

**ENVIRONMENTAL JUSTICE WORKING GROUP
RECOMMENDATIONS FOR THE STATE LANDS COMMISSION
ENVIRONMENTAL JUSTICE POLICY UPDATE
June 15, 2018**

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I. EXECUTIVE SUMMARY

Guided by the Principles of Environmental Justice (EJ) and a recognition that indigenous peoples inhabited these lands before California was established, an Environmental Justice Working Group (EJWG) was convened in early 2018 to develop recommendations for the California State Lands Commission (SLC) update of its Environmental Justice Policy. The EJWG is comprised of the following eight organizations working with EJ communities throughout California: Azul, Center on Race, Poverty & the Environment, Central Coast Alliance United for a Sustainable Economy, Communities for a Better Environment, East Yard Communities for Environmental Justice, Leadership Counsel for Justice and Accountability, Sacred Places Institute, and WILD Coast.

The EJWG urges the Commission to take the necessary steps to prevent pollution, mitigate and minimize negative impacts, and embrace ways to benefit EJ communities. These changes require a fundamental shift in the way SLC conducts business in EJ communities, which begins

with more inclusive and transparent decision-making processes. Through the development of an EJ plan and strategy, training of staff on EJ issues—including on methodologies for conducting EJ analyses—and the implementation of a robust engagement plan, SLC can transform its approach. The process recommendations described here are intended to move SLC toward meaningful solutions for the benefit of EJ communities throughout California.

Working with SLC staff, the EJWG studied SLC jurisdiction over state-owned public lands and waters, the Commission’s responsibility under the Public Trust Doctrine to steward our natural resources for the benefit of all Californians, and the Commission’s challenges in implementing its original EJ Policy. The EJWG offers overarching principles and specific recommendations to encourage SLC to develop a more inclusive and equitable approach in the implementation of its programs and activities, with the goal of protecting and promoting the health and wellbeing of EJ communities.

The EJWG highlights principles that are intended to guide the overall direction of SLC’s EJ Policy implementation to ensure that Commission decisions are more equitable and benefit California disadvantaged and vulnerable communities, including many of its Native American Tribes and indigenous peoples. The EJWG’s proposed principles for SLC:

- Acknowledge ANCESTRAL HOMELANDS of California Native American Tribes, especially those that are currently landless in California;
- Practice INCLUSION of EJ communities’ diverse cultural perspectives in its processes and decisions;
- PROTECT EJ communities by preventing pollution on state lands;
- Promote EQUITY in land use and investment decisions in ways that benefit disadvantaged communities;
- Prepare and advance a VISION for California to be fossil-fuel free and to ensure the state’s diverse population can participate in and benefit from a just transition to a renewable energy future, and a clean and healthy economy.

The recommendations call for the Commission to actively consider impacts of SLC activities and programs on EJ communities. The EJWG has prioritized eight issue areas. These include climate adaptation and resilience, public access and conservation, renewable energy, water and pollution, and waterfront development. The last three issue areas of great consequence for EJ communities and California Native American Tribes deserve elaboration:

- California Native American Tribes and Indigenous Peoples. Honor the relationship of indigenous peoples to lands under SLC jurisdiction. Engage in government-to-government consultation with Tribes as noted in SLC’s Tribal Policy. Support land returns and tribal management and/or co-management of restored lands as part of a just transition.
- Oil and Gas Operations. Prevent harm from oil and gas operations in EJ communities. Champion efforts to transition California off fossil fuels by supporting and accelerating

the decommissioning of oil and gas facilities and promoting the development of renewable energy projects that benefit disadvantaged communities. For example, prevent new offshore oil drilling, new coastal power plants, and the expansion and renewal of oil refineries, terminals and pipelines in areas under the Commission’s jurisdiction; support decommissioning of oil and gas facilities, support cleanups to be paid for by facility owners; and work with California Native American Tribes, local EJ communities, and local governments to discuss a just transition process.

- Ports and Transportation. Exercise SLC power to require mitigation of impacts on disadvantaged communities from commercial activities on public trust lands, even if not adjacent to the coast; guide local governments to do the same. Promote adoption of clean transportation and zero emission vehicle at ports. Play a role in the efforts of other state agencies to reduce pollution from the entire logistics industry.

