



April 22, 2024

SUBMITTED VIA EMAIL

Governor's Environmental Justice Advisory Council

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D. Reid Wilson
Secretary, Department of Natural and Cultural Resources
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Re: Comments in Response to Department of Natural and Cultural Resources' Draft Environmental Justice Goals and Outcomes

Dear Council and Secretary Wilson,

On behalf of the Lumber Riverkeeper, Winyah Rivers Alliance, Coastal Carolina Riverwatch, Partners for Environmental Justice, West End Revitalization Association, 7 Directions of Service, Warren County Environmental Action Team, Inc., Danielle Koonce, NC FIELD, Inc., North Carolina Environmental Justice Network, North Carolina League of Conservation Voters, Wake Forest Environmental Law and Policy Clinic, McDowell Local Food Advisory Council, UNC Environmental Justice Action Research Clinic, NC Sierra Club, CleanAIRE NC, Toxic Free NC, NOTRA, The Lilies Project, North Carolina NAACP, Duplin County Branch of NAACP, Neighbors for Better Neighborhoods, Environmental Justice Community Action Network, Emancipate NC, Down East Coal Ash Environmental and Social Justice Coalition, Yadkin Riverkeeper, North Carolina Sustainable Business Council, Dogwood Alliance, Center for Biological Diversity, and North Carolina Conservation Network, the Southern Environmental Law Center and the Southern Coalition for Social Justice and ("Interested Groups") submit the following comments on the draft Environmental Justice Goals and Measurable Outcomes of the North Carolina Department of Natural and Cultural Resources ("DNCR").

On October 24, 2023, Governor Roy Cooper signed Executive Order 292 Advancing Environmental Justice for North Carolina ("EO 292").¹ Section 7 of the order

¹ N.C. Exec. Order No. 292 (Oct. 24, 2023), <https://governor.nc.gov/executive-order-no-292/open>.

directed each cabinet agency to develop and submit “at least three draft EJ goals and measurable outcomes” to the Governor’s Environmental Justice Advisory Council (“EJAC”) for public comment.² The draft DNCR Environmental Justice Goals were published on February 26, 2024.³

To be effective, environmental justice goals should be specific, measurable, achievable, relevant, and time-bound. Interested Groups first want to commend DNCR on the thoroughness of these draft goals toward providing “aging, disabled, minority, low-income, and tribal populations”⁴ with greater access to outdoor spaces, identifying DNCR policies that contribute to disproportionate health impacts for these populations, and ensuring that these populations have access to existing DNCR funding opportunities. Interested Groups are especially supportive of the agency’s commitment to provide technical assistance to aging, disabled, minority, low-income, and tribal populations towards projects and research addressing these disparate health impacts.

Interested Groups believe that these draft goals can be further improved by the suggestions below. Namely, DNCR should clarify certain irregularities in the text, study cumulative impacts, utilize state mapping technology, add requirements for proactive outreach, utilize existing mechanisms for historic and cultural site protection, and ensure incorporation of feedback from aging, disabled, minority, low-income, and tribal populations.

I. DNCR Should Amend Draft Goals 1.2, 2.1, and 3.1 for Additional Clarity.

The existing draft goals are a commendable foundation for the environmental justice efforts identified in EO 292. However, the draft goals could benefit from clarification where the current language is vague or incomplete.

First, when setting measurable goals for future partnerships or offering assistance to marginalized populations, DNCR should make clear exactly what number of relationships the agency is committing to establish. DNCR Goal 1.2 sets forth the goal of establishing working partnerships between DNCR and “at least four (4) aging, disabled, minority, low-income, and tribal populations.”⁵ Similarly, DNCR Goal 3.1 states that DNCR will “[p]rovide in-kind technical assistance to at least five (5) aging, minority, low-income, and tribal populations.”⁶ It is unclear whether DNCR is committing to building relationships and offering technical assistance to four or five groups *total* or four or five populations *in each* identified category of marginalized community.

² *Id.* at 4.

