LAURENCE W. PARADIS (State Bar No. 122336)
SID WOLINSKY (State Bar No. 33716)
STEPHEN TOLLAFIELD (State Bar No. 221170)
DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
Telephone: (510) 451-8644
Facsimile: (510) 451-8511
TTY: (510) 451-8716
Email: general@dralegal.org

ATTORNEYS FOR PLAINTIFFS

COPY

ORIGINAL
FILED
JUN 24 2005
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DISABILITY RIGHTS ADVOCATES
449 FIFTEENTH STREET, SUITE 303
OAKLAND, CALIFORNIA 94612
(510) 451-8644

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BONNIE TUCKER, PETER MENDOZA, CALIFORNIA COUNCIL OF THE BLIND and CALIFORNIANS FOR DISABILITY RIGHTS, a non-profit corporation, on behalf of themselves and all others similarly situated, Plaintiffs, v. **STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, RUTH COLEMAN, and the STATE OF CALIFORNIA,** Defendants.	Case No. C 98-04935 CRB (PJH) CLASS ACTION **CONSENT DECREE**

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

TABLE OF CONTENTS

I. RECITALS 1
II. DEFINITIONS 2
III. SETTLEMENT PERIOD 4
IV. INJUNCTIVE RELIEF 4
A. Transition Plan Completion Schedule 4
B. Access Standards 5
C. California State Parks Accessibility Guidelines 6
D. Exceptions Process 6
E. Park Activities 7
F. Currently Accessible Activities 7
G. Level 1 Parks 7
H. Level 2 and Level 3 Parks 8
I. Level 4 Parks 8
J. Park Level Changes 9
K. Locally Operated Parks 9
L. Concessions 11
M. New Parks and/or New Construction 13
N. Trails Plan 13
O. Maintenance of Access Features 15
P. Miscellaneous Departmental Access Policies 15
Q. Miscellaneous Provisions 15
R. Year One List 19
V. MONITOR 20
VI. REPORTS, MONITORING AND ENFORCEMENT 20
A. Reports 20
B. Monitoring 21
VII. DISPUTE RESOLUTION 21

A. Notice 21
B. Meet and Confer 22
C. Mediation 22
D. Submission to Court 22
E. Fees and Costs for Dispute Resolution 22
F. Timing of Dispute Resolution 22
VIII. APPROVAL AND CLASS CERTIFICATION 22
A. Certification of a Settlement Class 22
B. Joint Approval Action 23
C. Objections 23
D. Fairness Hearing 23
E. Final Approval 23
IX. NOTICE TO THE CLASS 23
X. PAYMENT TO THE NAMED PLAINTIFFS 24
XI. RELEASES 24
XII. ATTORNEYS' FEES AND COSTS 25
XIII. FURTHER RELIEF 26
XIV. MEDIA 26
XV. DISMISSAL OF COMPLAINT 26
XVI. GENERAL PROVISIONS 26
A. Conditions 27
B. Non-Determination 27
C. Entire Agreement 27
D. Notices to Parties 27
E. Authority 28
F. Knowing Agreement 28
G. Successors 29
H. Severability 29

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

I. Counterparts 29
INDEX OF EXHIBITS 31

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

Plaintiffs Bonnie Tucker, Peter Mendoza, California Council of the Blind, and Californians for Disability Rights (collectively, "Named Plaintiffs") and Defendants California Department of Parks and Recreation (the "Department"), Ruth Coleman, and the State of California (collectively, "Defendants") hereby agree to resolve this action as follows:

I. RECITALS

A. The Named Plaintiffs brought this lawsuit, *Tucker v. California Department of Parks and Recreation*, Case No. C-984935 CRB (the "Federal Action"), on behalf of themselves and all others similarly situated against Defendants alleging that they have been denied their right to full and equal access to, and use and enjoyment of, the facilities and programs of the Department because of architectural and programmatic access barriers. Plaintiffs have pursued related state law claims and remedies in a parallel case filed in San Francisco Superior Court, *Tucker v. California Department of Parks and Recreation*, Case No. 99-302586 (the "State Action").

B. Defendants deny any and all liabilities to the Named Plaintiffs and the Class, and deny that Defendants have violated any laws – federal, state, or local – pertaining to access for persons with disabilities at the Department's programs, services, activities, and facilities.

C. The Department has developed a Self-evaluation and Transition Plan, pursuant to the Americans with Disabilities Act, for its programs, services, activities, and facilities, and has begun and intends to continue implementation of its Transition Plan.

D. The Parties now desire to resolve their differences and disputes included in both the Federal Action and the State Action by settling the lawsuits in such a manner as to:

1. Achieve improvements to architectural and programmatic access at the Department's programs, services, activities and facilities for persons with disabilities under both state and federal law;

2. Assure that the Named Plaintiffs and the Class will not attempt to enforce, and the Department will not be subject to, conflicting standards regarding compliance with state and federal access laws; and

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

3. Avoid the uncertainties and costs of further or future litigation for all Parties.

II. DEFINITIONS

A. "Class" or "Class Members" shall mean and refer to the class of persons described in Section VIII.A. below.

B. "Class Counsel" shall mean and refer to the law offices of Disability Rights Advocates and the attorneys practicing therein.

C. "Consent Decree" shall mean and refer to this document.

D. "Defendants" shall mean and refer to Defendants California Department of Parks and Recreation, Ruth Coleman, and the State of California.

E. "Department Facilities" shall mean and refer to all Department facilities including (1) all park units owned and/or operated by the Department, (2) all concessions operated at Department facilities, and (3) all park units which are owned by the Department but operated by various local entities.

F. "Fairness Hearing" shall mean and refer to the hearing described in Section VIII.D.

G. "Final Approval" shall mean and refer to an order approving the Consent Decree after Notice to the Class and the holding of a Fairness Hearing.

H. "Level," "Priority Level," "Park Level," and "Trail Level" shall mean and refer to the priority level assigned to the park unit and/or trail under the Department's Transition Plan and/or Trails Plan.

I. "Monitor" shall mean and refer to the person or firm selected in Section V.

J. "Named Plaintiffs" shall mean and refer to Bonnie Tucker, an individual, Peter Mendoza, an individual, California Council of the Blind, an organization whose membership is comprised of persons who are blind or visually impaired in California, and Californians for Disability Rights, a non-profit organization whose membership is comprised of persons with disabilities in California.