II. Introduction

The Principles of Environmental Justice (EJ) declare “a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities” and “to secure our political, economic and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land.”¹

The members of the Environmental Justice Working Group (EJWG) draw from this worldview to provide recommendations to the California State Lands Commission (SLC or “Commission”), which holds jurisdiction over state-owned public lands and waters. As SLC considers, adopts, and begins to implement an updated EJ Policy to guide its engagement with California Native American Tribes and Native Americans, and EJ communities—African American, Latino, Asian Pacific Islander and low-income communities—we invite the Commission to revisit the history of environmental racism in California, which has left behind communities overburdened by pollution. We welcome the opportunity to advise SLC as it considers how to address disproportionate burdens on communities of color and indigenous peoples through its environmental decision-making.

We urge SLC to consider California’s long history of mistreating California Native American Tribes and communities of color, with regard to our state’s landscapes, environment, and political life. As Governor Brown acknowledged in 2016:

California has been home to human beings for more than 12,000 years, with the presence of European-Americans representing only a tiny fraction of this time. The first Europeans to arrive in California encountered hundreds of thousands of people organized into hundreds of distinct tribal groups. They flourished in the

¹ Principles of Environmental Justice, Delegates to the First National People of Color Environmental Leadership Summit, October 27, 1991

bountiful hills and valleys of what someday would be called California. [But] the contact between these first Californians and successive waves of newcomers over the three succeeding centuries was marked by the utter devastation of the native peoples, their families and entire way of life. The colonial regimes of Spain and Mexico through disease and enforced servitude cut the indigenous population by more than half. Then the Gold Rush came, and with it, a wave of new diseases and wanton violence which reduced the Native population again, this time by more than 80 percent. The newborn State of California actually paid for the killing of Native peoples and tolerated or encouraged policies of warfare, slavery and relocation that left no tribe intact...²

In the recent past, whether purposely or negligently, California has perpetuated state actions and policies that dislocate Native American Tribes and communities of color from the land, subjecting them disproportionately to environmental pollution, and prevented equitable access to economic opportunities.

To inform the EJ Policy update, the EJWG was convened based on its members' expertise and experience related to SLC programs that implicate EJ issues. Collectively, EJWG members work with Native Nations and Indigenous Peoples, with neighborhoods adjacent to ports and oil refineries and terminals, on coasts and rivers impacted by oil and gas operations and other waste, and rural and desert areas experiencing extreme poverty. While California's extractive economy has poisoned our communities and contributed to climate change, we envision a just transition to an emerging green and regenerative economy that includes and benefits EJ communities. SLC's updated EJ policy should describe how it will use its authority as steward of California's state-owned lands, tidelands, and coastal waters to advance a more just and equitable vision for the future.

Environmental Justice and the Public Trust Doctrine

The SLC has authority and responsibility under the Public Trust Doctrine, which requires it to act as a trustee, on behalf of the people of California, over California's sovereign tidelands and submerged lands. The Commission also holds state school lands in trust for all Californians. The time has come for the State Lands Commission to consider principles of environmental justice as it manages California's trust resources. We recognize also that these lands have been occupied and cared for by California Native American Tribes since time immemorial and were claimed often brutally and by force on behalf of the state.

The public trust doctrine requires California "to protect the people's common heritage"³ in public trust resources, which include tidelands, submerged lands, and navigable waters, as well as the wildlife and natural resources associated with them. The doctrine also requires California

² Governor Brown Issues Proclamation Declaring Native American Day, Sep 23, 2016

³ The Public Trust Doctrine: A Guiding Principle for Governing California's Coast Under Climate Change, Center for Ocean Solutions, July 11, 2017

to exercise “continuous supervision and control”⁴ over public trust resources. Importantly, uses of public trust resources must address public needs and advance public purposes or benefits.

For too long, California’s political leaders and resource managers have left Native American Tribes, communities of color, and low-income communities out of the narrative about “our common heritage.” Our cultural and sacred practices, health, economic development, and environmental well-being have similarly been discounted, or simply omitted, from calculations of “public need” and “public benefit.” Moreover, commercial public trust uses such as ports often cause negative impacts on nearby communities – both coastal and inland – that suffer disproportionate impacts from shipping and other commerce. These decisions disproportionately impact low-income communities and communities of color, and in some cases the public trust doctrine has been used as an impediment to mitigating impacts and providing benefits to affected communities. All too often, our communities have suffered as result.

Fortunately, California’s understanding of public trust needs and benefits can change over time as we collectively gain knowledge about the effects of our decisions, and as our common needs evolve and come into focus. For example, only in the 1970s and 1980s did the California Supreme Court recognize the need for the state to protect the ecological integrity of its public trust resources, after decades of considering them subsidiary to commerce, navigation, and extractive use. California has the power to reconsider its past decisions under the Public Trust Doctrine to ensure that it is continually managing public trust resources in keeping with its evolving understanding.

