

Center for Law in the Public Interest

Comments submitted to the National Forest Service regarding the Draft Environmental Impact Statement and Management Plans for the Four Forests in Southern California

To tend the earth is always then to tend our destiny, our freedom, and our hope.
bell hooks¹

I. Overview

The Center for Law in the Public Interest submits these comments on behalf of a diverse alliance of social justice, environmental, and community organizations that includes (partial list) the Anahuak Youth Soccer Association, Antes Columbus Soccer Club, ASOSAL (Asociacion de Salvadoreños de Los Angeles), Community Voice Los Angeles, Concerned Citizens of South Central Los Angeles, Expo Neighbors, Family Forests Project,² Healthy Homes Collaborative (a coalition of 30 housing and health advocates), Hermandad Los Angeles Economic & Community Development Corporation, Latino Issues Forum, Latino Urban Forum, Libreria del Pueblo, Los Angeles Metropolitan Churches, Lynwood Latino Coalition, National Association for Olmsted Parks, National Hispanic Environmental Council, Old Timers Foundation, Pacoima Beautiful, Padres del Sur Este, Planning and Conservation League, Plaza Community Center, Residents of Pico Rivera for Environmental Justice, and others³ concerning the United States Forest Service's ("Forest Service") Revised Land Management Plans and Draft Environmental Impact Statement ("DEIS") for the four forests in Southern California, the Angeles, Los Padres, San Bernardino and Cleveland National Forests.

Our national forests are essential sources of clean water and clean air, and havens for wildlife. John Muir once said, "Everybody needs beauty as well as places to play in and pray in, where nature may heal and give strength to body and soul."⁴ The forests are also wellsprings of economic benefits.

The Forest Service has a wonderful opportunity to implement plans that will ensure the fair distribution of the benefits and burdens of the forests, enhance human health and the environment, promote economic vitality for all communities, and engage full and fair public participation determining the future of our forests. The Southern California forests constitute four of the most urban-influenced forests in the United States, serving an increasingly diverse population of over 20 million people who live within an hour's drive of the four forests.⁵ The Management Plans will determine the future of the national forests for the next twenty years and

¹ bell hooks, *Earthbound on Solid Ground*, in Alison H. Deming & Lauret E. Savoy, *The Colors of Nature: Culture, Identity and the Natural World* 68 (2002).

² This comment letter is the prevailing document for resolving any conflicts concerning the Four Forests Project.

³ Additional groups will be submitted forthwith.

⁴ John Muir, *Yosemite* at 256 (1912).

⁵ Draft Land Management Plan Part 1: Southern California National Forests Vision ("Draft Plan") at Vision-3.

more. The Management Plans and DEIS have the potential to be best practice examples of what the Forest Service should do across the country to serve the people's needs in the 21st century.

One of the central concerns facing the Forest Service is the need “to continue to offer a variety of opportunities, experiences, uses and forest access to an expanding and increasingly diverse population, while continuing to provide resource protection.”⁶ The Forest Service has the opportunity to achieve those goals in the following ways:

- diversify access to and support for the forests;
- focus management and budget resources on comprehensive efforts to increase public education and public involvement;
- develop the stewards of tomorrow by reviving and fully funding Greenlink-like programs to bridge inner-city communities and the forests;
- contribute to the health of our communities through low-impact recreation like family outings, hiking, camping, climbing and fishing;
- distribute fairly the economic benefits from the forests including contracts, jobs, and volunteer opportunities;
- implement a forest entry system that is fair to working families; and
- provide and support transit alternatives to reach the forests.

The Forest Service recognizes that the "ethnic diversity of the population has increased," and that "[m]anagers are . . . challenged to effectively communicate with diverse populations of people in order to understand the ways they would like to use the forests."⁷

Yet between 77 and 83% of visitors to the Angeles, Cleveland, and Los Padres National Forests are non-Hispanic White, according to the DEIS,⁸ in a region that is disproportionately people of color and in a state in which Whites are in the minority. Fully 93% of visitors to wilderness areas in Los Padres are non-Hispanic Whites.⁹

Four of the central lessons of the environmental justice¹⁰ movement are that communities of color and low income communities are disproportionately denied the benefits of public resources like forests and open space, disproportionately suffer from environmental degradation, lack the information necessary to understand the impact of public policy decisions on their lives, and are systematically excluded from full and fair public participation in the decision-making process.

The Forest Service has the opportunity to learn from those lessons. The Forest Service must gather, analyze, and publish the information necessary to understand the impact of its

⁶ DEIS at 1-7.

⁷ *Id.* at 4, 5.

⁸ DEIS at 3-269.

⁹ DEIS at 3-267.

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

¹⁰ California law defines environmental justice as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” Cal. Gov. Code § 65040.12.

Management Plans on all communities. To date the Forest Service has failed to do so. The Forest Service has yet to come to grips with the implications of the changing demographics of Southern California, the state, and the nation for our forests. A total of five paragraphs is devoted to environmental justice and civil rights out of thousands of pages of documents.¹¹

The process for public participation is itself fatally flawed. The Forest Service held open houses targeting diverse communities during the same period that out-of-policy federal immigration raids have been generating fear, confusion, and anger in Southern California, as discussed below.

The Draft Environmental Impact Statement and accompanying draft documents fail to provide the public with a reasonable range of alternatives or a clear and full disclosure of the environmental impacts of the alternatives. A revised DEIS should be drafted and re-circulated to the public. Along the spectrum of the six alternatives developed and analyzed in the DEIS, both alternatives 3 and 6 provide stronger protection for habitat, reasonable wilderness and wild and scenic river recommendations, and closure of roads that are harming the environment and providing no important functions for Forest Service administration.

We recommend that the Forest Service meaningfully address our environmental and social justice concerns throughout the Management Plans and DEIS, and incorporate the analyses of those concerns into each alternative. Furthermore, the Forest Service should follow the logic of its own analysis and pick alternative 3 or 6, modified to address the serious concerns addressed in this letter, as the primary basis of its final forest management plans.

We present our vision to diversify access to and support for the forests in Part II below. In Part III we address the values at stake. Part IV summarizes relevant legal standards. Part V presents specific comments regarding concerns that are not addressed at all or are inadequately addressed in the DEIS and Management Plans. Part VI presents specific recommendations for going forward.

We incorporate by reference the comments submitted by the Sierra Club and by the Natural Resources Defense Council to the extent that they are not inconsistent with the positions stated here.

II. Our Vision: Diversifying Access to and Support for the Forests

Robert Marshall, one of the seminal figures in forest management, wrote in *The People's Forests*:

What we are after is human happiness. We see that the forests play an important part in promoting human happiness. Our problem then is to find how we may manage our forests so as to realize their highest potentialities for the well-being of mankind.¹²

In promoting human happiness for all through the forests, we are guided by a collective vision for a comprehensive and coherent web of parks, forests, beaches, and other open space, schools

¹¹ DEIS at 3-269.

¹² Robert Marshall, *The People's Forests* 79 (1933, reissued 2003).

with playing fields and playgrounds, and transit that serves the diverse needs of diverse users and reflects the cultural urban landscape. The Angeles, San Bernardino, Cleveland, and Los Padres National Forests are part of our vision for meeting the diverse open space needs for all the people of Southern California. Los Angeles is park poor, and there are unfair disparities in access to parks, forests, and other open space benefits based on race, ethnicity, income, access to a car, and other factors. It is necessary to bring the benefits of open space to the people, and take people to the open space like the forests.

Our vision is inspired in part by the classic 1930 report *Parks, Playgrounds, and Beaches for the Los Angeles Region* by Olmsted Brothers and Bartholomew & Associates. The Olmsted Plan envisioned a comprehensive and coherent regional system of open space and transportation—including the Angeles National Forest and the San Bernardino, Santa Ana, and San Gabriel Mountains—to promote the social, economic and environmental vitality of Los Angeles and the health of its people. According to the Olmsted Report in words that remain true today:

Continued prosperity [in the Los Angeles region] will depend on providing needed parks, because, with the growth of a great metropolis here, the absence of parks will make living conditions less and less attractive, less and less wholesome. . . . In so far, therefore, as the people fail to show the understanding, courage, and organizing ability necessary at this crisis, the growth of the Region will tend to strangle itself.

Implementing the Olmsted vision would have made Los Angeles one of the most beautiful and livable regions in the world. Powerful private interests and civic leaders demonstrated a tragic lack of vision and judgment when they killed the Olmsted Report.

Today the Forest Service has the opportunity to restore a part of that vision, and the lost beauty of the region, through the management plans for the four Southern California forests.

Communities of color and low income communities have been among the biggest supporters of bonds for open space, clean air, and clean water in the past several years. California's recent Proposition 40, for example – the largest resource bond in United States history, with \$2.6 billion for parks, clean water and clean air – passed in March 2002 with the support of 77% of black, 74% of Latino voters, 60% of Asian, and 56% of non-Hispanic white voters. Seventy-five percent of voters with an annual family income below \$20,000 and 61% with a high school diploma or less supported Prop 40 – the highest among any income or education levels.¹³

Prop 40 demolished the myth that the environment is a luxury that communities of color and low income communities cannot afford or are not willing to pay for.

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

¹³ *L.A. Times* state-wide exit poll, March 7, 2002.

neighborhoods, lower-income and minority neighborhoods bear more than their fair share of the environmental burdens of toxic waste and polluting facilities.¹⁴

III. Why Forests Matter: The Values at Stake

Robert Marshall in *The People's Forests* emphasized the need to identify the values at stake in order to determine the forest management plans:

Before reaching any decision it is important to examine the major values of our forests Clearly the forests are essential to national welfare. As sources of greatly needed raw material they play a vital part in raising the physical standard of American life. As conservers of soil and water they are absolutely necessary if we are not willing to have our country become . . . denuded and flood-swept As environment for the highest type of recreational and esthetic enjoyment, they are essential to the happiness of millions of human beings. Economic, physical, and social considerations all demand that we maintain a beautiful forest resource.¹⁵

The Forest Service can diversify support for and access to the forests by recognizing and addressing the different values at stake to bring people together.

A. Fun

Forests are fun. Fun is not frivolous. The United States was founded in part for the pursuit of happiness.¹⁶ The United Nations recognizes the right to play as a fundamental human right.¹⁷

B. Our Land, Air, and Water

Forests are one of our most precious natural resources in Southern California, providing 29% of our open space.¹⁸ The central role of forests in providing the ecological benefits -- including regulation of the quantity and quality of waterflows, the provision of wildlife habitat, and the sequestration of atmospheric carbon to provide clean air -- is increasingly recognized.¹⁹ The four

¹⁴ Mark Baldasare, Public Policy Institute of California Statewide Survey: Special Survey on Californians and the Environment at vi (June 2002).

¹⁵ Robert Marshall, *The People's Forests* 23, 77-78.