K. "Notice" shall mean and refer to the notice described in Section IX.

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

L. "Objection" shall mean and refer to any written objection submitted by any Class Members described in Section VIII.C.

M. "Outdoor Developed Areas Standards" shall mean and refer to the U.S. Architectural and Transportation Barriers Compliance Board ("Access Board") Recommendations for Accessibility Guidelines: The Final Report of the Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas (September 30, 1999), available at http://www.access-board.gov/outdoor/outdoor-rec-rpt.htm.

N. "Park Activity" or "Park Activities" shall mean and refer to all park-sanctioned regular activities, programs and/or special programs.

O. "Parties" shall mean and refer to Defendants, Named Plaintiffs, and Class Members.

P. "Persons with Disabilities" shall mean and refer to persons with disabilities as defined under the Americans with Disabilities Act ("ADA"), Section 504 of the Rehabilitation Act of 1973, and/or California Disability Access Laws (including, but not limited to, California Code §§ 51 and 54, *et seq.*).

Q. "Play Areas Standards" shall mean and refer to the Access Board Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities – Play Areas Final Guidelines (October 18, 2000), available at http://www.access-board.gov/play/finalrule.htm, and the Access Board's *Guide to ADA Accessibility Guidelines for Play Areas* (May 2001), available at http://www.access-board.gov/play/guide/intro.htm.

R. "Preliminary Approval" shall mean and refer to the preliminary approval by the Court of the terms of this Consent Decree which shall occur prior to any Notice being provided in accordance with Section IX.

S. "Released Claims" shall mean and refer to those described in Section XI.

T. "Released Parties" shall mean and refer to those described in Section XI.

U. "Self-evaluation" shall mean and refer to the Department's Self-evaluation required pursuant to Title II of the Americans with Disabilities Act. The Self-evaluation is attached as Exhibit D.

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

V. "Settlement Period" shall mean and refer to the period of time described in Section III.

W. "Supporting Facilities" shall mean and refer to facilities that serve the Park Activities defined above. Supporting Facilities include, but are not limited to, the park entrance, parking, path of travel, restrooms, telephones, drinking fountains, and signage, where such facilities are provided. Supporting facilities also include amenities provided by the Department's concessionaires operating under contract with the Department.

X. "Trails Plan" shall mean and refer to the Department's Trails Plan for improving access to the Department's trails. The Trails Plan is attached as Exhibit C.

Y. "Transition Plan" shall mean and refer to the Department's Transition Plan, required pursuant to Title II of the Americans with Disabilities Act. The Transition Plan is attached as Exhibit A.

Z. "Work Plan" shall mean and refer to the Department's Work Plan for improving access to the Department's facilities. The Work Plan is attached as Exhibit B.

III. SETTLEMENT PERIOD

This Consent Decree shall become effective on the date of Final Approval. The terms of this Consent Decree shall expire on June 30, 2016, except that Plaintiffs or Defendants may petition the Court for an extension to the extent any of the improvements required under Sections IV.A., IV.K., IV.L., or IV.M.1. will not be completed within the Settlement Period. In deciding a disputed request for an extension, the Court may exercise its discretion, taking into account all relevant information (including whether a new concessionaire is hired or a new park unit is acquired so close to the end of the Settlement Period that extending the Consent Decree is inappropriate).

IV. INJUNCTIVE RELIEF

The following provisions are intended to provide injunctive relief.

A. Transition Plan Completion Schedule

The Department shall schedule and complete the access modifications described in its Transition Plan (attached as Exhibit A hereto), including its Work Plan (attached as Exhibit B

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

hereto) and Trails Plan (attached as Exhibit C hereto), and as detailed in other sections of this Consent Decree, according to the following schedule:

1. Level 1 Park Units - The access work at Level 1 park units shall be completed no later than June 30, 2009.

2. Level 2 Park Units - The access work at Level 2 park units shall commence no later than July 1, 2008 and be completed no later than June 30, 2012.

3. Level 3 Park Units - The access work at Level 3 park units shall commence no later than July 1, 2011 and be completed no later than June 30, 2014.

4. Level 4 Park Units - The access work at Level 4 park units shall commence no later than July 1, 2013 and be completed no later than June 30, 2016.

5. Level 1 Trails - The trail access work at Level 1 park units shall be completed no later than June 30, 2009.

6. Level 2 Trails - The trail access work at Level 2 park units shall commence no later than July 1, 2007 and be completed no later than June 30, 2012.

7. Level 3 Trails - The trail access work at Level 3 park units shall commence no later than July 1, 2011 and be completed no later than June 30, 2015.

8. Level 4 Trails - The trail access work at Level 4 park units shall commence no later than July 1, 2012 and be completed no later than June 30, 2016.

B. Access Standards

The Department has used and will continue to use the following accessibility standards in developing and implementing the Department's Self-evaluation, Transition Plan, Work Plan, and Trails Plan: Title 24 of the California Code of Regulations, the Americans with Disabilities Act Access Guidelines (Appendix A to Part 36 of Title 28 of the Code of Federal Regulations), the Outdoor Developed Areas Standards, and the Play Areas Standards. In the event of conflict between any of these applicable standards, the Department will use the standard which applies and which provides the highest level of access. In conducting barrier removal work during the Settlement Period, the Department will comply with the above-referenced standards as they are in effect at the time the work is performed, subject to the exceptions process set forth in Section

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

IV.D. To ensure that the Parties are utilizing the same standards, Class Counsel, the Department, and the Monitor will promptly notify each other in writing if they believe changes to these standards have occurred.

C. California State Parks Accessibility Guidelines

The Department will maintain and update the California State Parks Accessibility Guidelines ("Accessibility Guidelines") (attached as Exhibit E). The Department will notify Class Counsel in writing if the Accessibility Guidelines are updated and/or revised. Any revisions may not reduce the level of access set forth in this Consent Decree. If revisions are made which Class Counsel contends reduce the level of access set forth in this Consent Decree, Class Counsel may object that the revisions reduce the level of access set forth in the Consent Decree, and may initiate the dispute resolution process of Section VII. Any such objection shall be made in writing and within 60 days of receipt of those revisions.

D. Exceptions Process

1. In making access modifications to existing facilities, the Department need not correct existing facilities that are within the minor deviations listed on Exhibit F. In addition, Class Counsel and the Department may agree, in writing, to additional deviations at specific locations if those deviations are appropriate.