In keeping with this understanding of the public trust doctrine as an evolving source of guidance for advancing the public good, we urge the SLC to become more inclusive and equitable when considering who benefits from its management of public trust resources and how it manages its resources to attain those goals. We see a particular need for SLC to honor California Native Americans’ sacred uses of trust lands, including by meeting the statutory responsibility that SLC must undertake consultation with Native American Tribes. There is a broader need for a more equitable understanding and application of the public trust doctrine across the full range of SLC’s actions and decisions. The recommendations contained herein are intended to show the Commission how it can begin.

III. EJ Principles for More Equitable Decisions that Benefit California Native American Tribes and Disadvantaged and Vulnerable Communities

- **ANCESTRAL HOMELANDS.** Acknowledge, uplift, and respect the voices of California Native American Tribes in managing state lands and trust lands that include their ancestral homelands. Respect and apply principles and practices of government-to-government consultation between California Native American Tribes and the State. Where opportunities arise, promote and support the return of ancestral homelands to

⁴ Ibid

California Native American Tribes, especially those that are currently landless in California.

- **INCLUSION.** Include EJ communities' experience and diverse cultural perspectives in your processes and decisions. Ensure that environmental review and decision-making include an analysis of EJ impacts that fully considers the community's well-being within the context of historic racial, economic, and environmental disparities.
- **PROTECTION.** Prevent pollution, emissions, and environmental degradation from increasing on state lands and in EJ communities affected by use of state lands and public trust resources. Protect EJ communities from ecological destruction and discrimination, including from fossil fuel extraction, production, pollution, and disposal of toxic wastes that threaten the fundamental right to clean air, land, water, and food. Fully mitigate the impacts on disadvantaged communities of the activities that take place on, and originate from, public trust lands.
- **EQUITY.** Promote responsible and equitable uses of land and renewable resources for the public, including environmental and economic policies to clean up, rebuild, and protect our cities and rural areas in balance with nature to correct historic harms to EJ communities. Encourage conservation and natural restoration efforts to be led by indigenous peoples. Ensure that investment in beneficial projects, including those using or stemming from public trust resources, prioritize and benefit disadvantaged communities.
- **VISION.** Include EJ across SLC programs and activities. Become a champion for a fossil fuel-free California powered by clean energy and running on clean transportation. Include the diversity of California's population in a just transition to a renewable energy future and a clean and healthy economy.

IV. EJ Recommendations: Priorities for Ensuring a More Inclusive and Transparent Decision-making Processes

1. Staff and Commission

Environmental justice and social equity issues are complex and public agency staff often lack needed understanding and training. To be effective over the long term, an update of the Commission's EJ Policy will require a cultural shift within the agency. This shift will require building relationships with experts, including community leaders and residents, to better understand environmental justice and social equity.

- a) SLC staff consideration of EJ. Provide regular and consistent training on environmental justice and social equity. Train agency staff to properly identify EJ issues and the communities disproportionately impacted by environmental burdens. Encourage staff to participate in EJ tours to better understand the scale of exposure to pollution and other burdens that frontline communities experience. Create opportunities for genuine relationships between the agency and the communities affected by its decisions. Hire staff that have EJ training and seek opportunities to hire from EJ communities. Develop EJ champions in and throughout the agency.

- b) The Commission and consideration of EJ. Engage Commissioners on EJ issues early in the decision-making process. Expand the Commission to include EJ representation and geographic diversity. Establish an EJ advisory group to the Commission similar to other agencies, such as the EJ Advisory Committee at the California Air Resources Board and the Disadvantaged Communities Advisory Group at the California Public Utilities Commission. Provide resources for EJ representatives to participate.
- c) Agency program reforms. Enable and support the development of programs to improve conditions in EJ communities, such as allowing mitigation of impacts from granted lands and other trust lands and uses, and creatively using trust resources.
- d) Strategic planning and implementation. Develop concrete, specific, and achievable action plans to implement the new EJ Policy successfully for the next five years. Integrate EJ plans into the SLC strategic plan. Produce annual status reports, including metrics on the quality of engagement of EJ communities in key Commission decisions. Assess implementation of the updated EJ Policy at the conclusion of the initial five-year plan.
- e) Set bold statewide goals on one or more significant EJ issues, such as leading a pollution reduction strategy of the logistics industry on the entire California coast, instead of only at individual ports.

