

October 1, 2024

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Submitted electronically via: <https://www.regulations.gov>

RE: U.S. Army Corps of Engineers Civil Works Environmental Justice Strategic Plan—Docket ID No. COE-2024-0003

Deputy Chief Redican:

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide comments on the U.S. Army Corps of Engineers' (USACE) Draft Environmental Justice Strategic Plan vision, goals, and objectives (the Plan). ACWA shares USACE's goal to address barriers faced by historically marginalized communities and provide fair treatment and meaningful involvement of all people. When implementing the Plan, USACE must ensure it does not add unnecessary costs to water infrastructure projects or unnecessarily delay the permitting process.

ACWA is the largest statewide coalition of public water agencies in the country. Our more than 470 public agency members collectively are responsible for 90 percent of the water delivered to communities, farms, and businesses in California. For more than a century ACWA and our members have been working to provide high quality, reliable water supplies in an environmentally sustainable and fiscally responsible manner.

USACE is an important federal partner for ACWA's members and other water providers. Across America, 136 USACE reservoirs provide municipal and industrial water supply, and 46 reservoirs provide irrigation water supply.¹ The nation has benefited from these projects, but the dual challenges of population growth and climate change require that more be done to maximize the use of existing water infrastructure while developing additional resources. As USACE considers the Plan it must do so with the recognition that water supply infrastructure is critically important to all communities including those communities that have environmental justice concerns.

ACWA's comments focus on the three questions posed by USACE in its request for input and highlight recommendations to advance and measure environmental justice measures for Civil Works programs.

¹ U.S. Army Corps of Engineers Institute for Water Resources: 2014 Municipal, Industrial and Irrigation Water Supply Database Report. Aug. 2015. https://www.iwr.usace.army.mil/Portals/70/docs/iwrreports/2015-R-02_Municipal_Industrial_and_Irrigation_Water_Supply_Database_Report.pdf.

I. USACE Must Release its Draft Environmental Justice Strategic Plan to Analyze Whether it Addresses Interested Parties' Interests to Advance Environmental Justice

ACWA applauds USACE for its initiatives to address environmental justice and incorporate measures in its Civil Works programs. However, the Federal Register notice includes five goals of USACE's Plan rather than the Plan itself. To ensure proper input is received from interested parties, USACE must release its Draft Environmental Justice Strategic Plan. Currently, the Plan does not appear to be publicly available which inhibits any detailed review and ability to provide significant feedback that USACE seeks. ACWA's comments are therefore based on the general information provided in USACE's request for input.

Additionally, the comment period for USACE's request for input is less than thirty days. This timeframe is short compared to the standard public comment period of thirty to sixty days, as well as the ability to provide an adequate response to the information requested. ACWA acknowledges that USACE will make the Plan a living document and accept comments at any time and therefore urges USACE to consistently incorporate comments into the Plan following the full release of its draft Plan.

When drafting its Plan, ACWA encourages USACE to balance community needs. For example, USACE should consider environmental justice community needs but should not necessarily prioritize these programs over other critical existing water resources programs. Limiting water infrastructure projects to a subset of a community will likely increase the cost of food, water, and electricity that public water agencies provide. An unintended consequence will be the adverse effect on historically marginalized communities where individuals already spend a higher portion of their income on necessities like food and utilities.

II. USACE Should Continue Engaging with and Investing in Communities with Environmental Justice Concerns to Advance Environmental Justice in its Civil Works Programs

ACWA believes in meaningful opportunities for input from interested parties. As such, USACE should continue meaningful engagement techniques and adopt comprehensive outreach strategies to collaborate with all interested parties to advance environmental justice. For example, USACE should consider targeted efforts that go beyond traditional public meetings to engage all interested parties including mobile workshops, online community forums, and culturally relevant materials. USACE must work not only with environmental justice community members, but also with municipalities, public water agencies, organizations, and local, state, and federal officials, and more, to understand the methods that are working to advance environmental justice in communities and if not, why or why not. Differing viewpoints and open dialogue will give USACE best practices on how to incorporate environmental justice initiatives nationwide.

ACWA encourages USACE to review whether states already have an environmental justice plan and, if so, what policies and best-practices states are utilizing to advance environmental justice. For example, California has its own environmental justice requirements and strategies through the California Environmental Quality Act (CEQA).² California statute defines environmental justices as the "fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."³ Like the National Environmental Policy Act (NEPA), CEQA requires government agencies in California to consider potentially significant environmental impacts on all communities. In California, particular attention is paid to communities already burdened with pollution. When finalizing the Plan, USACE should work to align it with environmental justice requirements under NEPA. We also encourage

² State of California Department of Justice: Environmental Justice. <https://oag.ca.gov/environment/justice>.