2. For any program, service, or activity where the Department believes that meeting current access standards would result in an undue financial or administrative burden or change the fundamental nature of the program, service, or activity, the Department will notify the Monitor and Class Counsel of the proposed exception as part of its Yearly Work List provided pursuant to Section VI.A.1. The notification shall be in a form acceptable to the Monitor and shall include the following information: (a) a list of the proposed exceptions; (b) the reason for each proposed exception; and (c) any proposed equivalent facilitation that the Department will provide. In the event that the Department identifies a new proposed exception later in the year, the Department will provide the above notice to the Monitor and Class Counsel with its next semi-annual report pursuant to Section VI.A.3. The Monitor will, within 30 days of receipt of notification of a proposed exception, indicate in writing to the Department and Class Counsel

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

whether or not she accepts the Department's proposed exception request, and she may also provide further comments. Class Counsel may, within 30 days after receipt of the Monitor's responses, review and comment on the proposed exceptions. Any such comment may include an objection to the Department's position, seeking compliance with the current access standards for such disputed exceptions. If there are any disputes as to these proposed exceptions, such dispute will be resolved through the dispute resolution process of Section VII.

E. Park Activities

The Parties agree that all Park Activities have been and/or will be included in one or more of the 12 major activity categories listed in the Department's Transition Plan as follows: Bicycling, Boating, Exhibits/Interpretive Programs, Camping, Fishing, Hiking, Horseback Riding, Junior Lifeguards/Rangers, Off Highway Vehicle Use, Picnicking, Visitor Center/Museum, and Water Access.

F. Currently Accessible Activities

The Parties recognize that certain new construction and/or alteration work has already been completed in certain of the existing Department Facilities so as to improve and/or provide access. To the extent such Department Facilities are required to be accessible under the terms of this Consent Decree and the level of access provided by such earlier construction and/or alteration work does not meet the access standards otherwise required under this Consent Decree, additional barrier removal work will be conducted to bring such Department Facilities up to the required access standards.

G. Level 1 Parks

There are 37 Level 1 park units listed in the Department's Transition Plan (attached as Exhibit A). For each Level 1 park unit, the Department will make each Park Activity listed in the Transition Plan Appendix B, Program Matrix by Level, programmatically accessible utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D., if applicable. In addition, the Department will make all Supporting Facilities for each such listed Park Activity, where such facilities are provided, programmatically accessible utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D.

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

H. **Level 2 and Level 3 Parks**

1. There are 54 Level 2 park units and 69 Level 3 park units listed in the Transition Plan. The Department will make each Park Activity listed in the charts entitled, "Transition Plan Programs, Level 2 Parks- Major Activities" (attached hereto as Exhibit G) and "Transition Plan Programs, Level 3 Parks - Major Activities"(attached hereto as Exhibit H), programmatically accessible utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D. These Park Activities have been selected for accessibility work because they represent the highest usage and are the primary reason visitors go to the particular park.

2. The Department will also make all Supporting Facilities for each of the selected Level 2 and Level 3 activities, where such facilities are provided, programmatically accessible, utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D.

3. The Department will make the visitor centers at all Level 2 and 3 parks programmatically accessible, utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D., except for the visitor center facilities at Castle Crags, Montana de Oro, and Prairie Creek, which are small, open only on a limited basis, and which have staff available to provide assistance.

4. Wherever a campfire center is provided as a significant Park Activity within a Level 2 or 3 park unit, the Department will make the campfire center programmatically accessible, utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D.

5. The Department will make the camping program at Mt. Diablo State Park programmatically accessible, utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D.

I. **Level 4 Parks**

1. There are 75 Level 4 park units listed in the Transition Plan. These are the least visited of the state parks, currently representing only about 4% of the annual visitation. The Department will make each Park Activity listed in the chart entitled, "Transition Plan Programs,

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

Level 4 Parks"(attached hereto as Exhibit I) programmatically accessible, utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D.

2. The Department will also make all Supporting Facilities for each of the selected Level 4 activities programmatically accessible, where such facilities are provided, utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D.

J. Park Level Changes

The Parties agree that no Park Level changes are anticipated. However, if in the future the Department wishes to change a Park Level so as to reduce the level of access, the Park Level for another park unit will promptly be increased so as to maintain the overall level of access agreed upon herein. The Department will notify Class Counsel and the Monitor of any future proposed Park Level changes as part of the Yearly Work List and/or in the Department's semi-annual reports pursuant to Section VI.A.

K. Locally Operated Parks

1. There are currently 27 park units owned by the State of California which are operated entirely by local entities. These kinds of park units and their operating entities are referred to in this section as "Locally Operated Parks." The Parties agree that Locally Operated Parks will be addressed as follows.

2. The Department has assigned a priority level to each of the Locally Operated Parks. A list of the Locally Operated Parks and their assigned priority levels is attached hereto as Exhibit J.

3. Within 30 days of Final Approval, the Department will send a letter in substantially the same form as Exhibit T (and attaching a copy of the Consent Decree) to each of the Locally Operated Parks, informing each local entity that it may participate in the Consent Decree. It is the intent of the Parties to urge the Locally Operated Parks to participate fully in the Consent Decree on the conditions set forth in this section.

4. Each Locally Operated Park may participate in this Consent Decree if it meets the following conditions:

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

a. The Locally Operated Park must, within six months of the Department's mailing of the letter under Section IV.K.3. (or as may be extended by written agreement of Class Counsel and the Department), provide to the Department and Class Counsel a self-evaluation and transition plan, as required by the Americans with Disabilities Act, covering all programs, services, and activities provided in the Locally Operated Park. To meet this condition, the Locally Operated Park's self-evaluation and transition plan must: (i) be of equivalent scope and detail as the Department's Self-evaluation and Transition Plan (taking into account the differing sizes, scope, and nature of activities of the Locally Operated Park and the Department); (ii) utilize the same access standards as used in the Department's Self-evaluation and Transition Plan; and (iii) provide for an equivalent level of access concerning the programs, services, and activities at the Locally Operated Park as is provided at park units in the same priority level which are operated by the Department itself.

b. The Locally Operated Park's transition plan must provide a timeline for barrier removal at the Locally Operated Park which coincides with the Department's timeline for the priority level assigned to the Locally Operated Park. However, Locally Operated Parks assigned to Level 1 will have one additional year to complete programmatic access modifications beyond the Department's Level 1 completion schedule for state park units operated by the Department.

c. The Locally Operated Park must also adopt and implement policies and procedures to ensure program access equivalent to the policies and procedures that have been adopted by the Department for state park units operated by the Department itself (as described in the Department's Transition Plan).

d. The Locally Operated Park must implement its transition plan.

e. The Locally Operated Park must fully assume the Department's reporting and monitoring obligations for that Locally Operated Park, as set forth Section VI of this Consent Decree. The Locally Operated Park must timely provide to the Department a

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

copy of all reports and other documents submitted pursuant to Section VI of this Consent Decree.