2. Community Engagement

Early and effective engagement of disadvantaged communities is critical to ensure Commission decisions, and local government and private decisions affecting public trust resources, fully consider potential impacts on EJ communities. Public participation requirements, alone, are insufficient to support engagement of disadvantaged communities. SLC staff should proactively inform EJ communities about SLC projects that may affect them, early in the process of considering those projects, rather than placing the burden on those communities to find out. Similarly, Commission staff should take proactive steps to ensure that local governments with projects under Commission jurisdiction provide similar community engagement.

- a) Public participation. Develop and implement meaningful public participation processes, inclusive of groups historically disadvantaged from government and environmental decisions. Connect with communities at the beginning of a decision-making process and continue engaging them throughout, including opportunities in implementation. Coordinate with local governments and consider contracting nonprofit groups to reach community members. Ensure that municipal managers of granted lands, such as ports, engage in similar efforts. Accommodate EJ communities' participation needs in project decisions by setting meeting times accessible for working families, selecting familiar community locations for meetings, partnering with local community-based groups, providing childcare during meetings, and addressing other barriers to participation.
- b) Identification of EJ communities. Learn to properly identify EJ communities through research, tools such as CalEnviroScreen, outreach methods, and personal connections with EJ groups on the ground. Avoid misidentifying EJ communities or grouping all people of color under the EJ umbrella.

- c) Notices for projects and meetings. Ensure that the Commission’s noticing practices, as well as those of municipal managers of its granted lands (such as ports), are proactive and effective in engaging low-income communities and communities of color. Translation and interpretation are key components of an effective noticing strategy in EJ communities.

3. EJ Analysis

EJ communities have found that SLC staff analyses of environmental justice issues, impacts, and interests are weak or absent. We thus recommend various improvements to ensure that SLC establishes a transparent process to properly identify and analyze EJ issues.

- a) EJ definition and communities. Hire trained staff or provide the necessary training to properly identify EJ communities and prevent misrepresentation of EJ issues. Staff analysis and reports should include demographic indicators, detailed qualitative descriptions of EJ communities, historical environmental impacts that increase their vulnerability, and other concerns. Study the nexus between EJ and major agenda items relating to ports, oil and gas extraction and production, and other issues described in section IV of this document. Provide guidance to municipal managers of granted lands, such as ports, to ensure they engage in the same practices.
- b) EJ Assessment and transparency. Include an EJ analysis in each CEQA document, (including Negative Declarations, Mitigated Negative Declarations, etc). Develop a set of principles and protocols to guide EJ review and assessment of project leases, conditions, implementation, and mitigation. Ensure that this review process and protocol are publicly shared, transparent and posted on the SLC website.
- a) Quality EJ analysis. Develop an adequate environmental justice analysis that accounts for cumulative impacts, health thresholds, and, in the case of fossil fuel facilities, fossil fuel quality (including life cycle, carbon intensity, criteria air pollutants, volume of pollutants). Require assessment of project impacts on coastal access by disadvantaged communities. Employ precautionary principle⁵ approaches to prevent harm instead of allowing risks to health, especially in vulnerable populations. Provide guidance to municipal managers of granted lands, such as ports, to ensure they engage in the same practices.
- b) Account for benefits. Assess the needs of EJ communities and work to ensure that project benefits meet these needs. Ensure that projects deliver multiple economic, social, and health benefits to disadvantaged communities. Economic benefits include local workforce development, employment opportunities for residents, and protection of critical infrastructure and existing shoreline communities. Social benefits include working with local organizations and businesses to engage local residents and assist them in gaining skills related to natural resource protection. Other benefits that alleviate multiple stressors within communities include, but are not limited to, addressing the need for additional recreational amenities, climate change resiliency, reductions in pollution burden, greater civic engagement, and enhanced leadership

⁵ The Precautionary Principle, World Commission on the Ethics of Scientific Knowledge and Technology, 2005

development opportunities.⁶ Provide guidance to municipal managers of granted lands, such as ports, to ensure they engage in the same practices.

- c) Screening Tools. Train the appropriate staff to utilize tools that identify EJ communities where they live, work, and recreate. Consider tools for EJ already in use in California including CalEnviroScreen, EJ Screening Method, Healthy Places Index, the sacred lands inventory and others that account for climate vulnerability, sea level rise, public access to open space, indigenous and tribal communities, etc. The Commission should consider developing a screening tool that is tailored to SLC's needs and programs.
- d) Public Trust Doctrine analysis. Utilize a forward-looking vision of the public trust doctrine such as the one articulated by experts in *The Public Trust Doctrine: A Guiding Principle for Governing California's Coast Under Climate Change*.⁷ Include sacred site and environmental justice considerations within public trust analysis.
- e) Equitable legal practices. Refrain from seeking compensation from EJ groups to recover agency costs, including administrative, paralegal and attorney time spent on record preparation when public interest petitioners pursue litigation against SLC.