We rely heavily on Mr. Marshall's insights in these comments for several reasons. Mr. Marshall wrote before the birth of the modern environmental movement, the modern civil rights movement, and the environmental justice movement. His management plans bridged environmental and social justice concerns in ways that advocates for the environment and social justice now seek to accomplish. His work for that reason has the potential to bring people together.

¹⁶"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Declaration of Independence ¶ 2 (U.S. 1776).

¹⁷ Declaration of the Rights of the Child, Proclaimed by General Assembly resolution 1386 (XIV) of 20 November 1959, Principle 7; United Nations' Convention on the Right of the Child, General Assembly resolution 44/25 of 20 November 1989, Article 31.

¹⁸ See DEIS at 3-194.

¹⁹ See, e.g., James K. Boyce & Barry G. Shelley, eds., *Natural Assets: Democratizing Environmental Ownership* 207 (2003).

forests are home to at least 61 threatened, endangered and/or proposed species, three candidate species and 169 sensitive species known or with the potential to occur on the four National Forests of southern California.²⁰

C. Recreation, Human Health, and Human Development

The human health implications of forests and recreation are profound and will be discussed more fully below.

D. Economic Vitality and Jobs

The forests contribute billions of dollars to the local, state, and national economies. All communities must receive their fair share of the economic benefits of the forests, including contracts for small business and local jobs for local workers.

E. Equal Justice, Democracy, and the Good Life

The struggle for forests and open space can bring people together to create the kind of community where they want to live and raise children. People who have never participated in government before are coming together to stand up for their right to equal access to forests and recreation. As a matter of equal justice and democracy, we must diversify access to the forests for all. The Center for Law in the Public Interest has worked and published extensively on these issues. *See generally* Robert García *et al.*, “Community, Democracy and the Urban Park Movement” (chapter in Dr. Robert Bullard's forthcoming book on Environmental Justice to be published by the Sierra Club); Robert García *et al.*, *The Cornfield and the Flow of History: People, Place, and Culture* Center for Law in the Public Interest (2004); *Dreams of Fields: Soccer, Community, and Equal Justice*, Center for Law in the Public Interest (2002); Robert García, *Equal Access to California's Beaches*, Center for Law in the Public Interest (2002), published in the Proceedings of the Second National People of Color Environmental Leadership Summit - Summit II.²¹

Professor Regina Austin has written eloquently on open space, social inequality, and the good life for all.²²

Lake Arrowhead is the major mountain lake near Los Angeles. In the 1920s and beyond, racially restrictive covenants prevented people of color from occupying or using Arrowhead property.²³ Land on the lake owned by the federal government was exchanged for land northwest of the lake in the 1920s. Today private mansions and businesses ring the lake. Only the wealthy can live in what is now known as “the Beverly Hills of the Mountains.” Today there is no public access to the beaches at Lake Arrowhead.²⁴ Arrowhead illustrates what happens when we disregard equal justice for all in providing access to public resources like the forests and open space.

²⁰ See DEIS at 3-62.

²¹ www.ejrc.cau.edu/summit2/Beach.pdf.

²² Regina Austin, ““Not Just for the Fun of It!": Governmental Restraints on Black Leisure, Social Inequality, and the Privatization of Public Space” 71 S. Cal. L. Rev 667, 694 (1998).

²³ Stan Bellamy, *My Mountain, My People Vol. I: Arrowhead!* 188 (2000).

²⁴ John W. Robinson, *The San Bernardino* 127, 127-32 (1989).

F. Cultural and Heritage Resources

Cultural and heritage resources in the four forests represent the diversity of cultures of the state, including native people, Spanish and Mexican California, African-American, Asian, and late 19th and 20th century state and national history. The cultural and heritage resources represent nearly 9,000 years of human occupation and use.²⁵

The cultural and historical richness of the forests illustrates the power of place: “the power of ordinary . . . landscapes to nurture citizens' public memory, to encompass shared time in the form of shared territory . . . And even bitter experiences and fights communities have lost need to be remembered – so as not to diminish their importance.”²⁶

The California Department of Parks and Recreation has published a study emphasizing the public's need to become more aware of California's cultural diversity and its tangible manifestations on the land. *Five Views: An Ethnic Sites Survey for California (1982)* can serve as a guide for addressing cultural and historical resources in the four forests.²⁷

G. Spirituality

Social justice and stewardship of the earth have motivated spiritual leaders including Nobel Peace Prize Laureate Rigoberta Menchú, Cardinal Roger Mahony, and the Justice and Peace Commission of the Catholic Archdiocese of Los Angeles to actively support parks and open space in Southern California.²⁸

According to the United States Catholic Conference, for example, Catholics are called upon to protect people and the planet, living their faith in relationship with all of God's creation. Catholics show their respect for the Creator through stewardship and care for the earth as a requirement of their faith.²⁹ The United Nations has published an interfaith book of reflection for action, *Earth and Faith*.³⁰ Extensive information about spirituality and the environment is available at various web sites.³¹

IV. The Legal Standards

In addition to the National Forest and Rangeland Renewable Resources Planning Act of 1974 itself, a number of other environmental and civil rights laws, regulations and orders apply to the Forest Service's DEIS and Management Plan.

²⁵ See, e.g., DEIS 3-180 to 182, 187.

²⁶ Dolores Hayden, *The Power Of Place: Urban Landscapes As Public History* 9-10 (1997).

²⁷ *Five Views* is available online at http://www.cr.nps.gov/history/online_books/5views/5views.htm.

²⁸ García, *Dreams of Fields*, *supra*, at 10; Julia Romano, “A Controversial Woman of Peace,” *Santa Monica Bay Week* (Nov. 21, 2002).

²⁹ United States Catholic Conference, Inc., Washington D.C. (1999).

³⁰ Libby Bassett *et al.*, *Earth and Faith* (2000).

³¹ See, e.g., Coalition for the Environment and Jewish Life of Southern California, www.CoejISC.org.

A. National Environmental Policy Act

We request that the Forest Service revise and re-circulate the DEIS for public comment because the current DEIS does not conform to the requirements of the National Environmental Policy Act (NEPA).

Enacted by Congress in 1969, NEPA commits the federal government to “encourage productive and enjoyable harmony between man and his environment” and “promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.”³² To realize these goals, NEPA demands that the “policies, regulations, and public laws of the United States [be] interpreted and administered” in accordance with its principles, “to the fullest extent possible.”³³ This strong mandate was intended to guide agencies in preparing an EIS, which is required of all projects that “*may* significantly degrade some human environmental factor.”³⁴ As the Supreme Court explained:

NEPA’s instruction that all federal agencies comply with the impact statement requirement—and with all the other requirements of § 102—“to the fullest extent possible,” 42 U.S.C. § 4332, is neither accidental nor hyperbolic. Rather the phrase is a deliberate command that the duty NEPA imposes upon the agencies to consider environmental factors not be shunted aside in the bureaucratic shuffle.³⁵

The fundamental purpose of an EIS is to force the decision maker to take a “hard look” at the environmental consequences of her proposal, before a decision to proceed is made.³⁶ The EIS must be an objective, neutral document, not a work of advocacy to justify a predetermined result.³⁷ To help achieve this goal, NEPA sets forth a list of factors that the responsible official must consider “to the fullest extent possible” and include in a “detailed statement”³⁸

- (i) the environmental impact of the proposed action;
- (ii) any adverse environmental effects which cannot be avoided should the project be implemented;
- (iii) alternatives to the proposed action; and
- (iv) the relationship between short-term uses of man’s environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

The duty to consider “alternatives to the proposed action”—to “rigorously explore and objectively evaluate all reasonable alternatives”—lies, in the words of the regulators, at “the

³² 42 U.S.C. § 4321

³³ 42 U.S.C. § 4332.

³⁴ *Steamboaters v. F.E.R.C.*, 759 F.2d 1382, 1392 (9th Cir. 1985) (emphasis in original).

³⁵ *Flint Ridge Development Co. v. Scenic Rivers Ass’n*, 426 U.S. 776, 787 (1976)

³⁶ See 40 C.F.R. § 1502.1; *Baltimore Gas & Electric v. Natural Resources Defense Council*, 462 U.S. 87, 97 (1983).

³⁷ 40 C.F.R. § 1502.2(g).

³⁸ 42 U.S.C. § 4332(2)(C).

heart” of the entire assessment process.³⁹ Agencies must “devote substantial treatment to each alternative” and provide support for their decisions to accept or reject them.⁴⁰

In addition, an EIS must be sufficiently intelligible to allow the public to effectively comment upon it.⁴¹ Thus, “an EIS must be organized and written so as to be readily understandable by the governmental decision makers and by interested non-professional laypersons likely to be affected by actions taken under the EIS.”⁴²

Federal agencies shall to the fullest extent possible “[u]se the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.”⁴³ In addition, federal agencies shall “[u]se all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.”⁴⁴ “‘Human environment’ shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.”⁴⁵ Economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.”⁴⁶

Environmental effects are interpreted broadly to include economic, social and other environmental justice considerations. The “effects” to be analyzed include “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.”⁴⁷ NEPA analysis shall include discussions of the direct environmental effects and their significance, the indirect effects and their significance, the environmental effects of alternatives including the proposed action, and urban quality, historic and cultural resources, and the design of the built environment.⁴⁸

The Council on Environmental Quality created the following guiding principles for environmental justice analyses under NEPA:⁴⁹

³⁹ 40 C.F.R. § 1502.14.

⁴⁰ 40 C.F.R. § 1502.14(b); *Natural Resources Defense Council v. Callaway*, 524 F.2d 79, 93 n.12 (2nd Cir. 1975).

⁴¹ 40 C.F.R. § 1502.8.

⁴² *Oregon Environmental Council v. Kunzman*, 817 F.3d 484, 494 (9th Cir. 1987).

⁴³ 40 C.F.R. §1500.2(e).

⁴⁴ 40 C.F.R. §1500.2(f).

⁴⁵ *See* 40 C.F.R. §1508.8.

⁴⁶ 40 C.F.R. §1508.14.

⁴⁷ 40 C.F.R. §1508.8.

⁴⁸ 40 C.F.R. §1502.16.

⁴⁹ Council on Environmental Quality, *Environmental Justice: Guidance Under the National Environmental Policy Act 15-16* (1997), available at <http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf> [hereinafter CEQ Guidance].

- (i) consideration of the racial composition of the area affected by the proposed action, and whether there may be a disproportionate impact on minority populations;
- (ii) consideration of relevant public health and industry data and the potential for exposure to environmental hazards;
- (iii) consideration of “the interrelated cultural, social, occupational, historical, or economic factors that may amplify the natural and physical environmental effects of the proposed agency action”;
- (iv) development of “effective public participation strategies”;
- (v) assurance of “meaningful community representation in the process”; and
- (vi) assurance of tribal representation in the process in a manner that is consistent with the government-to-government relationship between the United States and tribal governments, the federal government’s trust responsibility to federally-recognized tribes, and any treaty rights.