³ DNCR Environmental Justice Goals, N.C. DEPARTMENT OF NATURAL AND CULTURAL RESOURCES (Feb. 26, 2024), <https://governor.nc.gov/dn-cr-environmental-justice-goals/download?attachment>.

⁴ *Id.* at 1–2.

⁵ *Id.* at 1.

⁶ *Id.*

Interested Groups seek to remind DNCR that marginalized communities are not a monolith and have distinct needs both within these identified categories and across them. Moreover, Interested Groups urge DNCR to develop working partnerships and provide resources to all recognized Tribal nations within the state as well as the state's recognized North Carolina American Indian Urban Organizations, rather than focusing on an arbitrary subset of four or five populations.

DNCR should clarify the text as follows:

DNCR 1.2 – Establish working partnerships with at least four (4) populations in each of the following self-identified categories: aging, disabled, minority, and low-income populations. Establish working partnerships with North Carolina's one (1) federally recognized Tribe, North Carolina's eight (8) state-recognized Tribes, and North Carolina's four (4) state-recognized American Indian Urban Organizations.

DNCR 3.1 – Provide in-kind technical assistance to at least five (5) populations in each of the following self-identified categories: aging, disabled, minority, and low-income populations, for projects and research that focus on solutions that address the adverse human health and negative environmental consequences that disproportionately impact their communities, attributable to a lack of access to outdoor recreation resources. Provide in-kind technical assistance in the same context to North Carolina's one (1) federally recognized Tribe, North Carolina's eight (8) state-recognized Tribes, and North Carolina's four (4) state-recognized American Indian Urban Organizations.

Additionally, some of the draft goals and measurable outcomes commit DNCR to establishing relationships with, studying impacts to, or providing technical assistance to "aging, disabled, minority, low-income, and tribal populations," see *DNCR Goal 1.2, DNCR Goal 2.2, DNCR Goal 3, DNCR Goal 3.1, and DNCR Goal 3.2*, while others list only a commitment to "minority, low-income, and tribal populations," see *DNCR Goal 1 and DNCR Goal 2*.⁷ Interested Groups suggest that DNCR make clear its commitment to each of these groups by adding aging and disabled populations where they are missing from the text in the preamble to Goals 1 and 2.

Finally, DNCR Goal 2.1 would benefit from additional clarification on content and timing. DNCR commits to utilizing "at least five (5) internships and other division programs to gain and share expertise or scientific knowledge,"⁸ which might aid the agency in furthering environmental justice goals. First, DNCR should clarify whether, and how, this information will be shared publicly. Additionally, to ensure that the

⁷ *Id.* at 1–2.

⁸ *Id.*

outcome of DNCR Goal 2.1 is specific, measurable, attainable, realistic, and tangible, DNCR might consider adding time limitations to this goal. For example, DNCR Goal 2.1 might be amended to state that DNCR will “[u]se at least five (5) internships and other division programs to gain and share expertise or scientific knowledge to further environmental justice goals. These internships and programs will publish their findings one (1) time each quarter on the DNCR website.”

II. DNCR Should Amend DNCR Goal 2 to Ensure Consideration of Cumulative Impacts.

Interested Groups applaud DNCR for acknowledging the adverse human health impacts associated with environmental injustice on aging, disabled, minority, low-income, and tribal populations. Further, Interested Groups appreciate the agency’s commitment in DNCR Goal 2.1 to gaining and sharing scientific knowledge related to combatting these impacts.

Interested Groups emphasize that analysis of DNCR policies and practices that “may result in disproportionately high and adverse human health or environmental effects” to aging, disabled, minority, low-income, and tribal populations, as described in the preamble to DNCR Goal 2, should be informed by consideration of the cumulative impacts affecting these communities. Language to this effect should be added to DNCR Goal 2’s preamble, or DNCR Goal 2.1 should be amended to include cumulative impacts analysis as a first step in the study described in the current text.

III. DNCR Should Amend DNCR Goal 1.3 to Require Use of State Mapping Systems to Identify Existing Green Spaces near Marginalized Populations.