V. EJ Recommendations: Priorities for Integrating EJ into Key SLC Programs and Issues

Each of the following eight sections describe conditions experienced by indigenous peoples and/or EJ communities under the specified issue area, as well as ways that they are promoting solutions to address those problems. When leases or projects come before SLC related to these programs or issue areas, the Commission should take actions to prevent pollution and emissions increases, mitigate and minimize negative impacts, and include ways to benefit impacted communities. In general, SLC decisions should not further harm these peoples and communities.

1. California Native American Tribes and Indigenous Peoples

Honor the relationship of indigenous peoples to lands that are now claimed by the state of California. As a state agency SLC has an obligation to engage in government-to-government consultation with California Native American Tribes. This obligation should be acknowledged and undertaken first. SB 18 (Burton, 2004) provides first right of refusal to Tribes for open space management.⁸ Expand opportunities to help landless Tribes purchase ancestral lands, as the Coastal Conservancy has done.

- a) Build capacities of Native nations to protect sacred lands.
- b) Address erasure of indigenous peoples.
- c) Lift up perspectives of California Native Nations and identify opportunities to codify support for traditional land and water management practices.

⁶ http://sfbayrestore.org/docs/Grant_Program_Guidelines_062717_final.pdf

⁷ The Public Trust Doctrine: A Guiding Principle for Governing California's Coast Under Climate Change, Center for Ocean Solutions, July 11, 2017, available at <https://oceansolutions.stanford.edu/news-stories/public-trust-doctrine-guiding-principle-governing-californias-coast-under-climate>

⁸ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200320040SB18

- d) Support California Native American Tribes around land returns and tribal management and/or co-management of restored lands as part of a just transition.

2. Climate Adaptation and Resilience

While climate change will affect everyone, not everyone will be affected the same way, nor have the same ability to recover. The most vulnerable and disadvantaged communities need the most help because they often lack the resources to relocate, find jobs, and seek medical support. Consider frontline communities first in the development and implementation of climate adaptation programs, including adaptation to sea level rise.

- a) Study, include and implement climate resiliency and adaptation for EJ communities as outlined in the Climate Justice section of the Safeguarding California Plan for adaptation (2018 update)⁹ as it relates to the jurisdiction of the SLC.
- b) Implement principles from the Public Trust doctrine relating to sea-level rise.¹⁰
- c) Study “just transition” strategies¹¹ that EJ leaders are developing to move away from an extractive economy that negatively impacts indigenous people and EJ communities, and instead moves toward a local living economy and resiliency practices that honor our relationship with the natural world.
- d) Support allocation of comparable resources, including funding for disadvantaged communities, to the more than 150 Native Nations in California to support their development of adaptation and resilience strategies for their communities.
- e) Where appropriate, protect communities along the State’s shoreline using natural habitats to stem the risks of severe coastal flooding caused by storms and high water levels. Promote nature-based flood protection through wetland and habitat restoration. Support construction and/or improvement of flood protection levees that are a necessary part of wetland restoration activities and protect existing shoreline communities, agriculture, and infrastructure.¹²
- f) Take steps to ensure that sea-level rise does not exacerbate differential coastal access across income and racial lines, including incorporating consideration of those issues in permitting commercial uses of public trust lands and resources.

3. Oil and Gas Operations

The extractive economy that drills for oil and gas, and that transports these toxic materials on roads and through pipes to be burned at factories and distributed to consumers, wreaks havoc on the places and people it touches along the way. EJ communities bear the burden—from oil

⁹ Safeguarding California Plan: 2018 Update California’s Climate Adaptation Strategy, California Natural Resources Secretary, January 2018

¹⁰ The Public Trust Doctrine: A Guiding Principle for Governing California's Coast Under Climate Change, Center for Ocean Solutions, July 11, 2017, *available at* <https://oceansolutions.stanford.edu/news-stories/public-trust-doctrine-guiding-principle-governing-californias-coast-under-climate>.

¹¹ From Banks and Tanks to Cooperation and Caring, A Strategic Framework for a Just Transition, Movement Generation, 2017

¹² http://sfbayrestore.org/docs/Grant_Program_Guidelines_062717_final.pdf

fields in Los Angeles to refineries in Richmond—and SLC has the opportunity to become a leader by interrupting and fixing this problem within the bounds of the Commission’s jurisdiction.