B. Federal Civil Rights and Environmental Justice Laws

1. Title VI and its Regulations

Title VI of the Civil Rights of 1964 and its implementing regulations prohibit both intentional discrimination based on race, color or national origin, and unjustified discriminatory impacts for which there are less discriminatory alternatives, by applicants for or recipients of federal funds including recipients of funds from the Forest Service. Title VI provides: “No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”⁵⁰

The regulations that every federal agency has enacted pursuant to Title VI bar criteria or methods of administration by recipients of federal funds that have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program with respect to individuals of a particular race, color, or national origin. An important purpose of the statutory schemes is to assure that recipients of public funds not maintain policies or practices that result in racial discrimination.

2. The President's Order on Environmental Justice

The President's Order on Environmental Justice requires 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,

⁵⁰ 42 U.S.C. § 2000d (2004). The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution also prohibits intentional discrimination. *See also* Section 1983 of the Civil Rights Act of 1871.

The Ninth Circuit in *U.S. v. Allen* has also held that parks—and by extension, forests—are places of accommodation that must be accessible to all, without discrimination on the ground of race, color, religion, or national origin. *See U.S. v. Allen*, 341 F.3d 870 (9th Cir. 2003), applying 42 U.S.C. § 2000a.

policies, and activities on minority populations and low-income populations."⁵¹ "Each Federal agency shall conduct its programs, policies, and activities that substantially effect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin."⁵² Each agency including the Forest Service must gather, analyze, and publish information about the impact of its actions on diverse populations.⁵³

3. Discriminatory Actions

Managing the forests based on the current DEIS and Management Plans would violate both the disparate impact and intentional discrimination standards.

In accordance with Title VI and Executive Order 12898, the Forest Service conducted a Civil Rights Impact Analysis (CRIA) that evaluated whether its new planning rule could potentially result in adverse or disproportionate impacts on populations identified in Civil Rights statutes and the Executive Order concerning Environmental Justice.⁵⁴

The Forest Service recognizes that it has a history of not giving sufficient consideration to the concerns and needs of underserved communities and that in order to better incorporate this information, the Forest Service should ensure their participation in the planning process.⁵⁵ Because of the Forest Service's "historical partnership patterns," barriers have been created that limit the "agency's capacity to deliver effective public service to underserved communities."⁵⁶ One way to make the Forest Service's programs, good, services and technical and financial assistance "equally available and accessible to all" is to "recruit, train, and fully utilize a workforce that is representative of society and culturally sensitive" to the values and traditions of underserved populations, according to the Forest Service.⁵⁷

a. Unjustified Discriminatory Impacts.

There are three prongs to the discriminatory impact: (1) whether an agency action has a disproportionate impact based on race, ethnicity, or national origin; (2) if so, whether the action is justified by business necessity; and (3) even if the action would otherwise be justified, the

⁵¹ Executive Order 12,898 at § 1-101 (Feb. 11, 1994).

⁵² *Id.* at § 2-2.

⁵³ *Id.* at § 3-3.

⁵⁴ USDA Forest Service, Civil Rights Impact Analysis for the Proposed Rule (36 CFR §219) National Forest Land and Resource Management Planning at 4, available at http://www.fs.fed.us/emc/nfma/includes/CRIA%20OBPA%20comments%204_16.htm (last visited June 9, 2004). The National Forest Land and Resource Management Planning Rule was promulgated in 2003 and is codified at 36 CFR § 219.

⁵⁵ USDA Forest Service, Interim Strategic Outreach Plan: Reaching Out to America," at 1 (April 2000), available at http://www.fs.fed.us/cr/national_programs/correspondence/spop/fsspop.pdf, (last visited June 14, 2003).

⁵⁶ *Id.* at 14.

⁵⁷ *Id.*

action is prohibited if there are less discriminatory alternatives to accomplish the same objective.⁵⁸

Applying the discriminatory impact standard to the actions of the Forest Service here, (1) people of color and low income communities are disproportionately denied the benefits of the forests, and non-Hispanic whites disproportionately benefit from the forests. Between 77 and 83% of visitors to the Angeles, Cleveland, and Los Padres National Forests are non-Hispanic White, according to the DEIS,⁵⁹ in a region that is disproportionately people of color and in a state in which Whites are in the minority. Fully 93% of visitors to wilderness areas in Los Padres are non-Hispanic Whites.⁶⁰ (2) There is no business necessity to justify those disparities. (3) There are less discriminatory alternatives to ensure the fair distribution of forest benefits, as discussed throughout our public comments.

b. Intentional Discrimination

To evaluate an intentional discrimination claim, courts consider the following kinds of evidence: (1) the impact of the action, whether it bears more heavily on one racial or ethnic group than another; (2) any history of discrimination; (3) any departures from procedural norms; (4) any departures from substantive norms; (5) the decision maker's knowledge of the harm caused and would continue to cause; (6) a pattern or practice of discrimination.⁶¹

Applying the intentional discrimination analysis to the Forest Service here: (1) The impact analysis is the same as above. (2) and (6) There is a history and pattern of discrimination against communities of color and low-income communities, as discussed below regarding the employment discrimination suits against the Forest Service. (3) and (4) There are procedural and substantive irregularities in the DEIS and the Management Plans, as demonstrated throughout our public comments as well as the comments submitted by the Sierra Club and Natural Resources Defense Council. (5) Decision-makers at the Forest Service know the impact their actions would have on communities of color and low income communities. We document those impacts here.

"[Our] intent here is not to paint a simplistic scene of victims and aggressors, with single proximate factors of cause and effect, but to recognize that the complexities and ambiguities of this nation's multicultural past and present and the ways in which American 'society' has used our impacted Earth cannot be separated from underlying values that allow racism and inequities in political and economic power."⁶²

⁵⁸ *Larry P. v. Riles*, 793 F.2d 969, 983 (9th Cir. 1984).

⁵⁹ DEIS at 3-269.

⁶⁰ DEIS at 3-267.

⁶¹ See *Village of Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 265 (1977); *United States Department of Justice, Civil Rights Division, Title VI Legal Manual* (Sept. 1998) at 49-53 and authorities cited.

⁶² Alison H. Deming and Laurent E. Savoy, *The Colors of Nature: Culture, Identity, and the Natural World* 10 (2002) (hereafter *Colors of Nature*).

V. Implementing the Vision and Values in the Four Forests

A. Recreation

Robert Marshall in *The People's Forests* emphasized the incalculable value of recreation in the forests:

Although huge sums of money are involved in any basis of calculation, the most important values of forest recreation are not susceptible of measurement in monetary terms. They are concerned with such intangible considerations as inspiration, aesthetic enjoyment, and a gain in understanding. The only common denominator for the recreational and commodity value of the forest is the human happiness which may be derived from each use. Unfortunately no quantitative measure of human happiness has ever been designed, and consequently it is impossible to estimate accurately the contribution which forest recreation makes to the welfare of mankind. About all one can do is to point out the purposes for which [people] seek the forest and let each reader make his [or her] own evaluation of their intrinsic importance.⁶³

Mr. Marshall also recognized the need to have the forests serve the diverse needs of diverse users:

[T]hose who seek the forests for recreation come with many different purposes. . . . Obviously, these diverse recreational activities require for their realization several different types of forest. Since each of these types has distinct standards of size, beauty, and administration, and since therefore a separate management plan must be developed for each, it is well to consider them separately.⁶⁴

According to the DEIS, recreation is the predominant use of the forests in Southern California.⁶⁵ Southern California National Forests contain 29% of the remaining open, wild, non-urbanized public lands in the region. About 60% of southwestern California is privately owned.⁶⁶

The DEIS provides great detail about preferred recreational patterns in general. Although the Forest Service has conducted numerous studies regarding the recreational use patterns and preferences of diverse communities, the DEIS and Management Plans disregard these studies.⁶⁷

⁶³ Marshall, *supra*, at 67-68. Mr. Marshall devotes two eloquent chapters to the recreation, human happiness, and the forests. See generally *id.* at 57-76; 171-88. See also Frederick E. Olmsted, *The Work Ahead*, *Journal of Forestry* (March 1919).

⁶⁴ *Id.* at 172.

⁶⁵ DEIS at 3-58.

⁶⁶ DEIS at 3-194.

⁶⁷ See, e.g., Deborah J. Chavez, "Mexican-American Recreation: Home, Community & Natural Environment," presented at Hawaii International Conference on Social Sciences (June 2003); Deborah J. Chavez, "Adaptive Management in Outdoor Recreation: Serving Hispanics in Southern California" *Western Journal of Applied Forestry*, Vol. 17, No. 3, (July 2002); Deborah J. Chavez, "Managing Outdoor Recreation in California: Visitor Contact Studies 1989-1998" (USDA, Forest Service, Pacific Southwest Research Station, 1998); Patrick T. Tierney, Rene Dahl, and Deborah J. Chavez, *Cultural Diversity of Los Angeles County Residents Using Undeveloped Natural Areas* (USDA, Forest Service, Pacific Southwest Research Station, 2001); Janet A. Anderson, Dale J. Blahna, and Deborah J. Chavez, "Fern Gathering on the San Bernardino National Forest: Cultural and Commercial Values

The Forest Service must analyze the impact of various alternatives on diverse communities based on those patterns and studies.

1. Diverse Recreation Patterns

Social science research regarding the recreation patterns of culturally diverse groups in open space and wilderness areas demonstrates that people from different racial, ethnic, and socioeconomic backgrounds use parks differently. Understanding the recreation patterns of people of color will help us understand their recreation needs and allow us to identify what attracts people of color to Southern California's forests—a necessary factor for ensuring equal access.

People from different racial and ethnic groups use parks differently, constructing meaning for public open space based on their own values, cultures, histories and traditions, according to a study of cultural differences in the use of urban parks.⁶⁸

Research on recreation patterns among people of color in wilderness is consistent with studies on urban park use. For example, socializing, family togetherness, food preparation, and active recreation are common recreation patterns of Latinos in both parks and National Forests in Southern California.

