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June 29, 2009 UPDATED July 17, 2009

Governor Arnold Schwarzenegger
Senate President pro tempore Darrell Steinberg
Senate Minority Leader Dennis Hollingsworth
Assembly Speaker Karen Bass
Assembly Minority Leader Sam Blakeslee
State Capitol
Sacramento, CA

re: Legal Requirements to Keep State Parks Open for All

Dear Governor Schwarzenegger, Senate President Steinberg, Senate Minority Leader Hollingsworth, Speaker Bass, and Assembly Minority Leader Blakeslee:

We demand that you keep the California State Park system open for all, and cease and desist the threats to cut the budget of the California Department of Parks and Recreation (the Department) by \$70 million this year, 87% of its budget. Closing units of the park system would cost more than \$70 million and would be arbitrary, capricious, discriminatory, and illegal under the following laws, among others, as discussed below:

- the Federal Land and Water Conservation Fund and the Federal Lands to Parks Program;
- laws requiring that beaches remain public for all, including the public trust doctrine, the California Constitution, the California Coastal Act, and other California statutory law;
- federal and state civil rights laws prohibiting intentional discrimination and unjustified discriminatory impacts based on race, color or nation origin by recipients of federal or state funds, including Title VI of the Civil Rights Act of 1964 and its regulations, and California Government Code 11135 and its regulations;
- Federal and state laws protecting the interests of Native Americans in Sacred Sites on State Park grounds and requiring respectful government to government consultations with Native Americans, which have not in fact occurred;
- Federal and state environmental laws requiring full environmental review before any discretionary acts to close State Parks;
- California Code of Civil Procedure 526a, prohibiting any illegal expenditure of, waste of, or injury to public property.

“If there is a place on earth for us to find peace and tranquility, it is the open space available at State Parks and Native Sacred Sites like Panhe. It is a travesty for the majority of hard working people to lose these precious places in the face of great economic pressure on family needs, but every soul needs a quiet place away from our troubled world,” according to Robert Bracamontes.

Visitors to California’s state parks spend an average of \$4.32 billion per year in park-related expenditures, based on attendance estimates by state Parks and Recreation of about 74.9 million visitors a year, according to a recent study by the California State University at Sacramento.

Congress has authorized the acquisition of over 700,000 acres of green space in California. The Governor proposes closing 1,287,645 acres of state parks, which would more than cancel the federal government's efforts to green California. 87% of State Park employees would lose their jobs, undermining federal economic stimulus. The National Trust for Historic Preservation has named California's state parks as one of the nation's eleven most endangered historic treasures. The National Park Service has fee free National Parks this summer, in recognition of the values parks provide, particularly during the worst economic crisis since the Depression.

State parks provide economic benefits including places for physical activity to reduce obesity, improve health, and cut medical costs; local green jobs for youth and small and disadvantaged business enterprises; Conservation Corps type programs to diversify job and career opportunities and to permanently improve the park system; tourism dollars; and transit to trails.

Parks offer multiple benefits beyond dollars and cents, including the simple joys of playing in the park; social cohesion, or bringing people together; improved physical, psychic, and social health; improved youth development and academic performance; educational programs on stewardship; positive alternatives to gangs, crime, drugs, and violence; conservation values of clean air, water, land, and habitat protection, and climate justice; art, culture and historic preservation; preservation of Native American Sacred Sites; spiritual values in protecting the earth and its people; and sustainable regional planning. Fundamental principles of equal justice and democracy underlie these benefits.

LWCF and FLP. Closing State Park facilities that have received assistance from the Federal Land and Water Conservation Fund (LWCF) State Grant Program could jeopardize future reimbursements and funding under this program. Similarly, closures affecting properties conveyed to the State under the Federal Lands to Parks Program (FLP) could result in reversion of the property to federal ownership for re-disposal. Measures exist short of park closures that will allow the State to remain in compliance with LWCF and FLP. 67 of the State Parks on the proposed closure list are affected by LWCF. *See generally* P.L. 88-578, 16 U.S.C. 4601-8, section 6(f)(3); 36 CFR section 59. Six of the State Parks on the proposed closure list are affected by FLP. *See generally* Federal Property and Administrative Services Act of 1949, 63 Stat. 377, 40 U.S.C. section 550.

Public Beaches. Thirty percent of the California coast would be closed to the public. It was a condition of California joining the union that the beach remain public. Units of the State Park system on the coast, including for example over 22 miles of beaches in the Sinkyone Wilderness State Park, must remain open for all under the public trust doctrine, the California Constitution, the California Coastal Act, and state and federal civil rights laws. *See generally* Robert García and Erica Flores Baltodano, *Free the Beach! Equal Justice, Public Access, and the California Coast*, 2 Stanford Journal of Civil Rights and Civil Liberties 143, 178-85, 185-93 (2005).

Urban Parks. Closing urban State Parks, such as Rio de Los Angeles State Parks and Los Angeles State Historic Park, would constitute intentional discrimination and unjustified discriminatory impacts, in violation of state and federal civil rights laws. *See generally* Robert García et al., *Dreams of Fields: Soccer, Community and Equal Justice* (Policy Report The City Project 2002).

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Native American sites. Native Americans would lose access to their Sacred Sites in State Parks. No one else would. Federal and state laws require respectful government to government consultations, which have not occurred, before closing off access. *See generally* www.savepanhe.org and www.savesanonofre.org.

Taxpayers' Suits. Under these circumstances, Code of Civil Procedure section 526a permits a taxpayer action to prevent any illegal expenditure of, waste of, or injury to public property. Citizen suits promote the policy of guaranteeing citizens the opportunity to ensure that governmental bodies do not impair or defeat public rights. *See, e.g., Connerly v. State Personnel Bd.*, 92 Cal.App.4th 16, 29 (2001).

Everyone would suffer from the closure of parks, but people of color and low income communities would suffer first and worst. The proposal to close state parks is part of a pattern and practice of depriving people of color and low income communities of the social net of state services. A diverse and growing alliance supports healthy livable communities for all. *See* letter from diverse allies to President Barack Obama re *Support National Park Service Saving State Parks for All*, <http://tinyurl.com/lxmtfb> (June 11, 2009); letter from diverse allies to Governor Schwarznegger re *Keep State Parks Open for All* (updated June 11, 2009), tinyurl.com/ntdhwq. *See generally* Policy Report *Economic Stimulus, Green Space, and Equal Justice* (The City Project 2009), tinyurl.com/m5xpyd; Peter R. Orszag, Director, Office of Management and Budget, *Memo re: Updated Implementing Guidance for American Recovery and Reinvestment Act of 2009*, April 3, 2009, www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf; California Green Stimulus Coalition, *Green Access and Justice Recommendations Report*, <http://californiagreenstimulus.org>.

We demand that you keep the California State Park system open for all, and cease and desist the threats to cut the budget of the Department and to close units of the State Park system. The alternative is to face the loss of federal funds and litigation to achieve access to justice through the courts.

Very truly yours,

Raul Macias, Anahuak Youth Sports Association
Robert Bracamontes, Acjachemen Nation, Juaneño Tribe
Harold Goldstein, California Center for Public Health Advocacy
Martin Martinez, California Pan Ethnic Health Network
Robert García, The City Project
Mark Williams, Concerned Citizens of South Central Los Angeles
Dr. Robert Bullard, Environmental Justice Resource Center, Clark Atlanta University
Roger Rivera, National Hispanic Environment Council

cc: Inspector General Laura Chick