- a) Prevent harm from fossil fuels, from cradle to grave, from extraction to burning. Wherever the Commission has jurisdiction or tools to provide leverage, clean up oil and gas operations in EJ communities, especially where those operations are close to homes, schools, or other sensitive receptors. Consider zero-waste strategies. Where the SLC has jurisdiction, make efforts to set back oil drilling from homes and sensitive receptors.
- b) Do not permit new offshore oil drilling. Fight federal plans to open the California coast to offshore drilling.
- c) Limit the expansion of oil refineries, including the Tesoro refinery in Wilmington and Chevron Refinery in Richmond, where new or expanded operations require SLC leases.
- d) Prevent the expansion and renewal of marine and coastal oil terminals and pipelines. Account for impacts upstream (like the quality of crude oil and carbon intensity) and downstream on communities and the environment, including in the environmental impact report (EIR).
- e) Stop new fossil fuel power plants, liquefied natural gas, and other fossil fuel export terminals from being built in EJ communities and elsewhere within Commission jurisdiction.
- f) Champion the efforts to transition California off of fossil fuels by supporting and accelerating the decommissioning of oil and gas facilities and promoting the development of renewable energy projects that benefit disadvantaged communities. Require companies to clean up and fund decommissioning of projects.
- g) Work with California Native American Tribes, local EJ communities, and local governments to develop a process for a just transition, including job training for impacted workers and communities from decommissioning projects. Work especially with California Native American Tribes around land returns and tribal management and/or co-management of restored lands as part of a just transition.
- h) Prepare a schedule of potential lease renewals for oil and gas facilities and share this with EJ communities to facilitate participation in the process of reviewing applications.

4. Ports and Transportation

The massive numbers of trucks, ships and trains moving through California ports have acute air pollution impacts on the residents at the fenceline of these facilities, as well as along the freeways and railways that are used to transport goods from shipping terminals to inland warehouses and distribution centers. The logistics industry continues to expand in California and the West Coast, which exacerbates health impacts on surrounding communities. Air quality experts have done numerous studies demonstrating the health impacts of goods movement but not enough has been done to improve conditions in affected communities. SLC should utilize its powers to protect impacted communities and natural resources.

- a) Push for the clean-up of ports and freight, given the incompatible land uses with residential communities. Fully mitigate impacts on disadvantaged communities from commercial activities that take place on, and originate from, public trust lands. Apply

- a vision of trust responsibilities that allows mitigation resources, including those that may be understood as “public trust resources,” to be used to benefit disadvantaged communities that are negatively impacted by commercial activities that take place on, and originate from, public trust lands, even if those lands are not immediately adjacent to the coast. Using SLC's authority to interpret the terms of trust grants, guide local governments who operate municipal ports to prevent and reduce negative impacts to surrounding EJ communities.
- b) Promote clean transportation and zero emission vehicle adoption to reduce pollution at ports. Recognize that ports are also responsible for air pollution generated by trucks and work with responsible parties to reduce and mitigate this pollution.
 - c) Play a role in the efforts of other state agencies to reduce pollution from the entire logistics industry.
 - d) Use oversight authority over public trust lands granted to ports to prevent controversial fossil fuel infrastructure development on port lands, such as the proposed coal export hub in Oakland that, if built, could ship millions of tons of coal per year overseas and further harm communities suffering from poor air quality and adverse health impacts.

5. Public Access and Conservation

Privatization, pollution, environmental destruction, and mismanagement are ongoing problems that prevent public access to natural lands and waters. As a result, many indigenous peoples are denied access and rights to their ancestral lands. Low-income communities of color lack sufficient access to open space, especially on the coast and near waterways. SLC needs to identify ways to reduce pollution on these lands and waters, integrate a cultural understanding of how indigenous and communities of color interact with these places, and engage communities not traditionally included in coastal planning.

- a) Support Native people’s ability to engage in cultural activities on their homelands and engage with traditional cultural practitioners in development of conservation and invasive species control plans.
- b) Conserve coasts, oceans, and inland waterways, including using expanded cultural perspectives of how Native Americans and communities of color traditionally use or enjoy these natural resources. Challenge narrow racial views of acceptable uses of these areas.
- a) Restore coastal, marine, and freshwater ecosystems, including in and near low-income communities of color.
- b) Encourage blue carbon projects (like seagrass bed restoration) near EJ communities to sequester carbon or mitigate and offset pollution. Locate beneficial marine projects adjacent EJ communities.
- c) Increase access for EJ communities and the public to river corridors, including the San Joaquin River. Encourage conservancy boards and other government entities to do the same.