According to one study, for example, creeks were the central focus of activity and attention among Southern California Forest users of Central American descent.⁶⁹ Adults and children played or relaxed in or near the water and when they were not in the creek, common activities included socializing, napping, listening to the radio, and playing cards or dominoes. Sunbathing was extremely uncommon, even among teenagers and sitting in the shade was preferred to the sun. Few people wore bathing suits, even when in the water -- they simply wore their regular clothes. Children did not bring toys to play with in the creek, using plastic cups, spoons, and empty pop containers to play with instead.⁷⁰ Nearly all the groups studied were preparing or about to prepare food. In most cases, these meals were prepared in their entirety at the site.⁷¹

Among Korean and Japanese Participants” *Society and Natural Resources*, Vol. 13 pp. 737-262 (2000); Patrick T. Tierney, Rene Dahl, and Deborah J. Chavez, “Who is Least Likely to Visit Natural Areas and Parks: What are the Barriers and How Can Barriers be Broken?,” *presented at America’s Parks—America’s People Conference*, San Francisco, CA (Jan. 15, 1999); Deborah S. Carr and Deborah J. Chavez, “A Qualitative Approach to Understanding Recreation Experiences: Central American Recreation on the National Forests of Southern California” in *Culture, Conflict, and Communication in the Wildland-Urban Interface* (A.W. Ewert, D.J. Chavez, A.W. Magill eds., 1993) at 184-94.

⁶⁸ See Anastasia Loukaitou-Sideris, “Urban Form and Social Context: Cultural Differentiation in the Uses of Urban Parks,” 14 *Journal of Planning and Education and Research* 89-102 (1995) (*hereinafter* “Urban Form and Social Context”) at 100-01.

⁶⁹ Deborah S. Carr and Deborah J. Chavez, “A Qualitative Approach to Understanding Recreation Experiences: Central American Recreation on the National Forests of Southern California” in *Culture, Conflict, and Communication in the Wildland-Urban Interface* (A.W. Ewert, D.J. Chavez, A.W. Magill eds., 1993) at 184-94, 188 (*hereinafter* “Central American Outdoor Recreation”).

⁷⁰ *Id.* at 188-98.

⁷¹ *Id.* at 187-88.

Central Americans tended to recreate in large group sizes and modify the site as needed to support their recreation needs.⁷²

Another study regarding recreation patterns among Mexican-American forest users contains similar findings.⁷³ Leisure is important to Mexican-American families and it contributes to family bonding. Nuclear and extended family members are included in leisure activities, leading to large group sizes. To Mexican-Americans families, leisure at natural resource sites is both recreational and cultural.⁷⁴ Like Central Americans, Mexican-Americans went to the forests to cook, eat, nap, rest, barbecue, and let the children play in the creek.⁷⁵ Families interviewed had perceptions of safety and a sense of place in the natural environment and many of them felt that the forests reminded them of their homeland. Clean air, cool breezes, and the freshness of the forests, also attract Mexican-Americans to wilderness areas.⁷⁶

Hispanic Americans (specifically, Mexican Americans) rated "doing something with your family" and "doing something with your children" significantly higher as motives for their favorite outdoor activities than non-Hispanic whites.⁷⁷ Similar findings reported that the "most appealing aspect" of the forest visit among Hispanic Americans was being with family.⁷⁸

In a study intended to address the specific recreational needs of Latinos who make up the largest percentage of visitors to a particular picnic site in the San Bernardino National Forest, researchers noticed that many families were not using newly built picnic tables and barbecues because they were located in direct sunlight.⁷⁹ Similarly, families avoided large, open, grassy areas and favoring shaded sites near the creek.⁸⁰

Perceived discrimination or not feeling welcomed plays a role in natural area visitation. Perceived discrimination was a significant predictor of visitation even after controlling for

⁷² See *id.* at 190.

⁷³ Deborah J. Chavez, "Mexican-American Recreation: Home, Community & Natural Environment," proceedings paper, Hawaii International Conference on Social Sciences (2003) (*hereinafter* "Mexican-American Outdoor Recreation").

⁷⁴ *Id.* at 5.

⁷⁵ See *id.* at 7.

⁷⁶ *Id.* at 10-12.

⁷⁷ Gramann and Floyd. 1991. Ethnic Assimilation and Recreational Use of the Tonto National Forest. Technical Report submitted to the Wildland Recreation and Urban Culture Project, Riverside, CA: USCA Forest Service Pacific Southwest Research Station).

⁷⁸ Simcox and Pfister. 1990. Hispanic Values and Behaviors Related to Outdoor Recreation and the Forest Environment. Technical Report submitted to U.S. Department of Agriculture Forest Service. Riverside, CA: U.S. Department of Agriculture, Pacific Southwest Forest and Range Experiment Station.

⁷⁹ Deborah J. Chavez, "Adaptive Management in Outdoor Recreation: Serving Hispanics in Southern California" 17 *Western Journal of Applied Forestry* at 132 (July 2002).

⁸⁰ *Id.*

income and education.⁸¹ All nonwhite ethnic groups were “more likely to express the belief that not feeling welcome was an issue, than their European American counterparts.”⁸²

Studies of diverse users of urban parks reinforce the need for the Forest Service to explicitly address the impact of different alternatives on different people. Hispanics primarily use parks as a social gathering place.⁸³ African Americans, more than any other racial group, engage in sports.⁸⁴ Non-Hispanic whites tend to value a park solely for its passive qualities – its greenness, landscaping and natural elements. Non-Hispanic whites disproportionately compared to others engage in “reclusive, self-oriented uses,” according to the UCLA study.⁸⁵ Most studies on leisure and urban recreation have delineated the activity patterns of the non-Hispanic white population, rather than non-white park users or the population as a whole.⁸⁶ The urban park study found that Asian American (Chinese) families were rare in parks studied. This may reflect the failure of the parks to meet the needs of the Asian community.⁸⁷

2. Explaining the Differences

Researchers have developed different explanations for differences in ethnic and racial recreation patterns.⁸⁸ The *marginality hypothesis* suggests under-participation of ethnic and racial groups results primarily from limited economic resources. It is the result of historical and ongoing patterns of discrimination.⁸⁹ Consistent with this hypothesis is the notion that social norms of inclusion and exclusion operate in public spaces, including places of recreation.⁹⁰ Because people of color generally occupy a subordinate position in this society, they can be viewed as less desirable leisure companions, leading to the creation of white-identified and nonwhite-identified leisure spaces.⁹¹

The *ethnicity hypothesis* suggests that ethnic and racial participation patterns result from culturally based differences in value systems, norms, and leisure socialization patterns. Even when variables such as income, gender, area of residence, and household size are statistically controlled, ethnic and racial differences in participation patterns persist.⁹²

⁸¹ U.S. Dept. of Agriculture, Forest Service, Pacific Southwest Research Station, Patrick T. Tierney, Rene Dahl, and Deborah J. Chavez, *Cultural Diversity of Los Angeles County Residents Using Undeveloped Natural Areas* iv (1998).

⁸² Patrick T. Tierney, Rene Dahl, and Deborah J. Chavez, “Who is Least Likely to Visit Natural Areas and Parks: What are the Barriers and How Can Barriers be Broken?” Presentation at America’s Parks—America’s People Conference, San Francisco, CA (Jan. 15, 1999) unpaginated.

⁸³ Loukaitou-Sideris, *supra*, at 94-95.

⁸⁴ *Id.* at 95.

⁸⁵ *Id.*

⁸⁶ *Id.* at 92, 95.

⁸⁷ *Id.* at 95-96.

⁸⁸ Mexican-American Outdoor Recreation, *supra*, at 2.

⁸⁹ *Id.*

⁹⁰ Regina Austin, “‘Not Just for the Fun of It!’: Governmental Restraints on Black Leisure, Social Inequality, and the Privatization of Public Space” 71 S. Cal. L. Rev 667, 694 (1998).

⁹¹ *Id.*

⁹² Mexican American Outdoor Recreation, *supra*, at 2.

B. Human Health, Recreation, and the Forests

Aside from one statement acknowledging that “[o]utdoor recreation offers significant physical health and societal benefits and is important to the quality of life of most Californians,”⁹³ the DEIS is silent on the issue of human health, recreation, and the forests.

The human health implications of the need for active recreation in the forests are profound.⁹⁴ Forests provide people with a place to be active. *See generally* Robert García *et al.*, *Healthy Children, Healthy Communities: Schools, Parks, Recreation, and Sustainable Regional Planning*, *Fordham Urban Law Journal Symposium on Urban Equity* (forthcoming fall 2004).

1. Health and Recreation

If current trends in obesity, inactivity, and disease continue, today’s youth will be the first generation in this nation’s history to face a shorter life expectancy than their parents.⁹⁵ Adult onset diabetes now increasingly strikes children at younger and younger ages. As a result, children are more likely to suffer long range effects including death, loss of limbs, and blindness. This health crisis currently costs the U.S. over \$100 billion and 400,000 deaths each year.

In California, 27% of children are overweight and 40% are unfit.⁹⁶ Only 24% of the state’s fifth-seventh- and ninth-graders met minimal physical fitness standards last year.⁹⁷ The numbers are even lower within the Los Angeles Unified School District (LAUSD), where just 17% of fifth-graders, 16% of seventh-graders, and less than 11% of ninth-graders met all six of the minimum fitness standards in the 2002-2003 school year.⁹⁸ Over 91% of the students in LAUSD are students of color. The assembly districts with the highest proportion of overweight children in California also have the highest concentration of people of color.⁹⁹

There is not adequate open space for recreation in Southern California, particularly for inner city residents.¹⁰⁰ All communities suffer from obesity and inactivity, but communities of color and

⁹³ DEIS at 3-193.

⁹⁴ Robert García *et al.*, *Healthy Children, Healthy Communities: Parks, Schools, and Sustainable Regional Planning* (CLUPI 2003).

⁹⁵ Eloisa Gonzalez, MD, MPH, (Jan. 21, 2004), L.A. County Dep’t of Public Health, *Los Angeles Unified School District (LAUSD) Citizens’ School Bond Oversight Committee*; *see also* Jennifer Radcliffe, *Going to War against Epidemic of Childhood Obesity*, *Daily News*, Jan. 27, 2004, at 1.

⁹⁶ Press Release, CA Dept. of Educ., *State Schools Chief O’Connell Announces California Kids’ 2002 Physical Fitness Results*, (Jan. 28, 2003) [hereinafter *California Kids*]. In California, all students in grades 5, 7, and 9 are required to take the California Fitness Test in order to assess physical fitness in six health fitness areas: aerobic capacity, body composition, abdominal strength, trunk extension strength, upper body strength and flexibility. *Id.* Students must meet all six standards in order to be considered fit. *Id.*

⁹⁷ *Id.*

⁹⁸ Cara Mia DiMassa, *Campus Crowding Can Make P.E. a Challenge*, *L.A. Times*, Nov. 19, 2003, Metro Part B, at 2.

⁹⁹ California Center for Public Health Advocacy, *An Epidemic: Overweight and Unfit Children in California Assembly Districts*, 5 (Dec. 2002) [hereinafter “*An Epidemic*”], available at <http://www.gisplanning.net/publichealth/help.asp>.