DNCR Goal 1.3 commits DNCR to “[w]ork with at least three (3) environmental justice organizations to support affected communities through increased access to parks, trails, greenways, and open spaces for recreation.”⁹ Interested Groups believe that this measurable outcome could be improved by requiring the agency to utilize state mapping technology to identify parks, trails, greenways, and other recreation spaces (“green spaces”) near aging, disabled, minority, low-income, and tribal populations where support for access may be most vital.

Interested Groups are aware that EO 292 Section 8 orders the development and maintenance of a statewide environmental justice mapping tool, which could assist the agency in compiling such a list. This new mapping tool “shall, at a minimum, integrate data used in DEQ’s Community Mapping System, DEQ’s Environmental Justice Tool, the North Carolina Department of Health and Human Service’s environmental health data

⁹ *Id.*

dashboard, and the North Carolina Department of Transportation's EJ and Transportation Disadvantage Index mapping tool.”¹⁰ The tool will also include a minimum of “demographic data on the census block level, permitted facility locations, and relevant health data on the smallest geographic scale publicly available,” and must be published within a year of the EO’s publication, by October 24, 2024.¹¹ In the meantime, DNCR should utilize existing mapping efforts, including the mapping and survey work integrated into DNCR’s Division of Parks and Recreation North Carolina Outdoor Recreation Plan and the seven State Designated Tribal Statistical Areas for North Carolina developed by the U.S. Census Bureau.¹²

Requiring that DNCR compile such a list in DNCR Goal 1.3 serves dual purposes. First, identifying the green spaces near aging, disabled, minority, low-income, and tribal populations would allow DNCR to begin its access work from a list of priority spaces where green spaces are already proximate to marginalized populations and assistance towards increased access may be most immediate. Second, were DNCR to publish such a list, populations in the identified categories may learn about nearby green spaces of which they were previously unaware, aiding in the agency’s goal that marginalized populations have a greater degree of access to these spaces.

In making this suggestion, Interested Groups acknowledge that mapping technologies contain their own flaws and may omit smaller marginalized communities or those that otherwise do not make up the majority of their geographic area. DNCR should, therefore, not limit its efforts to those communities which are identified by mapping technology.

IV. DNCR Should be Proactive in the Agency’s Outreach to Aging, Disabled, Minority, Low-income, and Tribal Populations Related to These Environmental Justice Goals.

For DNCR to achieve the aims identified in the draft goals document, the agency must be prepared to engage in active outreach to aging, disabled, minority, low-income, and tribal populations across the state. While Interested Groups commend DNCR’s commitment to conduct meetings and forums, including translation meetings (DNCR Goal 1.1), quarterly meetings as needed (DNCR Goal 2.2), and community-based grant trainings (DNCR Goal 3.2), additional agency outreach will be necessary to ensure that

¹⁰ N.C. Exec. Order No. 292, *supra* note 1, at 4.

¹¹ *Id.*

¹² NORTH CAROLINA OUTDOOR RECREATION PLAN 2020 – 2025, DIVISION OF PARKS AND RECREATION, N.C. DEPARTMENT OF NATURAL AND CULTURAL RESOURCES (May 2020), <https://files.nc.gov/ncparks/north-carolina-statewide-comprehensive-outdoor-recreation-plan-2020.pdf>; State Designated Tribal Statistical Areas are accessible via ArcGIS at <https://hub.arcgis.com/datasets/fedmaps::state-designated-tribal-statistical-areas/explore>.

marginalized populations are aware of and able to access DNCR's environmental justice efforts.

Interested Groups stress that DNCR cannot achieve these draft goals if the agency engages only with communities that approach the agency directly. Interested Groups suggest that DNCR add an additional measurable outcome to each goal committing the agency to direct outreach and identifying tangible outreach methods. For example, an additional measurable outcome under DNCR Goal 1 might read as:

DNCR 1.5 – Conduct at least four (4) total outreach and public education campaigns about DNCR's efforts under Goal 1 consisting of: direct outreach to at least ten (10) environmental justice organizations about Goal 1 efforts, direct outreach to all Tribal governments and the North Carolina Commission of Indian Affairs, local newspaper publications about upcoming regional meetings in (4) regions (Blue Ridge, Piedmont, Inner Coastal Plain, and the Outer Coastal Plain), and one (1) publication each quarter to the DNCR website in a manner that is accessible to and inclusive of aging, disabled, minority, low-income, and tribal populations detailing the results of Goal 1 efforts.