³ California Government Code Section 65040.12(e).

USACE to include a provision to consult with state officials to determine if a state is already implementing environmental justice policies which may meet the goals and objectives of the Plan. . Coordination across federal agencies and consideration of existing state practices will help ensure effective implementation of environmental justice in USACE Civil Works programs.

Also, USACE could enhance environmental justice by further highlighting funding opportunities for water resources projects in historically marginalized communities. Multiple funding opportunities are available from a variety of sources including the Infrastructure Investments and Jobs Act (Public Law 117-58), Inflation Reduction Act (Public Law 117-169), and Water Resources Reform and Development Act of 2014 which established the Corps Water Infrastructure Financing Program (CWIFP). However, eligible entities may be unaware of how and where to apply for assistance. To help historically marginalized communities receive authorized funding, USACE should work with other federal agencies to provide a simple database of environmental justice-related funding opportunities. ACWA encourages USACE to work with Congress to receive additional funding and to implement new programs that add investments for water resources projects rather than divert investments away from other critical programs, such as USACE's pilot program specifically designed to make federal investments in historically marginalized communities through fiscal year 2024 under the Water Resources Development Act of 2020.⁴

When considering cost allocation, we encourage the USACE to recognize that furthering environmental justice has broad societal benefits that often go beyond individual projects. The USACE has acknowledged a federal interest in environmental justice. Given this federal interest and the importance of a safe and reliable supply of water, the costs associated with implementing the Plan should be deemed non-reimbursable for water infrastructure projects. This will further environmental justice goals and help avoid additional cost barriers to developing critical water resources projects.

III. USACE Should Build Upon Current and Establish New Performance Metrics to Monitor its Environmental Justice Progress

ACWA acknowledges advancing environmental justice is an ongoing matter. It is critical USACE has defined objectives to monitor, evaluate, and account for progress under the Plan. Current interactive tools including USACE's Environmental Justice Scorecard⁵, the U.S. Environmental Protection Agency's Environmental Justice Screening and Mapping Tool⁶, and the Climate & Economic Justice Screening Tool⁷ provide publicly accessible data to improve transparency and allow all communities to access relevant information about projects impacting them. ACWA encourages USACE to build upon its existing interactive tools such as its supplemental programs map⁸ to specifically highlight future, ongoing, and completed environmental justice projects and create similar interactive resources to map its environmental justice progress.

Finally, ACWA believes it would be helpful for USACE to develop examples of how environmental justice considerations would be addressed in light of multiple minority, tribal, or low-income populations that

⁴ Public Law 116-260, Section 165(a). Dec. 27, 2020. <https://planning.erdc.dren.mil/toolbox/library/WRDA/WRDA2020.pdf>.

⁵ U.S. Army Corps of Engineers: Environmental Justice Scorecard. <https://ejscorecard.geoplatform.gov/en/scorecard/u.s.-army-corps-of-engineers/>.

⁶ U.S. Environmental Protection Agency: Environmental Justice Screening and Mapping Tool. <https://ejscreen.epa.gov/mapper/>.

⁷ Climate & Economic Justice Screening Tool. <https://screeningtool.geoplatform.gov/en/#3/33.47/-97.5>.

⁸ U.S. Army Corps of Engineers: Find a Supplemental Project. <https://geospatial.sec.usace.army.mil/arcgis/apps/experiencebuilder/experience/?draft=true&id=79baf479fd5447f890fd9d7b0d8f244a>.

reside in Western watersheds that directly and indirectly benefit from water resources and multiple-purpose development projects.

IV. Conclusion

ACWA thanks USACE for the opportunity to provide comments concerning its Draft Environmental Justice Strategic Plan and for its environmental justice initiatives. ACWA looks forward to collaborating with USACE on this important effort. Please let us know if we can provide additional information or be of assistance. If you have any questions or would like to follow up on this matter, please contact ACWA Director of Federal Relations, Ian Lyle, at ianl@acwa.com or (202) 434-4765.

Respectfully,

A handwritten signature in black ink, appearing to read "Ian Lyle". The signature is fluid and cursive, with the first name "Ian" and last name "Lyle" clearly distinguishable.

Ian Lyle
Director of Federal Relations
Association of California Water Agencies