

## **NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT**

**ATTENTION: All people with physical disabilities, including mobility, vision, and/or hearing disabilities, who allege they have been denied or are being denied access to California State Parks due to alleged disability access violations.**

### **Notice of Class Action**

The purpose of this notice is to inform you of a proposed settlement in a pending class action lawsuit brought on behalf of people with physical disabilities. The class action settlement (the “Consent Decree”), which must be approved by the Court, was reached in connection with two lawsuits, *Tucker v. State of California Department of Parks & Recreation*, N.D. Cal. Case No. C 98-4935 CRB and *Tucker v. California Department of Parks & Recreation*, San Francisco Superior Court No. 99-302586. The lawsuits, filed in 1998 and 1999, allege that the California Department of Parks and Recreation (“the Department”) has discriminated against persons with physical disabilities by denying their right to full and equal access to, and use and enjoyment of, the facilities and programs of the California Park System. The Defendants deny any liability or wrongdoing.

### **Definition of Settlement Class**

If you are a person with a physical disability, including mobility, vision and/or hearing disabilities, and claim you have been denied or are being denied access to California State Parks due to alleged disability access violations, you are a member of the proposed settlement class affected by this lawsuit. Please read this notice carefully because your rights may be affected.

## **SUMMARY OF THE PROPOSED CONSENT DECREE**

### **Transition Plan**

Pursuant to the parties’ settlement negotiations, the Department has conducted a comprehensive self-evaluation and has formulated a Transition Plan which sets forth a schedule to provide programmatic accessibility. Under the Consent Decree, the Department will hire a person or firm with substantial experience in evaluating the accessibility of programs, services, activities and facilities to monitor its compliance with the Transition Plan. This monitor will provide periodic compliance reports to Class Counsel.

### **Access Standards**

All the accessibility modifications and accommodations the Department will provide through the Consent Decree will comply with federal and State of California standards of accessibility. All new parks acquired and/or new construction undertaken by the Department will conform with the applicable access standards.

### **Park Activities**

The Department will make park activities (including bicycling, boating, exhibits/interpretive programs, camping, fishing, hiking, horseback riding, off highway

vehicle use, picnicking, visitor center/museum and water access) programmatically accessible.

The Department's Transition Plan prioritizes park units into "levels" for program accessibility improvements based upon visitation, the number of activities offered, program uniqueness and geographic distribution. Level 1 parks receive the highest volume of visitors. The Department will complete access improvements at Level 1 units by June 30, 2009. Access work at Level 2 parks will be completed by June 30, 2012, and work at Level 3 parks will be finished by June 30, 2014. The Department will complete access improvements at Level 4 parks, which account for only 4% of all state park visitations, by June 30, 2016.

Under the Consent Decree, every park activity at Level 1 parks shall be accessible. "Major Activities" at Level 2 and 3 parks will be accessible, and select activities at Level 4 parks will be accessible.

The Department will also improve access to supporting facilities, such as park entrances, parking, paths of travel, restrooms, telephones, drinking fountains and signage.

A comprehensive program for provision of interpreters for park users with hearing disabilities has been implemented pursuant to the proposed settlement and Consent Decree, with certified interpreters of various types made available upon request. The settlement also calls for the captioning of films displayed in the Park Department's museum and visitors' centers.

The Department will implement a comprehensive accessible exhibit program for park users with vision disabilities, including accessible brochures, signs, and displays.

The Department's website will provide detailed summaries of accessible features at each park unit.

### **Trails**

Each Level 1 park with three or more trails will have at least three accessible trails totaling at least 2.5 miles of accessible pathways. Level 2 parks with two or more trails will have at least one mile-long accessible trail and one half-mile accessible trail, while Level 3 parks with at least one trail will have at least one accessible half-mile trail. Level 4 parks with one trail will have one trail that is .25 miles long.

The Department will make its reasonable best efforts to maximize the variety and quality of the outdoor experience offered to trail users with disabilities.

The Department will provide information on its website that describes the accessible trails and the location of the nearest accessible restroom.

### **Locally Operated Parks and Concessions**

There are currently 27 park units owned by the State but operated entirely by local entities. These “locally operated parks” shall receive a letter offering the opportunity to participate in the Consent Decree. In exchange for completing a comprehensive transition plan and committing to all of the access and monitoring obligations described in the Consent Decree, the locally operated park will obtain the benefit of the class wide release of liability for injunctive relief.