Interested Groups suggest that similar language be added to DNCR Goals 2 and 3.

V. DNCR's Environmental Justice Goals Should Include Resource Commitment and Direct Outreach to Aging, Disabled, Minority, Low-income, and Tribal Populations About Historically and Culturally Important Sites.

Environmental justice outcomes must include the conservation of community history and culture threatened by development, pollution, and other environmental injustice markers alongside the improved health and resource access targeted by DNCR's draft goals. DNCR is the primary agency capable of advancing this preservation work through its Division of Historical Resources and the North Carolina State Historic Preservation Office ("NCHPO") within. Interested Groups offer the below suggestions to aid DNCR in integrating this responsibility into the draft goals document.

Interested Groups urge DNCR and its NCHPO to engage in direct outreach to aging, disabled, minority, low-income, and tribal populations to reduce the burden on communities currently expected to petition for the protection of their historic landmarks or search out and respond to potential cultural conflicts arising from permitting decisions. DNCR should proactively search out potential historical and cultural conflicts and effects, including those resulting from permitting decisions, and bring these concerns directly to impacted communities. Interested Groups recognize that overburdened communities often have less capacity for this work due to other

stressors, including, but not limited to, disproportionate health impacts facing aging, disabled, minority, low-income, and tribal populations, which results in important cultural resources receiving less state protection.

DNCR should amend the draft goals document to include a Goal 4, which formalizes the agency's measurable commitments towards increased preservation of the rich history and culture of these communities. Interested Groups submit that such a goal should include tangible outcomes ensuring outreach regarding sites of potential importance and activity threatening those sites, as well as committing DNCR to utilize agency resources for study and advancement of protections for historically and culturally important places. Goal 4 might include language akin to:

DNCR Goal 4

Use existing Division of Historical Resources preservation mechanisms to identify and conserve sites, buildings, birthplaces, and other markers of culture and history relevant to aging, disabled, minority, low-income, and tribal populations.

Measurable Outcomes:

DNCR 4.1 – Conduct at least one (1) meeting per quarter, virtual and in-person public meetings, listening sessions, or forums, as needed based on public interest, to solicit input from aging, disabled, minority, low-income, and tribal populations regarding where county, community, or property surveys are needed in the state. These meetings will be conducted in a manner that is accessible to and inclusive of the named populations.

DNCR 4.2 – Conduct at least four (4) NCHPO office-led surveys to determine properties and districts that may be eligible for the National Register of Historic Places and which the state could submit for nomination to this program. Conduct at least four (4) NCHPO office-led surveys to determine if properties or districts already considered for placement on the National Register of Historic Places and rejected should be reevaluated after more detailed community outreach. Ensure that the targets of these surveys are informed by the meetings conducted under DNCR 4.1. Consider other preservation programs under NCHPO's authority to conserve eligible places identified in survey results.

DNCR 4.3 – Engage in proactive outreach to aging, disabled, minority, low-income, and tribal populations regarding changes, including proposed permitted activity, which may impact sites of historical or cultural relevance to those communities in addition to posting the legally mandated notices regarding such

activity. Ensure that comments are solicited directly from relevant communities, including Tribal authorities and environmental justice groups.

DNCR 4.4 – Compile an internal repository of historical and cultural information, including information gathered during the implementation of DNCR Goals 4.1, 4.2, and 4.3, containing specific site locations where appropriate after seeking relevant community approval, to utilize as a basis for future outreach relevant to those sites. Consult this database during future state and national permitting decisions.

