in the near-term (i.e., before the process outlined above could be completed in 2001) to ensure that environmental justice issues are adequately considered and integrated in CALFED implementation.

In order to get some activity underway this year, the attached "Preliminary 2001 Environmental Justice Annual Plan" has been developed quickly with limited input from the CALFED agencies, program managers, and representatives of the Environmental Justice Steering Committee. Although this plan will be refined before the end of February by the Environmental Justice Coordinator, in collaboration with the participants listed above, it also identifies a series of critical issues and actions that need to be addressed and implemented in the early months of CALFED implementation and a process for accomplishing them. Specifically, the preliminary plan includes actions and processes to ensure:

- effective strategies for public participation (including workgroups and workshops)
- inclusion of environmental justice criteria in all upcoming project solicitation proposals
- adequate consideration of social and economic impacts in environmental documentation
- environmental justice training and education for agency and program staff
- collection and analysis of new demographic information and data
- adequate staffing and financial resources (including capacity building)
- compliance with all relevant Federal and State orders and statutes

Specific tasks, timelines and responsibilities for implementing these efforts in the context of 2001 implementation are included in the attached Preliminary Annual Plan.

CALENDAR ITEM
63

A) 04/09/02
Statewide
S)

CONSIDER THE ADOPTION OF A POLICY STATEMENT RELATING TO ENVIRONMENTAL JUSTICE

PARTY:

California State Lands Commission

BACKGROUND:

At its last meeting, the Commission requested staff to prepare an environmental justice policy to ensure the integration of environmental justice issues into decisions by the Commission and staff. Environmental justice is defined under State law 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."

Environmental justice laws and policies developed in the mid-1990s at the federal level in response to siting industrial facilities such as toxic waste dumps that pose a significant risk to human health in minority and low-income communities. State and local governments across the nation have also begun to incorporate environmental justice issues into their planning and decision-making. Federal policy specifically requires federal agencies to address the issue of disproportionate impacts to minority and low-income communities. While similar proposed requirements have been introduced in the legislature, to date, California law only requires that existing law be implemented fairly.

Commission staff has become more familiar with environmental justice issues by, among other efforts, attending forums hosted by the Governor's Office of Planning and Research, the overall coordinator for environmental justice programs in State government. Although the State Lands Commission is not currently required by State law to develop an environmental justice policy, the Commission's express interest coincides with the development of policies by other State agencies. In recognition of the intent of environmental justice, staff recommends adoption and implementation of the attached policy statement.

Full integration of environmental justice issues into State Lands Commission decision-making will be a lengthy process and must reflect public participation and collaboration.

As an example, the California Air Resources Board approved an environmental justice policy last December that took nearly two years to develop with the help of environmental and community groups, industry representatives, and government.

Therefore, it is also recommended that the Commission direct staff to develop a specific plan for public participation and collaboration on a more detailed environmental justice policy and to provide its plan and recommendations to the commission in six months. Staff will collaborate with representatives of minority groups and the Office of Planning and Research to formulate this plan.

EXHIBIT

A. Environmental Justice Policy Statement

RECOMMENDATIONS

IT IS RECOMMENDED THAT THE COMMISSION:

1. ADOPT THE GUIDANCE POLICY STATEMENT ON ENVIRONMENTAL JUSTICE ATTACHED AS EXHIBIT A.

2. DIRECT STAFF TO IMPLEMENT THIS POLICY.

3. DIRECT STAFF TO DEVELOP A SPECIFIC PLAN FOR PUBLIC PARTICIPATION AND COLLABORATION ON A MORE DETAILED ENVIRONMENTAL JUSTICE POLICY AND TO PROVIDE ITS PLAN AND RECOMMENDATIONS TO THE COMMISSION IN SIX MONTHS.

Exhibit A

Environmental Justice Policy Statement

California State Lands Commission

Mission Statement: *The California State Lands Commission serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through economic development, protection, preservation, and restoration.*

Commission Jurisdiction/Programs

The California State Lands Commission (Commission) holds title to and manages four million acres of tide and submerged land underlying the State's navigable and tidal waterways. These lands are held under and governed by the provisions of the Public Trust for specific public purposes such as fishing, water dependent commerce and navigation, ecological preservation, and scientific study, among others.

The Commission also holds title to and manages about 570,000 acres of State School Lands. The school lands are held in trust for the betterment of the common schools of the State and the revenue, by statute, goes to support the State Teachers Retirement System. The school lands must be administered for the benefit of the public.

The Commission grants leases and permits on State lands for such purposes as marinas, industrial wharves, tanker anchorages, timber harvesting, dredging, grazing, mining, oil and gas, and geothermal development. The Commission has regulatory authority over all marine oil facilities and terminals in the State.