- d) Actively encourage public access to the state’s natural areas especially for disadvantaged communities that live nearby but haven’t traditionally been able to enjoy them.
- e) Enhance the quality of life of residents living in EJ communities through safer and improved public access, in conjunction with wildlife habitat restoration projects across the state. Work with coastal management agencies to promote construction of public access trails, signs, and related facilities on public lands, and to ensure communities have access to interpretive materials and special outreach events about pollution prevention, wildlife habitat, public access, and flood protection.¹³

6. Renewable Energy

Most fossil fuel power plants, natural gas facilities and other combustion technologies that generate electricity are located in EJ communities and contribute to the disproportionate environmental impacts suffered by those communities. Renewable energy from solar, wind and water sources is a welcome solution. For over five years, EJ groups have been developing energy equity solutions that prioritize small scale solar, low-income household access to clean technologies, and economic opportunities— from jobs to ownership—associated with these technologies. Include these energy equity principles in developing SLC’s renewable energy program.

- a) Promote clean energy infrastructure and site more renewable energy projects in EJ communities, including in the Central Valley. Favor solar project locations that present the highest value to the grid and are closest to subscribers, that use existing structures, and that minimize siting on prime agricultural land. Refer to the 2016 Integrated Energy Policy Resources report by the Energy Commission on the siting of projects.¹⁴ Instead of industrial-scale solar projects, promote smaller photovoltaic installations and distributed generation with a local workforce.
- b) Within SLC’s jurisdiction, create a vision and a plan to transition California off fossil fuels and increase renewable energy generation from solar, wind and water sources. Prioritize EJ communities in this vision. Work with other agencies to support a just transition strategy, especially jobs for disadvantaged communities and impacted workers, for the decommissioning of oil platforms and power plants, and other land use changes that move away from oil and gas operations on state lands.

7. Water and Pollution

Industrial and commercial activities at or near coasts and rivers threaten water quality. To advance EJ, the SLC must identify, mitigate, and minimize sources of pollution and impact. For example, the Tijuana River watershed area is the only park space available to south San Diego communities, and Imperial Beach has been closed three of the last 10 years because of pollution. While many of these polluting activities are not under the direct control of the

¹³ http://sfbayrestore.org/docs/Grant_Program_Guidelines_062717_final.pdf

¹⁴ http://www.energy.ca.gov/2016_energypolicy/

Commission, the Commission can work with other agencies and permittees to address these issues.

- a) Within Commission jurisdiction, work with other agencies to address solid waste, sewage, and sediment that enter water bodies, including the Tijuana River watershed. Include EJ provisions in the lease with the city or county of San Diego to address this problem.
- b) Prevent wastewater runoff from oil and gas extraction into rivers, such as the San Joaquin River. Refer to SB 4¹⁵ on hydraulic fracturing, or fracking waste, and the 2015 California Council on Science and Technology report (Vol. 3)¹⁶ on well stimulation impacts on rivers.
- c) Support ways to address toxic waste coming from industrial facilities such as oil refineries and wells that harm surrounding communities.
- d) Support addressing water contamination from nitrates and agricultural runoff that seep into rivers and water tables.
- e) Work with other agencies and permittees to require zero waste strategies to prevent waste problems on water bodies.
- f) Analyze the impacts of desalination projects and promote transparency. Consider key factors including the demonstrated need for each proposed project, potential fiscal and budget impacts on the public, any potential conflicts of interest among parties who are funding relevant research, drinking water affordability and access for low-income communities, plans for water distribution after the project is built, and public checks and balances on the project once it begins operation. Consider whether privatized desalination supply projects, in comparison to other alternatives, will serve the public interest in the long run.

8. Waterfront Development

Coastal development and riverfront properties such as luxury hotels and homes, look like exclusive enclaves for affluent White communities. A 21st-century understanding of the scope and goals of the public trust requires revisiting policies that facilitate this type of development, and instead ensuring a more diverse set of uses to benefit the diverse communities of our state. We would see Native American, Black, Latino, Asian immigrant and low-income folks living on and using these lands, whether built as affordable housing or as open space. Within its jurisdiction and influence, SLC should correct its course on this history of discrimination in waterfront development.

- a) Ensure that waterfront development projects benefit disadvantaged communities.
- b) Deny approval for development projects that negatively impact EJ communities and ensure that local governments administering granted lands do the same.
- c) Promote development projects that clean up and revitalize EJ communities and move away from toxic land uses.

¹⁵ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB4

¹⁶ <http://ccst.us/publications/2015/2015SB4-v1ES.pdf>

- d) Develop and implement waterfront development policies that support affordable housing, beach access, and parks for communities such as Wilmington that exist in the shadow of multiple industrial facilities.