5. For those Locally Operated Parks that seek to participate in this Consent Decree, the Department agrees to use its reasonable best efforts to provide guidance and oversight in determining the access modifications which will be completed at such Locally Operated Parks, and will use its reasonable best efforts to confirm actual completion of the access modifications.

6. Any Locally Operated Park's costs of compliance (with this Consent Decree or the underlying standards), including any monitoring or consulting costs of the Monitor, shall be the Locally Operated Park's expense, not the Department's expense.

7. Those Locally Operated Parks which comply fully with the provisions set forth above will be entitled to the benefits of the releases set forth in Section XI below. However, any Locally Operated Park that fails to provide a self-evaluation and transition plan within six months of the Department's mailing of the letter under Section IV.K.3. (or as extended by written agreement of Class Counsel and the Department) will be deemed to be excluded from this Consent Decree. In addition, if Class Counsel determines, at any time during the Settlement Period, that a particular Locally Operated Park has not complied fully with the provisions of Section IV.K.4., such Locally Operated Park will not thereafter be a part of this Consent Decree and neither the Department nor the non-Department entity operating the Locally Operated Park will be entitled to the benefits of the releases set forth in Section XI below. Class Counsel will notify the Department and the Locally Operated Park promptly after any such determination of non-compliance. Within 14 days of such notification, the Department or the Locally Operated Park may request that the Parties and the Locally Operated Park meet and confer regarding any dispute. Any determination by Class Counsel will not be final until the Parties and the Locally Operated Park have met and conferred (and, as appropriate, included the Monitor in any such discussions), which will occur within 30 days, at the latest.

L. <u>Concessions</u>

1. The Parties agree that all concessions and Supporting Facilities will be made programmatically accessible, as detailed in this Section. The criteria for compliance will be the

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

legal standards of Section IV.B. and the exceptions process of Section IV.D. (except that the exceptions process of Section IV.D. will not apply to new concessions as described in Section IV.L.3.). A list of the concessions, including four state park units which are owned by the Department, but operated by concessions (Asilomar Conference Grounds, Marconi Conference Center State Historic Park, Lake Valley, and Wassama Round House State Historic Park) is attached hereto as Exhibit K.

2. Existing concessions – The Department agrees to make reasonable, good faith efforts to ensure that the concessionaire achieves compliance with all deliberate speed.

3. New concessions – For a new concession in a new facility or a new concession in an existing facility which involves a change in use for the facility, the Department will ensure that each such concessionaire achieves compliance by the time such concessionaire begins operation.

4. Existing concessions which may come under new operation – The Department will make its best efforts to ensure that the new concessionaire achieves compliance within a reasonable time, not to exceed one year unless Class Counsel and the Department otherwise agree in writing. For the Mexican Commercial Corner concession at Old Town San Diego and the Big Sur Lodge concession at Pfeiffer Big Sur State Park, the Department will make its best efforts to ensure that any new concessionaires achieve compliance as set forth in the Requests for Proposals dated March 13, 2003 and September 29, 2003, respectively.

5. Privatization of a current state function - For any existing state-operated program, service, activity, or facility which may in the future become operated as a concession but which involves no change in use of the facility, the Department will ensure that the concessionaire achieves compliance pursuant to the existing Transition Plan and the completion schedule for the park unit.

6. Asilomar Conference Center and the three park units which are currently operated entirely as concessions (that is, Lake Valley, Marconi, and Wassama Round House) will be addressed under the Transition Plan in the same manner as the other concessions as discussed above.

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

M. New Parks and/or New Construction

1. New Parks - Should the Department acquire a new park unit, within a reasonable time (taking into account factors such as when the new park unit is or will be open to the public and when the Department will determine the uses of the new park unit) after the Department acquires that park unit, the Department will: (a) comprehensively survey that new park unit for access for persons with disabilities to the same degree as other state park units, unless a comparable and up-to-date survey has already been completed; (b) prepare a transition plan comparable to the Department's Transition Plan for such new park unit, unless a comparable transition plan has already been completed; (c) assign a reasonable priority level to the new park unit according to the criteria used in the Transition Plan; and (d) remove barriers at the new park unit according to a reasonable timeline taking into account the park unit's priority level and the date when the Department obtains control over the new park unit. The Department will provide notification to the Monitor and Class Counsel regarding any new parks in its Yearly Work List and in its semi-annual reports pursuant to Section VI.A.

2. New Construction - All new construction undertaken by the Department, including at concessions, will conform with the applicable access standards of Section IV.B. Such new construction will be subject to all of the otherwise applicable provisions of this Consent Decree. The Department will make its best efforts to report in its Yearly List and in its semi-annual reports any major new construction and renovation projects with a total estimated construction cost of $500,000 or more which have not otherwise been reported. New construction at locally operated parks is not included within the scope of this Consent Decree.

N. Trails Plan

The following section defines the Department's obligations to provide programmatic access for the programs, services, and activities of hiking and trails, and supersedes any contrary provisions.

1. Level 1 Parks – At Level 1 parks that currently have three or more trails (excluding off-highway vehicle park units that do not have pedestrian trails), the Department will

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

provide at least three accessible trails as follows: (a) one accessible trail will be at least 1.5 miles long, and (b) two additional accessible trails will be at least .5 miles long.

2. Level 2 Parks – At Level 2 parks that currently have two or more trails, the Department will provide at least two accessible trails as follows: (a) one accessible trail will be at least one mile long, and (b) one additional accessible trail will be at least .5 miles long.

3. Level 3 Parks – At Level 3 parks that currently have at least one trail, the Department will provide at least one accessible trail which is at least .5 miles long.

4. Additional Trails at Level 2 and 3 Parks – In addition to Sections IV.N.2. and IV.N.3., the Department will provide an additional accessible trail which is at least one mile long at 38 Level 2 and/or Level 3 parks.