The Commission also administers programs to remove hazardous artificial structures from waterways that pose a risk to public heath and safety and participates in projects and programs to preserve, enhance, and restore natural resources.

In the performance of its duties, the Commission frequently makes land use and permitting decisions, produces regulations, and takes other discretionary actions that may have an impact on the environment and human health.

Environmental Justice Policy

The Commission pledges to conduct its business with environmental justice as an essential consideration. Environmental justice is defined by State law 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."

The Commission stresses fair treatment of all members of the public in its everyday activities, decision-making, and regulatory affairs. The Commission has earned a reputation for unbiased and balanced decisions concerning uses of public lands and resources. The Commission

reaffirms its commitment to an informed and open process in which all people are treated equitably and with dignity and in which its decisions are tempered by environmental justice considerations. The Commission will communicate this policy to the cities, counties, and harbor districts who manage lands granted to them by the Commission and for which it retains oversight.

The Commission pledges to work toward the incorporation of environmental justice into its processes by:

1. Identifying areas of relevant populations that might be adversely affected by Commission programs or by projects submitted by outside parties for its consideration.

2. Seeking out community groups and leaders to encourage communication and collaboration with the Commission and its staff.

3. Distributing public information as broadly as possible in multiple languages, as needed, to encourage participation in the Commission's public processes.

4. Incorporating consultations with affected community groups and leaders while preparing environmental analyses of projects submitted to the Commission for its consideration.

5. Ensuring that public documents and notices relating to human health or environmental issues are concise, understandable, and readily accessible to the public, in multiple languages, as appropriate.

6. Holding public meetings, public hearings, and public workshops at times and in locations that encourage meaningful public involvement by members of the affected communities.

7. Educating present and future generations in all walks of life about public access to lands and resources managed by the Commission.

8. Ensuring that all reasonable alternatives are considered when siting facilities that may be near relevant populations.

9. Providing appropriate training on environmental justice issues to its staff so that consideration of such issues is incorporated into its daily activities.

10. Reporting periodically to the Commission on how environmental justice has been incorporated into programs and activities conducted by the Commission.

This policy shall be reviewed annually to evaluate its effectiveness in achieving environmental justice in the Commission's management of the lands and resources within its jurisdiction.

DIRECTOR'S POLICY

Number: 21

Effective Date: 11-05-01

Supersedes: New

TITLE Environmental Justice

POLICY

The Department of Transportation (Department) incorporates Environmental Justice into its programs, policies, and activities to ensure there are no disproportionate adverse impacts, particularly on minority and low-income populations. The Department emphasizes the fair treatment and meaningful involvement of people of all races, cultures, and income levels, including minority and low-income populations, from the early stages of transportation planning and investment decision-making through construction, operations, and maintenance.

The Department's mission is to improve mobility across California; this includes providing transportation services in an equitable manner to all segments of society. The Department strives for equity and balance in transportation investments, economic prosperity, and environmental protection.

INTENDED RESULTS

The intent of this policy is to ensure that the public, including minority and low-income populations, are not discriminated against, treated unfairly, or made to suffer disproportionately from transportation decisions. This policy directs the Department to encourage the public to express its needs and concerns so that transportation decisions better reflect community values and interests.

RESPONSIBILITIES

Department Management: Supports this policy and its implementation.

Deputy Directors for Civil Rights, Planning and Modal Programs, and Project Delivery: Develop overall departmental guidance, develop policies and programs in statewide planning, and develop procedures for project delivery, respectively. They coordinate their efforts to successfully promote and implement Environmental Justice.

Managers and Supervisors:

- Exemplify and actively support Environmental Justice.
- Ensure that their subordinates understand and comply with departmental policies regarding Environmental Justice.
- Establish a positive climate in their work unit, including mechanisms and procedures, to eliminate or reduce any obstacles to achieving Environmental Justice.

Employees:

- Support and implement this policy in performing their jobs.
- Ensure that the public, including minority and low-income populations, have a fair opportunity to express their needs and concerns in planning and transportation investment decisions.
- Set a positive example of public service and concern for the communities they serve by following the principles of Environmental Justice in their work.

APPLICABILITY

All who work for the Department in any capacity.