The Department contracts with other third parties to operate concessions facilities on state parkland, ranging from a large conference center to individual food and beverage stands. The Department will oversee accessibility for concessionaires, including making reasonable good faith efforts to ensure that existing concessions meet the access standards of the Consent Decree with all deliberate speed. The Department will additionally ensure that new concessions comply with the Consent Decree by the time they begin operation.

### **Monetary Damages & Attorneys’ Fees**

As part of the settlement negotiations, the Department has paid \$24,000 to the four named plaintiffs, which they divided among them, to compensate them for their active participation in the lawsuit and for their individual claims for damages. The Consent Decree does not provide for any monetary relief to be paid to any other members of the class or release any damage claims such class members may have.

The settlement class was represented by a disabilities access law firm, Disability Rights Advocates (“Class Counsel”). The Department will pay Class Counsel \$650,000 for their reasonable attorneys’ fees and costs for time expended and costs incurred during the course of this case, and additional reasonable fees and costs for compliance monitoring.

This Consent Decree resolves all claims raised in the *Tucker v. State of California Department of Parks and Recreation* cases. Class Counsel has concluded that the terms and conditions of the proposed Consent Decree are fair, reasonable, and in the best interests of the class. In reaching this conclusion, Class Counsel has considered the benefits of the settlement, the possible outcomes of litigation of these issues, and the expense and length of continued litigation and possible appeals.

## **OBJECTIONS TO THE SETTLEMENT**

The Court has given preliminary approval of the Consent Decree, and has scheduled a hearing for \_\_\_\_\_ in the Courtroom of the Honorable Judge Charles Breyer, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, to determine whether the proposed settlement is fair and reasonable and should be finally approved. Although you are not required to attend, as a Class Member, you have the right to attend and be heard at this hearing. Communication services, including sign language interpreting services, shall be available at this hearing upon request.

In addition, any Class Member may object to the terms of the proposed settlement (Consent Decree) described above by filing a written, signed objection with the Court. If you wish to object, you must send a written statement, **postmarked on or before [DATE]**, specifying the reason(s) for your objection to the settlement and, if applicable, stating your intent to appear at the above-referenced hearing, to each of the following:

The Court:

Clerk of the United States District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102-3483  
Specifying: *Tucker v. State of California Dept. of Parks & Recreation*,  
C 98-4935 CRB

For Named Plaintiffs and Settlement Class:

Stephen Tollafield, Esq.  
DISABILITY RIGHTS ADVOCATES  
449 15<sup>th</sup> Street, Suite 303  
Oakland, CA 94612

For State of California and California Department of Parks & Recreation:

Caryn L. Craig, Deputy Attorney General  
Department of Justice  
Office of the Attorney General  
1300 I. Street, P.O. Box 944255  
Sacramento, CA 944255-2550

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Any class member who fails to file a timely written objection may not be granted the right to appear before the Court at the hearing to make objections to the adequacy and/or fairness of the proposed settlement.

IF YOU DO NOT OPPOSE THIS SETTLEMENT, YOU NEED NOT APPEAR OR FILE ANYTHING IN WRITING.

**BINDING EFFECT**

The proposed Consent Decree, if given final approval by the Court, will bind all members of the Settlement Class. This will bar any person who is a member of the Settlement Class from seeking equitable relief regarding all issues resolved in the Consent Decree up to and through June 30, 2016, other than any relief provided for in the Consent Decree or for monetary damages.

## **FURTHER INFORMATION**

The nature of the federal and state lawsuits and the terms of the settlement are only summarized in this Notice. More detailed information concerning the settlement or a copy of the Consent Decree may be obtained from Class Counsel at the following address:

Disability Rights Advocates  
Attn: Stephen Tollafeld  
449 15<sup>th</sup> St., Suite 303  
Oakland, CA 94612  
510-451-8644 (Voice)  
510-451-8716 (TTY)  
email: stollafeld@dralegal.org

or by consulting the public file on the case at the Office of the Clerk at the following address:

For the federal case:

Clerk of the United States District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102-3483  
Specifying: *Tucker v. State of California Dept. of Parks & Recreation*, C  
98-4935 CRB

For the state case:

Clerk of San Francisco Superior Court  
400 McAllister Street  
San Francisco, CA 94102-4514  
Specifying: *Tucker v. California Department of Parks & Recreation*, No.  
99-302586

**To obtain copies of this Notice in alternative accessible formats, please contact Class Counsel listed above.**

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