5. Level 4 Parks – At Level 4 parks that currently have at least one trail, the Department will provide at least one accessible trail that is .25 miles long.

6. Selection of Trails – In selecting trails to be made accessible under the Trails Plan, the Department will make its reasonable best efforts to maximize the variety and quality of the outdoor experience offered to trail users with disabilities. Other than any necessary reconfiguring of existing trails to make them accessible, nothing in this Consent Decree shall require the Department to build or otherwise create any new trails.

7. Website – The Department will provide information on its website that describes the type of trail experience provided at each accessible trail and the location of the nearest accessible restroom.

8. Easy Fixes to Trails – In addition to the above, the Department agrees to make reasonable and good faith efforts to remove easily-removable barriers as they are identified on additional trails where such efforts will improve access. The Parties will meet and confer regarding such areas as appropriate.

9. Signage – The Department shall ensure that all future new and altered trail signage will meet applicable code requirements for access for persons with vision disabilities.

10. Cross Slopes - The Department will make its best efforts to minimize cross slopes at culverts on accessible trails.

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

O. Maintenance of Access Features

The Department will use its best efforts to ensure that access features are maintained in usable condition. The Department will: (1) schedule ongoing, regular inspections of access features at all park units, and (2) promptly repair access features. These inspections and repairs may be performed as part of the Department's regular maintenance program.

P. Miscellaneous Departmental Access Policies

The Department will comply with the six policies listed below, and will distribute the Special Events Checklist to all appropriate Department staff. The policies and checklist listed below will be summarized in the Accessibility Guidelines in the appropriate chapter relating to the subject matter of each policy. The Department will also maintain and update these policies and checklist, and will notify Class Counsel in writing if any of them are updated and/or revised. If revisions are made which Class Counsel contends reduce the level of access set forth in this Consent Decree, Class Counsel may object that the revisions reduce the level of access set forth in the Consent Decree, and may initiate the dispute resolution process of Section VII. Any such objection shall be made in writing and within 60 days of receipt of those revisions.

1. Accessibility & Historic Properties Policy - Attached as Exhibit L;
2. Accessible Campsites Policy - Attached as Exhibit M;
3. Sign Language Interpreter Policy - Attached as Exhibit N;
4. Accessibility and Publications Policy - Attached as Exhibit O;
5. Complaint Policy - Attached as Exhibit P. The Department will maintain a link on the Department's website allowing for park users to make comments and complaints. This link will be maintained on the Accessibility Section's home page. The Department will forward any complaints received (with redaction of personal identification information) to the Monitor as part of the Department's monitoring reports pursuant to Section VI.A.
6. Special Events Checklist - Attached as Exhibit Q. The Department will provide the Special Events Checklist to all coordinators of special events at park units.

Q. Miscellaneous Provisions

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

1. Access to Beaches and Shores – Where beach access is designated as a Park Activity that will be made accessible under the Transition Plan, the Department will provide a path of travel to the beach and/or shore utilizing the legal standards of Section IV.B. and the exceptions process of Section IV.D. In addition, at those locations, the Department will provide at least 2 beach wheelchairs, unless (a) there are no staff or facilities at the park unit reasonably available to store and supervise the use of the beach wheelchairs, and/or (b) the slope conditions at the park unit make use of beach wheelchairs hazardous. In addition, if the use of beach wheelchairs increases such that additional beach wheelchairs are necessary to accommodate such need, more beach wheelchairs will be provided contingent upon the reasonable availability of adequate storage and supervision for the wheelchairs. The Department will make reasonable, good faith efforts to provide such beach wheelchairs with all deliberate speed and within two years of Final Approval. The Department will also provide information regarding its provision of beach wheelchairs in its reporting pursuant to Section VI. The above policy information will be included in the Accessibility Guidelines in the appropriate chapter relating to beach and/or water access. The Department shall commit to maintain and update the above policy, and will notify Class Counsel in writing of any update and/or revision. If revisions are made which Class Counsel contends reduce the level of access set forth in this Consent Decree, Class Counsel may object that the revisions reduce the level of access set forth in the Consent Decree, and may initiate the dispute resolution process of Section VII. Any such objection shall be made in writing and within 60 days of receipt of those revisions.

2. Website – The Accessibility Section of the Department's website as well as the link on the Department's home page to the Accessibility Section will be maintained.

3. Ranger Stations – To the extent that Ranger Stations are not open to the public, they are not covered by the Transition Plan and the Consent Decree.

4. Reservations – The Parties agree to the following campsite reservation policies:

a. Many park units allow for advance reservations, either by phone or via the internet up to seven months prior to date of arrival. Designated accessible campsites and/or cabins are identified for the person interested in making a reservation. Anyone

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

attempting to reserve an accessible campsite and/or cabin must claim to have a disability. The Department requires that its accessible campsites and/or cabins be reserved exclusively for persons with disabilities. In order to preserve the use of accessible sites by visitors with disabilities, the Department will begin to require that individuals reserving those sites possess and display a disabled person parking placard or license plates issued by the California Department of Motor Vehicles (or a similar agency of another state). Upon arrival at the park, visitors must display the disabled person parking placard or the vehicle must have disabled person license plates, and the person to whom the placard or plates are assigned must occupy the campsite. Accessible campsites available by advance reservation will be held for people with disabilities until 5:00 p.m. each day. If an accessible campsite is not filled by 5:00 p.m. each day, that campsite may also be provided first-come-first-served to a person without a disability for one night only; this process repeats each day.

b. At other park units, the campsites may not be reserved in advance. At these park units, the accessible campsites are held for persons with disabilities (with a disabled person parking placard or a vehicle with a disabled person license plate) on a first-come-first-served basis until 5 p.m. each day. If an accessible campsite is not filled by 5:00 p.m. each day, that campsite may also be provided first-come-first-served to a person without a disability for one night only; this process repeats each day.

c. Information regarding the Department's camping reservations policies affecting access will be posted on the Department's website. Information concerning the above-described reservation policies will be included. In addition, the website will recommend that persons with disabilities should always call the individual park unit in advance for the most current access and reservation information.

d. The Department will maintain and update the above campsite reservation policies, and will notify Class Counsel in writing of any update and/or revision. If revisions are made which Class Counsel contends reduce the level of access set forth in this Consent Decree, Class Counsel may object that the revisions reduce the level of

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

access set forth in the Consent Decree, and may initiate the dispute resolution process of Section VII. Any such objection shall be made in writing and within 60 days of receipt of those revisions.