Jeff Morales

JEFF MORALES
Director

11-5-01

Date Signed

DEPUTY DIRECTIVE

Number: DD-63

Refer to Director's Policy: 21 - Environmental Justice

Effective Date: 11-05-01

Supersedes: New

TITLE Environmental Justice and Civil Rights in Transportation Decision-Making

POLICY

The Department of Transportation (Department) will:

- Avoid, minimize, or mitigate any disproportionate adverse impacts of plans and projects on minority and/or low-income populations.
- Provide equitable transportation services to the public, including minority and low-income populations.
- Strive for a balance of transportation investments, economic prosperity, and environmental protection.
- Include the public, including minority and low-income populations, in transportation investment decision-making from the early planning stages through construction, operations and maintenance.

DEFINITION/ BACKGROUND

"Environmental Justice" is defined in California law as "the fair treatment of people of all races, cultures and income with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies" (Government Code Section 65040.12 and Public Resources Code Section 72000).

In federal law, the principles behind Environmental Justice can be traced to Title VI of the Civil Rights Act of 1964, Presidential Executive Orders 12898 and 13166 (Environmental Justice and Limited English Proficiency, respectively), the National Environmental Policy Act of 1969, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Transportation Equity Act for the 21st Century, and other laws concerning nondiscrimination, equitable treatment, and environmental protection.

The intent of Environmental Justice is to address the potential impact of plans and projects on communities by having agencies fully consider these impacts from the early planning stages through construction, operation, and maintenance.

It is the long-standing policy of the Department to ensure that transportation plans and programs are consistent with the requirements of Title VI of the Civil Rights Act of 1964 and related statutes that prohibit discrimination.

RESPONSIBILITIES

Deputy Directors, District Directors, Division Chiefs and Program Manager:

- Promote awareness of Environmental Justice.
- Ensure that departmental policies, procedures, programs, products, and services are consistent with federal and State laws, regulations, and requirements and reflect the principles of Environmental Justice, Title VI, and related nondiscrimination requirements.
- Provide appropriate resources, time, and training to deliver products and services consistent with this Deputy Directive.

Deputy Director, Civil Rights:

- Provides guidance for developing policies and programs to promote and implement Environmental Justice in the Department.
- Reviews, enforces, and certifies departmental; Business, Transportation and Housing Agency; and any other third party programs for compliance with Environmental Justice, Title VI, and related nondiscrimination requirements.

Deputy Director, Planning and Modal Programs:

- Oversees the development of Environmental Justice policies and assistance programs related to transportation planning; mass transportation, aeronautics and rail programs; local assistance; and transportation system information.

- Ensures that transportation and planning processes and products comply with Title VI, Environmental Justice, and related nondiscrimination requirements.

Chief Engineer (Deputy Director, Project Delivery): Ensures that procedures and processes for project delivery reflect the principles of Environmental Justice, Title VI, and related nondiscrimination requirements.

Deputy Director, Maintenance and Operations: Ensures that processes and services related to the maintenance and operation of State transportation facilities reflect the principles of Environmental Justice, Title VI, and related nondiscrimination requirements.

Chief, Division of Transportation Planning:

- Develops policies and programs to implement Environmental Justice in statewide planning.
- Develops strategies to improve the participation of underrepresented groups in transportation investment decision-making.
- Provides analysis, technical assistance, and training to address and promote Environmental Justice.

Chief, Division of Environmental Analysis:

- During project development, ensures compliance with Environmental Justice principles, Title VI, and related nondiscrimination requirements under the National Environmental Policy Act.
- Conducts project level and community impact assessments concerning adverse environmental, economic, health, and social issues.
- Provides, to those involved with environmental analysis, guidance and training on ways to understand, measure, avoid, or minimize adverse project impacts on the human environment.

Deputy District Directors, Planning and Environmental Planning: Work with local, regional, and transit planning agencies to coordinate efforts and information for addressing Environmental Justice issues.

Employees: Understand and comply with departmental policy and federal and State laws and regulations when making decisions and arrangements regarding transportation and Environmental Justice.

APPLICABILITY

All who work for the Department in any capacity.

Tony V. Harris
TONY V. HARRIS
Chief Deputy Director

11/05/2001
Date Signed

ENDNOTES

[1] "Environmental Justice and a People's Forestry." Debra J. Salazar. Journal of Forestry. 94(11):32-36. 1996.
[2] The *National Environmental Justice Training Collaborative* was formed by the US Environmental Protection Agency, Office of Environmental Justice in 2000. The Collaborative's goal was to develop EJ workshops and train instructors to deliver these workshops with the assistance of Maresh Brains at Work, consultants.
[3] State Lands Commission Calendar Item 71, Exhibit A, 10/01/02.
[4] California Government Code § 65041.
[5] *Recommendations of the California Environmental Protection Agency Advisory Committee on Environmental Justice to the Cal/EPA Interagency Working Group on Environmental Justice.* Adopted on September 30, 2003.