¹⁰⁰ *See* Richard J. Jackson, MD, MPH and Chris Kochtitzky, MSP, *Sprawl Watch Clearinghouse Monograph Series, Public Health/Land Use Monograph, Creating a Healthy Environment: The Impact of the Built Environment on Public Health* [hereinafter *Jackson*], available at <http://www.sprawlwatch.org/health.pdf>.

low income communities suffer first and worst. Communities of color and low-income communities are disproportionately denied the benefits of safe open spaces for recreation, and disproportionately suffer from diseases related to obesity and inactivity.

Table 1: Overweight and Unfit Children in California

RACE/ ETHNICITY	OVERWEIGHT	UNFIT
Latino	34%	45%
African American	29%	46%
White	20%	34%
Asian	18%	36%

Table 2: Diabetes in California

RACE/ETHNICITY	AGE 18+	AGE 50-64
African American	10%	21%
American Indian and Alaskan Native	9%	20%
Latino	6%	18%
White	6%	8%
Asian and Native Hawaiian and Other Pacific Islanders	5%	11%

The benefits of open space extend beyond physical health. Research links open green spaces to improved mental health. For example, symptoms of children with attention deficit disorder (ADD) are relieved by contact with nature.¹⁰¹ Views of nature benefit the mental health of children without ADD as well. African-American children in low-income inner city environments, and non-Hispanic white children from high income families, concentrate better with views of open space.¹⁰² Girls score higher on self discipline tests when taken with a natural view.¹⁰³

The state of California currently does not adequately enforce its physical education requirements.¹⁰⁴ Physical education classes have so many students that teachers cannot give students the individual attention they need.¹⁰⁵ The average student-teacher ratio is 43-1, far exceeding the national recommendation of 25-1.¹⁰⁶ In LAUSD, middle school physical education classes average 55 to 65 students per class, with some gym classes exceeding 70

¹⁰¹ A. Faber Taylor, *et al.*, "Coping with ADD: The surprising connection to green play settings," *Environment & Behavior* 33, 54-77 (2001).

¹⁰² *Id.* See also A. Faber Taylor, *et al.*, "Views of Nature and Self-Discipline: Evidence from Inner City Children," *Journal of Environmental Psychology* (2001).

¹⁰³ *Id.*

¹⁰⁴ Vicki Kemper, *New Priorities Leave PE, Obese Children Behind*, L.A. Times, Sept. 15, 2003, quoting Dianne Wilson-Graham, director of physical education in California.

¹⁰⁵ U.S. Dept. of Health and Human Services and U.S. Dept. of Education, *Promoting Better Health for Young People Through Physical Activity and Sports*, 11 (Fall 2001) [hereinafter "Promoting Better Health for Young People"], available at http://www.cdc.gov/ncedphp/dash/physicalactivity/promoting_health/index.htm.

¹⁰⁶ Cara Mia Dimassa, *Campus Crowding Can Make PE a Challenge*, L.A. Times, Nov. 19, 2003, at B2.

students per teacher.¹⁰⁷ As a result, students in physical education sessions may spend more time standing on the sidelines waiting their turn, rather than actually participating in activity.¹⁰⁸

Regular physical activity is associated with enhanced health and reduced risk for all-cause mortality, heart disease, diabetes, hypertension, and cancer.¹⁰⁹ Physical activity for children and adolescents helps to build and maintain healthy bones, muscles, and joints; prevent or delay the development of high blood pressure; and reduce feelings of depression and anxiety.¹¹⁰ People who are inactive are twice as likely to experience symptoms of depression as are more active people.¹¹¹ Depression can lead to suicide, the ninth-leading cause of death in America. Physical activity relieves symptoms of depression and anxiety and improves mood by providing opportunities for social interaction, increased feelings of self-mastery and self-efficacy, and relief from daily stress.

Programs like Greenlink (addressed more fully below) can make a difference in students' lives and health. Physically fit students perform better academically.¹¹² Recreation programs like team climbing can build character, pride, self esteem, teamwork, leadership, concentration, dedication, fair play, mutual respect, social skills, and healthier bodies for children.¹¹³ Recreation programs can help keep children in school; develop academic skills to do better in school and in life; and increase access to higher education.¹¹⁴ Male athletes are four times more likely to be admitted to Ivy League colleges than are other males; for female recruits, the advantage is even greater.¹¹⁵

Recreation programs provide alternatives to gangs, drugs, violence, crime, and teen sex. A national survey of more than 14,000 teenagers found that those who took part in team sports were less likely to have unhealthy eating habits, smoke, have premarital sex, use drugs, or carry weapons.¹¹⁶ The Los Angeles County District Attorney concluded that among the reasons young people join gangs is “[the exclusion] by distance and discrimination from adult-supervised park programs.”¹¹⁷ The study recommends that “alternative activities like recreation” should be part of every gang prevention strategy.¹¹⁸

¹⁰⁷ *Id.*

¹⁰⁸ Prevention Institute, *Strategies for Action: Integrating Nutrition and Physical Activity Promotion to Reach Low-Income Californians* 11 (October 2001), available at <http://www.preventioninstitute.org/nutrapp.html>.

¹⁰⁹ U.S. Dept. of Health and Human Services, *Physical Activity and Health: A Report of the Surgeon General*, 236 at 7, 85-87, 90-91, 102-03, 110-12, 127-30, 135 (1997) [hereinafter “*Surgeon General*”], available at <http://www.cdc.gov/nccdphp/sgr/pdf/sgrfull.pdf>.

¹¹⁰ *Promoting Better Health for Young People*, *supra*, at 7.

¹¹¹ *Surgeon General*, *supra*, at 135-36, 141.

¹¹² Press Release, CA Dep’t of Educ., *State Study Proves Physically Fit Kids Perform Better Academically*, (Dec. 10, 2002), available at <http://www.cde.ca.gov/news/releases2002/rel37.asp>.

¹¹³ See Anastasia Loukaitou-Sederis & Orit Stieglitz, *Children in Los Angeles Parks: A Study of Equity, Quality, and Children Satisfaction with Neighborhood Parks*, *Town Planning Review* 1-6 (2002).

¹¹⁴ *Id.*

¹¹⁵ See William G. Bowen *et al.*, *Reclaiming the Game: College Sports and Educational Values* (2003).

¹¹⁶ Russell R. Pate *et al.*, *Sports Participation and Health-Related Behaviors Among US Youth*, *Archives of Pediatrics and Adolescent Medicine* (Sept. 2000).

¹¹⁷ L.A. District Att’y, *Gangs, Crime and Violence in Los Angeles: Findings and Proposals from the District Attorney’s Office* (1992).

¹¹⁸ *Id.*

2. Economic Costs of Obesity and Inactivity

The Surgeon General estimates the national cost of overweight and obesity in the year 2000 to have been \$117 billion, with \$61 billion in direct costs (including preventive, diagnostic, and treatment services related to overweight and obesity) and \$56 billion in indirect costs (the value of wages lost by people unable to work because of illness or disability, as well as the value of future earnings lost by premature death).¹¹⁹

The Management Plans and DEIS must analyze the impact of various alternatives on human health and recreation in fitness and economic terms.

C. Developing the Stewards of Tomorrow through Greenlink and other Programs

The Forest Service must fund programs like Greenlink and provide a strategic plan with goals, milestones, timelines, a budget, accountability, and responsibility to create a stronger link between National Forest recreation, environmental, and urban forestry activities in key communities. The Management Plans must address the impact that well-planned and well-funded programs like Greenlink would have on Southern California.

1. Background

In the early 1990s, the Forest Service established the Greenlink program (as a Southern California Urban Forestry and Recreation Demonstration Project). The mission of Greenlink was to create a stronger link between National Forest recreation, environmental, and urban forestry activities in key Los Angeles communities.

Greenlink emphasized community capacity building and strengthening of communities, environmental education, biomass utilization, recreation, watershed management, and building bridges for the future. Specific goals of the Greenlink program included assisting communities in the improvement of the urban environment, demonstrating the vital relationship between urban and wildland ecosystems and the role of that relationship in improving quality of life, stimulating increased collaboration between traditional and non-traditional partners, and using environmental education to help resolve resource conflicts associated with heavy use of urban forests by non-traditional visitors.

Greenlink was intended to be a best practice example for other urban forests with lessons learned to be used to strategize management change for the entire Forest Service. Although Greenlink was effective at meeting the Forest Service's conservation education, recreation, and natural resource agendas, the program was de-funded in or around 2000 or 2001.

¹¹⁹ U.S. Dept. of Health and Human Services, *The Surgeon General's Call to Action To Prevent and Decrease Overweight and Obesity* 9-10 (2001) [hereinafter "*Call to Action*"], available at <http://www.surgeongeneral.gov/topics/obesity/calltoaction/CalltoAction.pdf>.

2. Programs like Greenlink Can Address Forest Service Challenges

The challenges faced by the four Forests and outlined in the DEIS and Management Plans would be addressed by revival of Greenlink-type programs in each of the four Forests.

For example, the Forest Service is challenged by demographic changes, which contribute to differences in visitor perceptions and expectations;¹²⁰ public education strategies must increasingly be based on urban orientations, many languages, cultures, and class diversities;¹²¹ there is little Forest Service branding or identity perceptible to most people in Southern California;¹²² and the urban orientation of most Southern California visitors means little or no wildland recreation skills.¹²³ Greenlink Programs, such as EcoTeams, Forest Information Vans, FamCamp, and EcoHeroes would help the Forest Service meet all of these challenges.

EcoTeams: Bilingual forest EcoTeams would help convey helpful health and safety information, relay ecosystem conservation messages, inform them about outdoor recreation opportunities, encourage visitors to pick-up litter and, during high fire-danger periods, and provide fire prevention information. Research shows many southern California visitors do not respond to traditional forms of communication (signs, brochures, handouts). Many visitors do not speak or read English. The EcoTeams program was highly effective in decreasing litter, preventing fires, and reducing other resources impacts in the high-use canyon areas of the Angeles and San Bernardino Forests.

Forest Information Vans: Many areas in southern California National Forests receive highly concentrated weekend use, making it difficult and expensive to maintain visitor facilities at all locations when they are only needed during weekends. The Forest Information Van (FIV) is temporary and mobile, with a brightly colored canopy that serves as a shaded visitor receiving area attached to the side. Mobile pillars conveyed safety and conservation messages and displays and handouts were in English and Spanish. Staff was bilingual and often included graduates from the Forest EcoTeam ranks. FIVs also shared information about recreational opportunities, handed out litter bags, and demonstrated fire tips.

EcoHeroes: Our children and youth are inheriting a variety of serious environmental problems that pose a danger to their natural resources and quality of life. EcoHeroes mobilized students from Los Angeles Unified School District High Schools and educated them to protect the natural environment and establish an awareness of environmental challenges. Solutions were advanced through the relationship between students and agency partners. Participation in the restoration of outdoor environments motivated students to act in defense of our communities and public lands. Students learned the principles of participatory democracy and were encouraged to make informed environmental choices when old enough to vote. In-school and field studies reinforced student knowledge.