VI. DNCR Should Amend the DNCR Environmental Justice Goals to Require Integration of Feedback from Aging, Disabled, Minority, Low-Income, and Tribal Populations.

Finally, DNCR must also be prepared to update and expand DNCR's Environmental Justice Goals in response to the agency's outreach to affected communities. Marginalized communities represent the populations most informed about environmental injustice in the state of North Carolina, including both the substance of those harms and relevant potential solutions. DNCR must integrate the feedback obtained from aging, disabled, minority, low-income, and tribal populations into DNCR Goals 1, 2, 3, and 4 (if adopted) as this information is obtained. Additionally, the agency must consult with the commissions within DNCR designed to advise on matters of cultural importance to specific marginalized communities, such as the North Carolina American Indian Heritage Commission and the North Carolina African American Heritage Commission, about these goals.

DNCR should consider amending the draft goals document to include a Goal 5, which formalizes the agency's intention to incorporate this feedback. Interested Groups submit that such a goal should include measurable outcomes, ensuring that feedback is obtained and recorded, and should formalize a timeline for publication of goals document updates. Goal 5 might include language akin to:

DNCR Goal 5

Integrate feedback from aging, disabled, minority, low-income, and tribal populations obtained through the efforts of DNCR Goals 1, 2, 3, and 4 into the DNCR Environmental Justice Goals document.

Measurable Outcomes:

DNCR 5.1 – Ensure that feedback obtained from aging, disabled, minority, low-income, and tribal populations during the implementation of DNCR Goals 1, 2, and 3 is recorded. At a minimum, this should include a formal record of suggestions obtained from the community meetings described in DNCR Goals 1.1, 2.2, and 3.2.

A record should also be kept of suggestions gathered via meetings prescribed in 4.1 where appropriate and where records do not threaten the privacy of protected cultural sites.

DNCR 5.2 – To solicit feedback on DNCR’s environmental justice goals, send at least one (1) survey per quarter to each environmental justice organization and aging, disabled, minority, low-income, and tribal population with which population DNCR has a relationship, including, but not limited to, those relationships established via DNCR Goals 1.3 and 1.2.

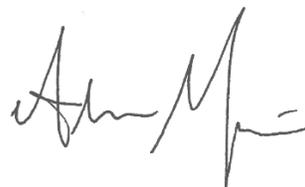
DNCR 5.3 – Meet with the North Carolina American Indian Heritage Commission and the North Carolina African American Heritage Commission leadership at least one (1) time per quarter to solicit feedback on implementation of DNCR’s environmental justice goals.

DNCR 5.4 – Update the DNCR Environmental Justice Goals document to reflect the community feedback gathered via DNCR 5.1 and 5.2 at least two (2) times per year. Publish this updated document on the DNCR website on a bi-annual basis within thirty (30) days of completed updates.

VII. Conclusion

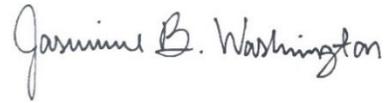
Interested Groups reiterate that the draft DNCR Environmental Justice Goals represent a detailed and effective strategy for environmental justice harm reduction. Interested Groups commend DNCR for this effort and respectfully propose that the agency further improve these draft goals by amending the document to include the suggestions detailed above. Interested Groups additionally urge DNCR not to artificially limit the agency’s environmental justice work to the content of the goals document. DNCR should encourage agency staff to go beyond the minimums set by the goals document, including the minimum number of working partnerships set in DNCR Goal 1.2, and to seek additional means of harm reduction beyond the DNCR Environmental Justice Goals and their measurable outcomes.

Sincerely,

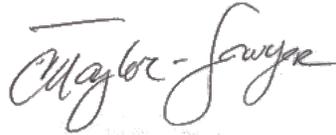
A handwritten signature in black ink, appearing to read 'Alyson Merlin', with a stylized flourish at the end.

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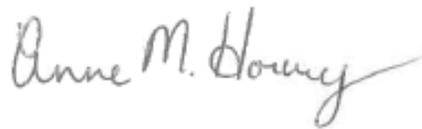


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