5. Hunting – Based upon the Department's contention that: (a) hunting is not a Park Activity sponsored by the Department of Parks and Recreation, and (b) hunting, including access to hunting, is the responsibility of the California Department of Fish and Game, the Parties agree that this activity is not included in the Department's Transition Plan or this Consent Decree.

6. Policy Review – The Department will review and revise, as necessary, the Department's written policies regarding reservations, fees, field operations, concessions, and maintenance to ensure access in compliance with the requirements of this Consent Decree.

7. Electricity at Campsites and Picnic Sites – The Department will add information to its website listing those park locations where electricity is available.

8. Emergency Procedures – The Department will include information regarding emergency procedures affecting disabled persons at the park units in its self-evaluation.

9. Captioning of Videos – For videos that the Department shows to the public, the Department will: (a) caption any new videos; and (b) within 15 months of Final Approval, provide scripts for and caption any existing videos. At any location where the Department shows a closed captioned video, the Department will ensure that staff at that location are trained in how to operate the closed captioning.

10. Portable Toilets – If a portable toilet is available that meets the standards set forth in Section IV.B. and is reasonably functional, when the Department purchases portable toilets that are meant to be accessible, it will only purchase these fully accessible portable toilets. The Parties agree that the portable toilet Satellite Freedom 2 (with the 68 gallon tank) fully meets the standards set forth in Section IV.B. and is reasonably functional. In meeting the applicable requirements for the number of accessible portable toilets at particular locations, the Department may utilize portable toilets that it already owns that meet the federal Americans with Disabilities Act Access Guidelines but may not fully meet Title 24 of the Code of California Regulations.

11. Kitchens – When the Department replaces appliances and/or equipment in

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

kitchens open for public use, it shall install appliances and/or equipment that have access features, including tactile signage and controls, that enable users with mobility, vision, and hearing impairments to independently and safely use such appliances and/or equipment, to the extent they are available on the market or can be readily modified at a reasonable expense.

12. Grills, Fire Rings and Fireplaces – Accessible grills, fire rings and fireplaces shall be placed so there is a minimum 48 inches clear space 360 degrees surrounding the cooking facility. In accessible developed campground sites and picnic areas where paving is or is to be installed, a firm-surfaced warning area shall be provided around the grill, fire ring or fireplace to alert blind and visually impaired persons to the location of the grill, fire ring or fireplace. This warning surface will have a minimum depth of 24 inches and shall provide clear visual contrast from the immediate adjoining surfaces. The Department shall use as guidance all applicable codes (including ADAAG and Title 24) as well as existing research on detectable warnings in developing the design to ensure that it is detectable. The Parties agree: (i) prior to the initial design stage, there will be a joint site visit by the parties to a typical campsite in order to determine the needs and what has to be done for the detectable warning to be effective; (ii) a prototype of a proposed design will then be constructed by the Department at a typical campground site; (iii) within thirty (30) days, the Parties will jointly inspect the prototype; (iv) if the prototype is satisfactory to all Parties, then it will be used as the design model for other accessible grills, fire rings and fireplaces; (v) if the prototype is not acceptable to all Parties, then alternative prototypes will be evaluated using the same process described herein in items (i) through (iv) until a prototype acceptable to all Parties is identified. This process will be followed to reach an agreed upon design within the first year following approval of the consent decree. If the Parties are unable to agree on a design, either Party may initiate the "Dispute Resolution" process of Section VII herein.

R. Year One List

The Department commenced certain access projects during fiscal year 2002/2003. These projects are referred to as the "Year One List" and are included within the year one work. The Year One List is attached as Exhibit R.

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

V. MONITOR

To assist in ensuring compliance with this Consent Decree, the Department has hired and/or will hire, consistent with State contracting requirements, a person or firm with substantial experience in evaluating and/or assisting public entities in evaluating the accessibility of programs, services, activities and facilities under Title II of the Americans with Disabilities Act (the "Monitor"). The Monitor shall be a person or firm acceptable to Class Counsel and the Department. The firm hired as a facilitator under Court's Order for Stay (filed June 22, 1999), Moore Iacofano Goltsman Inc., shall be acceptable to the Parties. If the Parties are unable to agree on a Monitor, the Parties shall seek mediation or the assistance of the Court in a settlement conference. If the Parties still are unable to agree on the selection of a Monitor, they shall tender the issue to the Court and the Court shall determine the appropriate means of selection of a Monitor consistent with this Consent Decree.

VI. REPORTS, MONITORING AND ENFORCEMENT

A. Reports

The Parties agree to the following reporting under the Consent Decree:

1. Each fiscal year, the Department shall provide to Class Counsel and the Monitor a detailed Yearly Work List of the access work that it proposes to engage in that fiscal year pursuant to the fourteen year timeline set forth in the Transition Plan. The Yearly Work List will also include: (a) any new proposed exceptions, pursuant to Section IV.D.2., and (b) any planned new parks and/or new construction (costing over $500,000), pursuant to Section IV.M.

2. The Monitor will review the Yearly Work List and within 30 days of receipt of the Yearly Work List will provide comments to the Parties concerning: (a) its conformance with the Parties' written agreements, and (b) its representing reasonable and consistent annual progress towards achieving the access improvements detailed in the Transition Plan and Trails Plan as set forth in the schedule pursuant to Section IV.A.

3. The Department shall provide to Class Counsel and the Monitor semi-annual written reports of access work performed. The semi-annual report will also include: (a) any new proposed exception; (b) any new proposed Park Level changes, pursuant to Section IV.J; (c) any

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

new parks and/or new construction (costing over $500,000), pursuant to Section IV.M.; (d) any new complaints received regarding the maintenance of access features done pursuant to Section IV.O.; and (e) any access complaints received by the Department pursuant to Section IV.P.5.

4. The Monitor shall review the semi-annual reports and perform spot-checks of 5% of the access improvement projects reported in the semi-annual reports to confirm the accuracy and comprehensiveness of the reports. The Monitor shall provide the Parties with semi-annual reports as to the results of the spot-checks.

5. Any objections that Plaintiffs may have to any of the reports (or the underlying information) provided pursuant to this Section must be provided in writing within 60 days of receipt by Class Counsel of those reports.