¹²⁰ DEIS at 3-205.

¹²¹ DEIS at 3-193.

¹²² *Id.*

¹²³ DEIS at 3-205.

Natural Resource Education: Schools in inner-city urban communities often lack the natural science curriculum that enables youth to develop interest in natural resource careers. As such, youths who visit National Forests lack stewardship principles that sustain the forest surrounding them—principles that also apply to their own neighborhoods. Greenlink sponsored an articulated K-12 curriculum to educate youth about natural and environmental science.

FamCamp: Outdoor camping provides an ideal setting for building self-esteem and strengthening family bond. Families in inner-city communities lack the equipment, expertise, and encouragement to participate in this great American outdoor experience. The California Department of Parks and Recreation developed FamCamp, which has been in operation for several years, to fill this need. It has proven to be a strong program because of its strong community link and stipulation that whole family participation is required. The program includes a pre-campout experience, the actual campout, and post-campout evaluation (in addition to the necessary equipment, a camping guide or leader for the overnight experience, and a campsite at a California State Park or National Forest). Inner city families in Southern California would benefit greatly from a program like FamCamp sponsored by the Forest Service.

Other Greenlink Programs: Greenlink produced Spanish-language Recreation Opportunity Guides to assist Spanish-speaking visitors in understanding, for example, the hazards associated with the use of charcoal briquet grills. Demonstrations at Forest Information Vans helped bring the handouts to life.

3. Funding Programs like Greenlink

Funding for programs like Greenlink should be built into the Management Plans and other existing programs because programs like Greenlink will support and improve existing programs. For example, because Greenlink-type programs would support and improve existing efforts to prevent fires and protect natural resources, some funding for programs like Greenlink should come from existing sources of funding used for fire prevention and resource protection. Significant resources can be identified if programs like Greenlink are not characterized as an “add-on” program to existing Forest Service endeavors.

An example of a successful "Greenlink-type program" is the Minority Youth Environmental Training Institute, the signature environmental education and environmental career and college awareness program of the National Hispanic Environmental Council. The program is a national, ten day, intensive, science-based, residential program for teens aged 16-18. The Institute features instructors of color who are environmental professionals from every field to teach and inspire the students. Through these role models, students are taught by people who look like them, and who can truthfully say -- "I made it in this field, and so can you." One of the best ways to involve and work with communities of color is through people and organizations of color.

D. Public Education

The DEIS identifies the need for complex public education strategies based on urban orientations and many languages, cultures, and class diversities.¹²⁴ Comprehensive public education and outreach efforts must be adopted by the Forest Service to address these factors and to help managers meet these challenges.

Conservation education is a way for the Forest Service to “connect people with the environment by providing them with the tools they need to take informed stewardship actions,”¹²⁵ but the education process is a two-way street. According to the Management Plan, “managers are also challenged to effectively communicate with diverse populations in order to understand the ways they would like to use the forests.”¹²⁶ Forest Service management and personnel must use community involvement and education to learn more about the diverse people of Southern California and the meanings they attach to open space, wilderness, and forests.

It is imperative that forest managers find ways to take the forests to the people and bring the people to the forest. Educational programs in schools throughout the Southern California must be developed and implemented. Partnerships should not be limited to Los Angeles Unified School District—there are over 80 school districts in Southern California. Increased presence of the Forest Service in the inner city will build relationships upon which learned experiences and educational programs can be built.

The DEIS indicates that urban forests in Southern California have greater opportunities for recreation and conservation education partnerships between the Forest Service and non-profit organizations and volunteers.¹²⁷

The story of the Buffalo Soldiers demonstrates the power and importance of linking communities of color to our forest lands.¹²⁸ African-American infantry soldiers from the U.S. Army, known as Buffalo Soldiers, patrolled the high country of the Sierra Nevada in Yosemite, Sequoia, and General Grant (Kings Canyon) National Parks. Recently, Yosemite National Park Ranger Shelton Johnson discovered an image of the 24th Mounted Infantry taken somewhere in Yosemite in 1899. “[A]s an African-American park ranger, seeing this photograph was like stumbling into my own family while traveling in a foreign country,” Ranger Johnson writes.¹²⁹

Ranger Johnson researched the image and the story of the Buffalo Soldiers and uses that history to connect African-American and other people of color to Yosemite National Park today. The history of Buffalo Soldiers had almost completely disappeared from our history.

¹²⁴ DEIS at 3-193.

¹²⁵ DEIS at 3-203.

¹²⁶ Vision-5.

¹²⁷ DEIS at 3-193.

¹²⁸ See “A History Remembered” by Ranger Shelton Johnson, available at <http://www.nps.gov/yose/nature/articles/buffs.htm>; image and additional history available at <http://shadowsoldier.wilderness.net/>.

¹²⁹ *Id.*

In a letter he has written to the dead Buffalo Soldiers, Ranger Johnson says “[b]ecause I choose to remember you, you live on in me. I know your lives had meaning to black folks. . . . You, who are soldiers, who are family, have given me that story. . . . Thank you for clearing the trail that I followed 100 years later. You cannot imagine how your passage has made my journey infinitely easier.” Ranger Johnson says “I’ve always felt spiritually connected to Yosemite, but now I feel culturally connected as well.”¹³⁰

A note accompanying a photograph of the Buffalo Soldiers says, “The image is significant because it counters the common perception that African-Americans played no role in the founding of our great national parks. This photograph and the history at its foundation challenge the validity of our traditional understanding of what really happened as the Sierra Nevada was explored and settled. These soldiers were *park rangers* before the National Park Service was even created.”¹³¹

E. Economic Benefits, Jobs, and Equal Employment Opportunities

The national forests generate direct and indirect economic benefits including commercial use of the forests, contracts for small businesses, local jobs for local workers, and employment opportunities with the Forest Service. The most important generator of jobs is recreation. Over 17,800 jobs are attributable to Forest Service activities in the four forests under current management. Annual personal labor income amounts to \$585 million per year.¹³² This is not an adequate analysis. The Management Plans and DEIS need to thoroughly address how the Forest Service will ensure the fair distribution of the economic benefits generated by the forests.

There have been major lawsuits for workplace discrimination filed by employees of the Forest Service on the grounds of race, ethnicity, and gender. In 1995, female employees sued the Forest Service, alleging gender discrimination and sexual harassment after the Forest Service was required to increase the number of female employees in response to a prior lawsuit. The women alleged a pattern and practice of sexual harassment and retaliation. A settlement was reached in 2002 and is currently being monitored for compliance.¹³³

In 2001, Latino employees of the Forest Service sued for workplace discrimination. Today, the Forest Service is under a consent decree requiring, among other things, outreach, recruitment, hiring, and retention of Latino Forest Service employees.¹³⁴

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² DEIS 3-265 to 266.

¹³³ Christina Almeida, *Forest Service Workers Target USDA Head*, CONTRA COSTA TIMES (Walnut Creek), June 26, 2003, at 4.

¹³⁴ *Brionez v. United States Department of Agriculture*, No. C-01-3969-CW (N.D. Cal. 2001).

1. Economic Benefits Generally

The connection between environmental preservation and jobs and contracts to preserve the environment is direct and obvious. "[I]t is obvious that any successful forest program must consider the welfare of these workers," according to Robert Marshall in *The People's Forests*.¹³⁵

The recent book *Natural Assets: Democratizing Environmental Ownership* explores avenues to create jobs and protect the environment by building natural assets. The book devotes three chapters to safeguarding the environment and improving the economic well-being of working communities as mutually reinforcing goals for the national forests. Environmental protection; equal employment opportunity; and the reduction of unemployment, underemployment, and poverty can be advanced together.¹³⁶

Forests and people can sustain each other. There are many opportunities to create markets and ownership structures that could help to rebuild forest ecosystem assets and secure a more equitable distribution of their benefits. Catalytic investments and creative strategies are needed . . . to break through the inertia of business as usual. . . . By better aligning the private and social values of forests through new institutional arrangements, we can rebuild these natural assets and sustain their vital contributions to human well-being.¹³⁷

2. Small Business Opportunities

Current Forest Service contracting practices limit access to work in the woods, resulting in unequal access to jobs in national forests. The trend in Forest Service contracting practices in recent years has been toward large contracts that make it increasingly difficult for small-scale contractors to compete. Small businesses are excluded through complicated bidding procedures, large-scale projects, and irregular work offerings. Only a small fraction of service contracts are targeted for small businesses. Milling work is going to distant mills and highly skilled service contracts to consulting firms in large urban centers. Different ways of packaging forest work could realize administrative savings while improving opportunities for minority and women-owned businesses and a diverse labor pool.¹³⁸

The Forest Service should contact and work with the many and growing minority Chambers of Commerce in Southern California, such as the Latino Business Association, the California Hispanic Chamber of Commerce, and other county and city based chambers for Latinos and other people of color. These chambers would be glad to work with the Forest Service if they knew more about opportunities in the forests.

¹³⁵ Marshall, *supra*, at 82.

¹³⁶ James K. Boyce & Barry G. Shelley, eds., *Natural Assets: Democratizing Environmental Ownership* 1, 207-60 (2003).

¹³⁷ *Id.* at 224.

¹³⁸ *Id.* at 243-47, 251-53.

3. Jobs

As the Forest Service evolves from a management emphasis on "commodity production" to "ecosystem management," skilled labor will be required to work in data collection, mapping, watershed restoration, wildlife surveying, habitat enhancement, fuels reduction, and prescribed burning. Because these emerging work opportunities are new, there are opportunities for them to be appropriated by and for lower income forest workers and residents. Access to job training and employment can provide an opportunity for access to the benefits of the natural assets in the forests. Job training programs can help low-income residents fulfill the demand for skilled stewardship labor.¹³⁹

4. Equal Employment Opportunities

In light of the past history and pattern of employment discrimination, the Management Plans and DEIS must address how the Forest Service will continue to improve and diversify employment and volunteer opportunities. Diverse employees and volunteers can help the Forest Service improve its image among women and people of color. Appropriate outreach, recruitment, hiring, and retention, coupled with educational programs aimed at young people who may one day work for the Forest Service, are critical to the management of the forests.

5. Best Practices

The Los Angeles Unified School District (LAUSD) is currently investing over \$15 billion to build new schools and modernize existing schools, one of the largest public work projects in the nation. LAUSD has published reports on the policies and practices it has implemented to create a level playing field for small businesses and to provide job training and employment opportunities for local workers.¹⁴⁰ The Forest Service should study this best practice example and others and implement similar policies to fairly distribute the economic benefits of the forests.