VI. Conclusion

The EJWG appreciates the Commission and staff's efforts to engage EJ groups in the process of updating and improving SLC's EJ Policy. The EJWG studied SLC's programs and how the agency interacts with California Native Nations and indigenous peoples, communities of color, and low-income communities on many important EJ issues related to state lands. These EJ recommendations reflect the vast experience and wide perspectives of members of the EJWG. We invite SLC's curiosity and reflection comparing the agency's history and future related to these recommendations. We welcome discussions and actions to follow. We look forward to a cultural shift among staff and the Commission so that the EJ Policy succeeds and evolves. And we look forward to SLC leadership correcting course and taking ambitious actions on behalf of EJ communities on complex legacy issues that the Commission may have created or exacerbated in the past, but now chooses to ameliorate.

VII. About the Environmental Justice Working Group and Recommendations

The EJWG Recommendations were prepared through a collaborative process with member organizations and led by Mari Rose Taruc as consultant to Resources Legacy Fund. This project was supported by the California Coastal Program and California Conservation Innovations Program of Resources Legacy Fund.

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These recommendations were also reviewed by the Asian Pacific Environmental Network, Environmental Health Coalition, Sean Hecht (Professor at the University of California, Los Angeles and Co-Director of the UCLA Environmental Law Clinic), and Resources Legacy Fund.

About EJWG Member Organizations

Azul is a San Francisco-based statewide organization working with Latinxs to conserve coasts and oceans. Campaigns include reducing plastic pollution, getting more Latinxs in marine advocacy, and protecting and enhancing beach access whenever possible—from advocating for low-cost, family-friendly beach accommodations to ensuring environmental justice is adequately considered within regulatory decisions. www.azul.org

The Center on Race, Poverty & the Environment is a San Joaquin Valley-rooted national environmental justice organization providing legal, organizing, and technical assistance to grassroots groups in low-income communities and communities of color. Campaigns include

sustainable agriculture to combat the negative effects of industrial agriculture, climate justice to address the disproportionate impact of climate change on low-income communities and communities of color, community investment and infrastructure for basic public services, and toxic free communities from waste dumps. www.crpe-ej.org

Central Coast Alliance United for a Sustainable Economy builds grassroots power to realize social, economic and environmental justice for the people of the California Central Coast Region (the Counties of Ventura, Santa Barbara, San Luis Obispo, Santa Cruz, Monterey and San Benito) through policy research, leadership development, organizing, and advocacy. Campaigns for environmental justice and health equity include fighting for clean air in Oxnard against power plants, stopping a hazardous metal scrapyards, protecting and restoring the Santa Clara River, and organizing for the Westside Community Park in Ventura. www.causenow.org

Communities for a Better Environment builds people's power in California's communities of color and low-income communities to achieve environmental health and justice by preventing and reducing pollution and building green, healthy and sustainable communities and environments. Campaigns include promoting decentralized, local renewable energy production, improving safety at oil refineries, and cleaning up Southern California from power plants, freight pollution, flaring and industrial expansion. www.cbecal.org

East Yard Communities for Environmental Justice is an environmental health and justice organization working towards a safe and healthy environment for communities that are disproportionately suffering the negative impacts of industrial pollution in the local communities of Southeast Los Angeles and Long Beach. Campaigns include Green Zones land use policy development, I-710 corridor improvement project that safely plans for the region's goods movement growth, and the BNSF Southern California International Gateway (SCIG) railyard that threatens local communities and workers. www.eycej.org

Leadership Counsel for Justice and Accountability is based in the San Joaquin and Eastern Coachella Valleys and works alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. Campaigns include healthy land use planning to address community-identified priorities such as increased park space and protection from industrial pollution, access to reliable wastewater and drinking water service, and climate resilience (includes both mitigation and adaptation). www.leadershipcounsel.org

Sacred Places Institute for Indigenous Peoples is an Indigenous-led, community-based organization that builds the capacity of Native Nations and Indigenous Peoples to protect sacred lands, waters, and cultures. Campaigns include the Sacred Ecologies Program to respond to threats to sacred places and environmentally sensitive habitats, and the Indigenous Waters Program to protect fresh and salt waters and coastal resources. www.sacredplacesinstitute.org

WILD COAST is committed to conserving and sustaining coastal and marine ecosystems and wildlife. Campaigns include climate change and protecting mangroves and shorelines in

California, Mexico and Cuba, and Blue Carbon initiatives that establish and manage protected areas. www.wildcoast.org