6. The Department will make its reasonable best efforts to make these reports available in alternate formats upon request.

B. Monitoring

In conjunction with Class Counsel's monitoring of the Consent Decree, the Department will pay Class Counsel its reasonable fees and costs of up to $20,000 per year commencing on the date of Final Approval and continuing during the Settlement Period. Class Counsel will submit written records of fees and costs to the Department quarterly. The Parties may meet and confer regarding monitoring fee and/or cost issues. In the event that a dispute arises regarding monitoring fees, the Parties will proceed under the dispute resolution process of Section VII.

VII. DISPUTE RESOLUTION

Any dispute concerning interpretation, implementation, and/or compliance with this Consent Decree shall be resolved as follows:

A. Notice

Step One: The Party which wishes to initiate the dispute resolution process shall notify the other Parties in writing of the nature of the dispute. Such notification shall include a reasonable explanation of the legal and factual bases for the Party's position, so that it can be understood and investigated. If another Party believes this explanation is insufficient, that

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

Party's remedy is to request a fuller explanation, not contest the triggering of the dispute resolution process.

B. Meet and Confer

Step Two: Counsel for the Parties shall meet and confer within 30 days of notification of the dispute pursuant to Section VII.A., to attempt to resolve the dispute without further involvement by any intermediary. The Parties will allow reasonable time (for example, 30 to 60 days) to attempt to resolve the dispute without the need to proceed further in the dispute resolution process. If the Parties are unable to resolve the dispute without assistance, the Parties shall confer with the Monitor as a part of this meet and confer effort before proceeding further in the dispute resolution process.

C. Mediation

Step Three: If the dispute has still not been resolved, counsel for the Parties will request that the Court refer the matter to a Magistrate Judge for mediation.

D. Submission to Court

Step Four: If the dispute has still not been resolved, counsel for the Parties will submit the matter to the Court for formal resolution.

E. Fees and Costs for Dispute Resolution

Reasonable fees and costs incurred under this section may be claimed and recovered by the prevailing party pursuant to the standard set forth in *Christianberg Garment Co. v. EEOC*, 434 U.S. 412 (1978).

F. Timing of Dispute Resolution

The Parties agree that, if access work scheduled by the Department is delayed by time spent by the Parties in the dispute resolution process, the time deadlines for that access work shall be extended a commensurate period of time. No such extension shall be provided to the extent the Parties were engaged in the dispute resolution process to resolve a dispute over whether the Department was meeting its obligations on time.

VIII. APPROVAL AND CLASS CERTIFICATION

A. Certification of a Settlement Class

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

The Parties stipulate to class certification at the time of the Fairness Hearing of a settlement class as follows:

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

The Parties further stipulate that class certification shall not provide for a right to opt out of the Class.

These stipulations are contingent upon the Court granting Final Approval of the Consent Decree, and shall not be binding or of any consequence if Final Approval is not granted.

B. Joint Approval Action

The Parties shall jointly move for an order granting Preliminary Approval of this Consent Decree, directing Notice to the settlement class as described in Section IX., and setting a hearing for Final Approval allowing for at least 30 days notice.

C. Objections

Any Class Member may object to the proposed Consent Decree by filing with the Clerk of the Court a written objection filed or postmarked no later than a date set by the Court in this case after Preliminary Approval of the Consent Decree.

D. Fairness Hearing

The Court shall hold a hearing to establish the fairness of the final settlement of the claims of the Class against Defendants and to decide whether there will be Final Approval of the Consent Decree and certification of the settlement class. This hearing shall take place at a date allowing for a period of notice to the Class as the Court may direct. At this hearing, the Parties shall jointly move for Final Approval of this Consent Decree and entry of the Consent Decree.

E. Final Approval

The Consent Decree will take effect upon Final Approval.

IX. NOTICE TO THE CLASS

The Department shall provide Notice to the Class, and shall bear the costs of such Notice. Notice shall be distributed by the Department as follows:

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

1. Mailing of the full-length Notice to all persons with disabilities and disability groups known to the Department, including all persons with disabilities and disability groups to which the Department mailed its disability questionnaires as part of the Transition Plan survey process (Exhibit S);

2. Posting of the full-length Notice at visitor bulletin boards at all park units which have bulletin boards for 90 days (Exhibit S);

3. Posting of the full-length Notice on the Department's website in the Accessibility Section for 90 days (Exhibit S);

4. Posting of the full-length Notice on the following disability list serves: adapt.cal@egroups.com; berkeley-disabled@onelist.com; and disability-civil-rights@yahoogroups.com (Exhibit S);

5. Mailing of the full-length Notice to any individuals or organizations which request information concerning the proposed settlement (Exhibit S);

6. Including in the Notice the TTY number of Class Counsel;

7. Publishing a shortened version of the Notice (Exhibit V) as a one-half page advertisement in the Los Angeles Times, the Sacramento Bee, and the San Francisco Chronicle, which directs readers to the Department's website and to the address, phone number, and TTY number of Class Counsel to obtain further information regarding the proposed settlement.

X. PAYMENT TO THE NAMED PLAINTIFFS

In consideration of the time, expense, and risk that the Named Plaintiffs have spent in connection with this class action, the Department has paid a total of $24,000 to the Named Plaintiffs, to be divided between the 4 class representatives at the Named Plaintiffs' discretion.

XI. RELEASES

In return for the consideration provided for in this Consent Decree, on the date of Final Approval, the Named Plaintiffs and all Class Members (which include the Named Plaintiffs), both individually and as a class, shall and do release, discharge and covenant not to sue the State of California, and each and every constituent agency, board, department, office, commission or entity of the State of California, the California Department of Parks and Recreation, the Director

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

of the California Department of Parks and Recreation, and their officers, directors, employees, attorneys, agents, insurers, contractors, lenders, predecessors in interests, successors and assigns (the "Released Parties") from any and all actions, causes of action, claims, or other demands for declaratory and/or injunctive relief relating to class-wide architectural and/or programmatic access for persons with disabilities at the Department's programs, services, activities and facilities prior to and during the settlement period. This release includes claims under the Americans with Disabilities Act, the Rehabilitation Act of 1973, and California Disability Access Laws (including, but not limited to, California Civil Code §§ 51 and 54, et seq.) against the Released Parties. This release includes litigation costs and attorney and consultant fees incurred by Plaintiffs in this Action, except as otherwise provided by this Consent Decree. This release does not apply to programs, services and activities of state agencies other than the Department of Parks and Recreation (such as hunting activities regulated by the State Department of Fish and Game) that may occur within Departments' parks that are not sponsored by the Department. This release does not apply to any Class Member damage claims.