F. Adventure Pass

The Adventure Pass program appears to be inefficient, ineffective, arbitrary, capricious, and discriminatory. There is no information about how much it costs to administer the program compared to how much revenue is made available to invest in forest programs. There are no audits of how the money is actually used. To the degree the four forests of Southern California are serving the most diverse users in the nation and the state, the Adventure Pass program has a disparate impact on working families and the diverse users of southern California forests.

1. The Adventure Pass Is a Land Management Consideration

In 1997, under Congressional authority, the four forests in Southern California implemented the Adventure Pass program to collect fees from visitors to the forests. These fees were

¹³⁹ *Id.* at 245-47.

¹⁴⁰ *See, e.g.*, LAUSD Press Advisory, Los Angeles Unified School District Announces the "We Build" Program, July 13, 2004.

implemented as a way for heavily used forests to fund forest services and upkeep.¹⁴¹ The revenue collected from the recreation fees in principle is to be used for backlogged repair and maintenance projects, interpretation, signage and habitat facility enhancement, resource preservation, law enforcement, maintenance and operation.¹⁴² Because the Forest Service relies on the Adventure Pass program to fund “recreation improvement projects on the four forests,” the decision to continue the program goes directly to the heart of the Forest Service’s land management capabilities and should be analyzed in the DEIS.¹⁴³ In this regard, the Forest Service should examine the impacts the Adventure Pass has had on visitor experiences; whether it has adversely and disparately impacted people of color and working families; and how it has affected the Forest Service’s management capabilities.

2. The Forest Service Has Not Adequately Studied the Impact of the Adventure Pass

Although the program has been in place for approximately seven years, the Forest Service has failed to adequately study its impacts, which prevents the public and Congress from effectively assessing the program’s successes and failures.

For example, the General Accounting Office found in a May 2003 study that the Forest Service does not have a process for measuring the impact of fee expenditures on reducing the deferred maintenance backlog and that the agency has not developed a “reliable estimate of its deferred maintenance needs.”¹⁴⁴ This study found that at Angeles and San Bernardino National Forests, the fees have been used to maintain trails, provide more public bathrooms and provide new interpretive programs for visitors.¹⁴⁵ While these are the intended uses for the fees, this gives no detail into what percentage of fees goes to these types of projects, whether these projects benefit the areas in which a large proportion of the fees were collected, or how the Forest Service determines which projects are funding priorities. There is no information about who is benefiting from these uses of the fees.

In all four plans the Forest Service states that many of its “places” are suffering from old recreational facilities that do not meet Americans with Disabilities Act or Region 5 Built Environmental Image Guide standards.¹⁴⁶ There is no information to assess why that is the case. There is no information to determine whether the Adventure Pass program is having a disparate impact on people of color or low-income users.

To Forest Service does have an inadequate study that concludes that the cost of the Adventure Pass has prevented 2.9 percent of forest visitors from purchasing one.¹⁴⁷ This information comes from a study conducted by a California State University-San Bernardino professor based on

¹⁴¹ See http://www.fsadventurepass.org/funding_gap.htm (last visited June 23, 2004).

¹⁴² Pub. L. No. 104-134 § 315(c)(3).

¹⁴³ See DEIS at 2-12.

¹⁴⁴ General Accounting Office, Recreation Fees: Information on Forest Service Management of Revenue from the Fee Demonstration Program, available at <http://www.gao.gov/cgi-bin/getrpt?GAO-03-470> (last visited June 23, 2004).

¹⁴⁵ *Id.*

¹⁴⁶ See, e.g., Angeles National Forest Land Management Plan, Part 2 Strategy, at 37.

¹⁴⁷ See <http://www.fsadventurepass.org> (last visited on June 23, 2004).

surveys of forest visitors. The Forest Service's conclusion does not take into consideration the number of potential forest visitor who did not visit the forests and therefore were not included in the survey – potential visitors who perhaps were deterred by the fee from visiting the forests.

Similarly, the Forest Services's claim that there has been no demonstration that the fee program has resulted in a drop in low-income and people of color because the areas of the forest most frequented by this population are consistently “packed to capacity” begs the question. How much capacity is needed to serve the population without a fee?¹⁴⁸

Finally, Adventure Passes are mostly advertised and available in disproportionately white, affluent communities. Thus, low-income and communities of color are more likely to lack information about the Adventure Pass and will face more difficulty in locating vendors that sell the pass in their neighborhoods.¹⁴⁹

3. The Adventure Pass Deserves Adequate Analysis in the DEIS

In relying on inadequate studies and short-sighted assumptions, the Forest Service has concluded that the Adventure Pass program does not have an impact on low-income and minority communities. This conclusion has no firm foundation. By classifying the decision to continue the program as an administrative one, the Forest Service attempts to defer the study of the Adventure Pass's impacts on underserved communities until a later date. The Adventure Pass program is so closely connected to what the Forest Service can do in the four forests that it is necessarily a land management program. The program's past and future impacts must be analyzed in the DEIS.

G. Reaching the Forests: Transit to Trails

The Southern California forests serve over 20 million people who live “within an hour's drive” of the four forests.¹⁵⁰ What about the working poor and other people without adequate access to cars?

According to the DEIS, the transportation system *in* the forests is valued for providing forest access, delivering goods and services, wildfire protection, and recreation opportunities.¹⁵¹ In order to protect the rich biodiversity of the forests, it is important to keep roadless areas roadless, while ensuring the upgrade and upkeep of roads that are primary access routes to recreation facilities and popular dispersed recreation destinations.

There is little to no discussion in the DEIS or Land Management Plans regarding transportation *to* the forests. The Forest Service acknowledges that “coordination and collaboration with national, state, and county officials in the management of transportation facilities to and through the forest” must be continued to “ensure that access is maintained.”¹⁵²

¹⁴⁸ See <http://www.fsadventurepass.org> (last visited June 23, 2004).

¹⁴⁹ See Vendors Location Link at http://www.fsadventurepass.org/where_to.htm (last visited August 3, 2004).

¹⁵⁰ Draft Land Management Plan Part 1: Southern California National Forests Vision (“Draft Plan”) at Vision-3.

¹⁵¹ DEIS at 1-7.

¹⁵² DEIS at 3-242.

Only the plan for Los Padres acknowledges the need to “[i]ntegrate transportation needs and information to provide for a seamless transportation system from communities to the National Forests.”¹⁵³ That Plan recognizes the need to “[m]aximize participation . . . with federally funded highway programs including forest highways, public Forest Service roads, alternative transportation, Scenic Byways, etc., to improve or enhance public use of National Forest System land.”¹⁵⁴

The fact is that there is virtually no good way to reach the four Southern California forests using public transportation. In contrast, Northern California has an extensive transit to trails program to maximize access to the wilderness for all communities.

The DEIS and Management Plans must analyze transportation and its impact on all communities.

1. Access to a Vehicle

People of color and low income communities in Southern California disproportionately lack access to a vehicle to drive themselves and their families to the forests in Southern California. As the following table indicates, Latinos and African Americans disproportionately lack access to a car or other vehicle.

	Total Population	Non-Hispanic Whites	Latinos	African Americans	Asians
California	9.5%	6.9%	13.5%	18.3%	9.5%
Southern California	10.1%	6.5%	14.5%	18.3%	8.4%
Los Angeles County	12.6%	7.9%	17.1%	20.1%	9.8%
Orange County	5.8%	4.7%	9.8%	7.0%	5.5%
Ventura County	5.0%	4.0%	8.3%	7.0%	4.4%
San Bernardino County	8.0%	6.4%	9.2%	14.9%	4.9%
Riverside County	7.1%	5.9%	9.3%	11.6%	4.3%

2. USC Forest Transit Study

A recent study by students at the University of Southern California concluded that it is virtually impossible to access the four forests in Southern California using public transportation. Only

¹⁵³ LPNF Strategy-19.

¹⁵⁴ LPNF Strategy-19.

San Bernardino National Forest can be reached on public transit, but with many limitations. The study set forth to determine whether public transportation linkages currently exist between inner-city communities in the Los Angeles region and the four National Forests surrounding the city.¹⁵⁵

Because local parks are the first contact many communities of color have with a natural environment, the study used five existing and planned urban parks in the Los Angeles region as departure sites.¹⁵⁶ Overall, the study found complete lack of transportation services into the National Forests, placement of visitor/nature/discovery centers and other facilities far within the forests and out of the range of a person lacking private transportation, major roads and highways that bisect the forests but lack bus or transit routes, merely getting close to the forests requires a great deal of time and several transfers from route-to-route, and when buses access sites adjacent to the forests, they run infrequently, have restricted weekend availability, and have poorly timed and unaccommodating bus schedules.¹⁵⁷

a. Angeles National Forest

It is not possible to reach Angeles National Forest directly using public transportation, but it is possible to reach destinations at the base of Highway 2 (Angeles Crest) and Highway 39 and to reach two city parks bordering the forest (Eaton Canyon Park and Arcadia Wilderness Park, which offer access to the forest, hiking opportunities, learning centers, and nature centers). Two Forest Service visitor centers along Angeles Crest and one in Mt. Baldy are inaccessible by public transit.¹⁵⁸

b. San Bernardino National Forest

Lake Arrowhead and Big Bear Lake in the San Bernardino National Forest are the only sites within any of the four forests that can be directly accessed via public transportation. A trip from Union Station to Metrolink's San Bernardino rail line and then to the Mountain Area Regional Transit Authority (MARTA) would take 3-4 hours and cost between \$15 and \$19 per person. A Discovery Center at Big Bear Lake in Fawnskin offers tours, lectures, hikes, and a series of forests activities. MARTA will take passengers to the Discovery Center upon request.¹⁵⁹

c. Los Padres National Forest

Even the southernmost section of Los Padres National Forest is inaccessible by public transportation from Los Angeles. The nearest visitor center is located in Goleta, north of Santa Barbara and outside the reach of the Metrolink rail system. Metrolink from Union Station only

¹⁵⁵ Ron Frescas, Chris Martin, and Christine Steenken, "Public Transportation to Local National Forests," (Univ. of Southern California, April 2004) (on file with the Center for Law in the Public Interest).

¹⁵⁶ *Id.* at 1. The departure sites included (1) existing Kenneth Hahn Recreation Area in Baldwin Hills; (2) existing Augustus Hawkins Natural Park in South L.A.; (3) future Ascot Hills park in East L.A.; (4) planned Taylor Yard State Park in Northeast L.A.; and (5) future Cornfield State Historical Park in Chinatown.

¹⁵⁷ *Id.* at 10-11.

¹⁵⁸ *Id.* at 5-6.

¹⁵⁹ *Id.* at 6-7.

gets travelers as far as Oxnard and Camarillo, where local transit services do not provide links to the forest or to any adjacent destinations.¹⁶⁰

d. Cleveland National Forest

The northernmost section of Cleveland National Forest is not accessible via public transportation, but the Orange County Transit Authority makes it possible to get within a half mile of two adjacent parks (Whiting Ranch Widerness Area and O’Neill Regional Park), which have information about the forest and provide opportunities for hiking, picnicking, and bicycling, among other activities. A Forest Service visitor center is located on Ortega Highway 74, which bisects the Trabuco District, but it is not accessible because buses do not travel Highway 74. The Riverside Transit Authority provides no buses to the forest.¹⁶¹

In conclusion, the USC Forest Transit study indicated that “[i]f more widespread support for forest conservation is to be garnered from minority and low income groups, more direct access to National Forests . . . [is] imperative.”¹⁶² The study recommended more cooperation between transit systems inside and outside of the forests to better facilitate trip planning and the placement of visitor centers in locations that are easier to access.

H. The Public Participation Process Is Fatally Flawed

The process for public participation is itself fatally flawed. The Forest Service held open houses targeting diverse communities during the same period that out-of-policy federal immigration raids have been generating fear, confusion, and anger throughout diverse communities in Southern California.¹⁶³ The federal raids chilled Hispanics and other people of good will from exercising their First Amendment rights to influence the management of the forests through access to our government. The Forest Service, knowing the impact of these raids, nevertheless refused to grant even a 60 day extension for public comments sought by members of Congress and others -- after the Forest Service spent 3.5 years preparing its flawed DEIS and Management Plans that will determine the future of our forests for the next 20 years. The extension could have mitigated the impact of the raids on public participation in the forest planning process.

I. The Colors of Nature

People of color have much to say about the forests and open space. We want the Forest Service to listen.

As Alison H. Deming and Laurent E. Savoy explain in their path breaking collection of essays by people of color and women writing on environmental issues:

¹⁶⁰ *Id.* at 8-9.

¹⁶¹ *Id.* at 7-8.

¹⁶² *Id.* at 12.

¹⁶³ *See, e.g.*, letter from Robert García to Forest Service officials, Open Houses for Draft Forest Management Plans, July 8, 2004; letter from Robert García to Forest Service officials re: Accessible Open Houses for Draft Forest Management Plan, May 25, 2004; letter from Cardinal Roger Mahony to Robert Bonner, June 21, 2004; statement by Bishop Edward Clark, June 21, 2004.

“[W]hat if one’s primary experience of land and place is indigenous or urban or indentured or exiled or degraded or toxic? What are the stories of relationship with place that might come out of these histories, and do they have a role in helping connect us all with that sense of continuity and belonging within the Creation? Perhaps writers who see the world through the lens of a marginalized culture or class can contribute to our understanding of how social and environmental problems are linked. . . . What is the American Earth to people of color? Of course there is no single or simple answer. For some the land has been source and origin for millennia, whereas for others it is a land that was worked under a system of bondage, a place migrated to in search of new beginnings, or some complex combination of these experiences.”¹⁶⁴

Ms. Deming writes:

I recalled telling a Mexican-American friend about my passion for writing about the need to preserve wild nature and his scoffing, “Who do you want to protect it for? Not for us.” And I recalled an African-American friend cajoling me to see that in his familial past the woods were not a place one might go for solace and recreation but a place where one might be dragged, beaten, or lynched. And I understood that while the most brutal wounds of these legacies lie in the past, the pain, rage, and grief remain among their descendents, and the dismissiveness of the dominant culture regarding this reality helps keep alive the tradition of environmental racism and injustice.¹⁶⁵

The novelist and short story writer Al Young writes:

“Now, they came over here, wiped out the Indians, chopped down the forest, dumped everything they could think of into the rivers and the lakes, buried radioactive [stuff] in places we still to this day don’t know about. They got rid of public transportation and put everybody in cars. They got me all messed up with Agent Orange, tore up those people’s country with chemicals and land mines, and now here they come, talking about ‘Save the Planet.’ [T]he black male—we’re an endangered species, too, you know.”¹⁶⁶

These experiences may be painful, but they cannot and should not be ignored because working families, families of color, low income families and other marginalized people can help protect our forests, land, water, air, animals, and plants to achieve goals that everyone shares.

“Unless Americans, and all human beings, can learn to imagine themselves as intimately and inextricably related to every aspect of the world they inhabit, with the extraordinary responsibilities such relationship entails—unless they can learn what the indigenous peoples of the Americas knew and often still know—the earth simply will not survive.”¹⁶⁷

¹⁶⁴ *Colors of Nature, supra*, at 8-9.

¹⁶⁵ *Id.* at 12.

¹⁶⁶ Al Young, “Silent Parrot Blues,” in *Colors of Nature* at 116.

¹⁶⁷ Louis Owens, “Burning the Shelter,” in *Colors of Nature* at 145.

The Forest Service itself recognizes that “[h]umans are part of the ecosystem and are integral to management of the forests in perpetuity.”¹⁶⁸ The forests of Southern California provide a niche of nature-based, day-use mountain recreation for the people of Southern California.¹⁶⁹ It is critical that the DEIS and Management Plans reflect the meanings that diverse people and cultures attach to forests, wilderness, and open space.

J. Choosing Among Flawed Alternatives

According to the Forest Service, "The degrees to which alternatives 3 and 6 emphasize more non-motorized back country and wilderness, and deemphasize vehicular access, could have the effect of reducing opportunities for Hispanic and ethnic minority uses of the forests given their preference for developed recreation opportunities."¹⁷⁰

To the contrary, it may be that use of wilderness areas implicates questions of access rather than cultural disfavor.¹⁷¹ Studies show that Latinos favor preserving wilderness more so than Californians as a whole. 85% of California Latinos support permanent government protection for wilderness and wild rivers. This is in contrast to the 72% of Californians overall.¹⁷² The heightened interest on the part of Latinos vis-à-vis Californians overall in wilderness extension and open space creation - also evidenced by the substantially higher support of Latinos for Propositions 12 and 40 - is incompatible with wilderness use data cited by the Forest Service. This interest in wilderness areas in the face of the relative lack of use of the wilderness areas by Latinos should be subject to a separate and distinct analysis of inadequate outreach, public participation, diversity of Forest Service employees, language capacity of workforce, translation of signage and materials, and functional transportation corridors, to name a few. The Forest Service's proposed alternatives provide no opportunity for discussion of these issues due to their vagueness, paucity of data and faulty reasoning.

VI. Recommendations

We present the following recommendations:

1. The Forest Service must gather, analyze, and publish the information necessary to understand the impact of its Management Plans on all communities.
2. The Forest Service should rewrite and re-issue the DEIS and Management Plans with meaningful alternatives, analysis, and plans that would create identifiable standards, address environmental justice as well as environmental quality concerns, and otherwise fulfill statutory and regulatory mandates.
3. The Forest Service should meaningfully address environmental and social justice concerns throughout the Management Plans and DEIS, and incorporate the analyses of those concerns into each alternative, in light of statutory and regulatory requirements,

¹⁶⁸ DEIS at 3-258.

¹⁶⁹ DEIS at 3-193.

¹⁷⁰ DEIS 3-267.

¹⁷¹ See DEIS at 3-267.

¹⁷² See National Hispanic Environmental Council, *Why Latinos Care about Saving California's Last Wild Places*.

- including the National Environmental Policy Act, Title VI of the Civil Rights Act of 1964 and its Regulations, and the President's Order on Environmental Justice.
4. The Forest Service should follow the logic of its own analysis and pick alternative 3 or 6, modified to address the serious concerns addressed in these public comments, as the primary basis of its final forest management plans.
 5. To ensure ongoing community participation in the Management Plan process, the Forest Service should create an Advisory Committee with representatives from diverse communities to revise the DEIS and Management Plans to address environmental justice, environmental quality, and social justice concerns.
 6. The Forest Service should evaluate the findings of its own studies and the studies of others regarding the diverse recreation use patterns and preferences of diverse communities and incorporate those findings into the DEIS and Management Plans.
 7. The DEIS and Management Plans must address the impact of the forests and recreation on the health of our communities.
 8. The Forest Service should revive and fund Greenlink-type programs in order to create a stronger link between recreation, environmental, and urban forestry activities in key communities.
 9. The DEIS and Management Plans must address the impact a comprehensive public education and public involvement effort would have on Southern California forests and visitors. The Forest Service should develop and implement educational programs in schools throughout Southern California.
 10. Forest Service managers and personnel must use education, outreach, and community involvement to learn more about the diverse people of Southern California and the meanings they attach to open space, wilderness, and forests.
 11. The Forest Service must provide diverse volunteer and employment opportunities for youth in order to foster interest in the natural resource professions among young people and people of color, thereby attracting a diverse pool of potential Forest Service employees which is critical if we are to ensure the long term health and preservation of our Southern California forests. The DEIS and Management Plans must address the impact of these volunteer and employment opportunities.
 12. The Forest Service must gather, analyze, and publish the information necessary to understand the direct and indirect economic benefits of the forests, including commercial use of the forests, contracts for minority and women owned small businesses, local jobs for local workers, and employment opportunities within the Forest Service. The DEIS and Management Plans must demonstrate how the Forest Service will ensure the fair distribution of the economic benefits generated by the forests in these ways.
 13. The Forest Service must examine the impact of the Adventure Pass on visitors and the forests in the DEIS and Management Plans.
 14. The Forest Service must gather, analyze, and publish the information necessary to understand public transportation options to the forests in Southern California in the DEIS and Management Plans.
 15. The Forest Service must gather, analyze, and publish the information necessary to understand how the cultural and heritage resources in the four forests reflect the diversity of cultures of the state, including native people, Spanish and Mexican California, African-American, Asian, and Euroamericans.

VII. Conclusion

The Draft Environmental Impact Statement and accompanying draft documents fail to provide the public with a reasonable range of alternatives or a clear and full disclosure of the environmental impacts of the alternatives. A revised DEIS should be drafted and re-circulated to the public. Along the spectrum of the six alternatives developed and analyzed in the DEIS, both alternatives 3 and 6 provide stronger protection for habitat, reasonable wilderness and wild and scenic river recommendations, and closure of roads that are harming the environment and providing no important functions for Forest Service administration.

We recommend that the Forest Service meaningfully address our environmental and social justice concerns throughout the Management Plans and DEIS, and incorporate the analyses of those concerns into each alternative. Furthermore, the Forest Service should follow the logic of its own analysis and pick alternative 3 or 6, modified to address the serious concerns addressed in these public comments, as the primary basis of its final forest management plans.

Robert Marshall wrote that "[t]he time has come when we must discard the unsocial view that our woods are the lumbermen's and substitute the broader ideal that every acre of woodland in the country is rightly a part of the people's forests."¹⁷³ Seventy years later, we are looking forward to implementing the vision for the people's forests.

Respectfully submitted,

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August 11, 2004

¹⁷³ Marshall, *supra*, at 219.