The Parties hereto agree that all rights under § 1542 of the Civil Code of the State of California are hereby waived by the Parties. Section 1542 provides as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Named Plaintiffs have previously executed individual releases of their damages claims in a compromise settlement with Defendants in return for the payment described in Section X. Copies of these releases are attached as Exhibit U.

XII. ATTORNEYS' FEES AND COSTS

Upon Final Approval, Class Counsel will file a motion for reasonable attorneys' fees and costs to be decided by the United States District Court for the Northern District of California (with any applicable rights to appeal). Class Counsel will seek an award of fees and costs in the amount of $697,651.80 for work through March 1, 2005. Class Counsel will also seek a separate award of fees and costs for work performed after March 1, 2005. Defendants reserve their right

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

to oppose said motion, except that Defendants hereby stipulate that in any such motion for reasonable fees and costs that Plaintiffs will be considered the prevailing parties for purposes of fee and cost claims.

The Parties further agree that all attorneys' fees and costs awarded to Class Counsel in this action shall be attributed solely to work on the injunctive relief issues for the enforcement of state and federal disability access laws for the benefit of all persons with physical disabilities, including hearing, mobility and vision disabilities, to ensure programmatic access to the entire California State Parks system. The allocation of all attorneys' fees and costs to the injunctive relief issues is appropriate in light of the substantial injunctive relief obtained for the class as a whole in this action as compared with the proportionally low damages recovery totaling $24,000 paid to the Named Plaintiffs.

XIII. FURTHER RELIEF

Any Party may petition the Court for relief from the provisions hereunder upon a showing of events beyond the control of that Party which may preclude either Plaintiffs on the one hand, or Defendants on the other hand, from their timely compliance with the provisions of this Consent Decree.

XIV. MEDIA

The Parties intend to proceed constructively with the implementation of the Consent Decree. The Parties agree to meet and confer prior to Preliminary Approval to attempt to reach an agreement on a joint press release regarding the Consent Decree. If they are unable to agree by the date of Preliminary Approval, each side may issue its own press release.

XV. DISMISSAL OF COMPLAINT

Within fourteen (14) days of Final Approval, Class Counsel shall file a request for dismissal of the Federal Action, in its entirety, with prejudice, except that the Court shall retain jurisdiction to enforce the Consent Decree and to determine reasonable attorneys' fees and costs. Class Counsel shall concurrently with filing the request for dismissal in this Action, file a request for dismissal with prejudice in State Court regarding the entire State Action.

XVI. GENERAL PROVISIONS

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

A. Conditions

This Consent Decree shall be conditioned upon and shall be effective only upon the occurrence of all of the following events:

1. The Parties move for an order granting Preliminary Approval in accordance with Section VIII. B., and such motion is granted by the Court;

2. Commencing at the time of Preliminary Approval of the Consent Decree, the Department provides Notice in accordance with Section IX.;

3. The Fairness Hearing is held in accordance with Section VIII. D.; and

4. The Court approves the settlement and enters judgment in accordance with the terms of the Consent Decree after the conduct of the Fairness Hearing.

If any of these events to do not occur, this Consent Decree shall be null and void, and may not be used for any purpose.

B. Non-Determination

The Court has made no findings concerning alleged violations of any law, whether state or federal, local, regulation, order or rule at this time, and the Parties expressly reserve the right to litigate these matters (should this Consent Decree not receive Final Approval). The Parties agree that nothing in this Consent Decree may be interpreted as an admission by any Party of any fact, legal principle, or conclusion. If, for any reason, settlement is not effectuated, no evidence of this proposed Consent Decree shall be admissible for any purpose in this Action.

C. Entire Agreement

This Consent Decree, including its Exhibits, expresses and constitutes the sole and entire agreement between the Parties and supersedes all prior agreements, negotiations and discussions between the Parties and/or their respective counsel with respect to the subject matter of the State and Federal Court Actions and/or this Consent Decree. The Consent Decree supersedes any prior or contemporaneous oral or written agreements or understandings between and among the Parties and/or counsel for the Parties regarding the subject matter of the State and Federal Court Actions and/or this Consent Decree.

D. Notices to Parties

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

Other than the Notice provided under Section IX., all notices and reports provided for under this Consent Decree shall be sent to the following individuals at the following addresses (or as may be modified by written notice to the other Parties):

For Named Plaintiffs, Class, and Class Counsel:

Stephen Tollafield
Disability Rights Advocates
449 15th Street, Suite 303
Oakland, CA 94612
Telephone: (510) 451-8644
Facsimile: (510) 451-8511

For Defendants:

Caryn L. Craig
Deputy Attorney General
California Attorney General's Office
1300 I Street, P.O. Box 944255
Sacramento, CA 95814
Telephone: (916) 445-8188
Facsimile: (916) 327-2319

and

Linda Canar
Manager, Accessibility Section
Department of Parks and Recreation
One Capital Mall
Sacramento, CA 95814
Telephone: (916) 445-4144
Facsimile: (916) 445-8966

E. Authority

Each Party represents to all other Parties that such Party has the full power and authority to enter into this Consent Decree, that the execution and delivery thereof will not violate any agreement to which such Party is a Party or by which such Party is bound, and that this Consent Decree, as executed and delivered, constitutes a valid and binding obligation of such Party, enforceable in accordance with its terms. The signatories to this Consent Decree expressly warrant that they have been authorized to execute this Consent Decree and to bind their respective Parties to the terms and provisions herein.

F. Knowing Agreement

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

Each Party to this Consent Decree acknowledges that it has been represented by legal counsel, and that each Party has reviewed, and has had the benefit of legal counsel's advice concerning, all of the terms and conditions of this Consent Decree.

G. Successors

This Consent Decree shall be binding upon and inure to the benefit of the respective heirs, successors, assigns and representatives of the Parties.

H. Severability

In the event that any one or more of the provisions contained in this Consent Decree shall, for any reason, be held to be invalid, void, illegal or unenforceable in any respect, such invalidity, voidness, illegality or unenforceability shall not affect any other provision of this Consent Decree, and the remaining portions shall remain in full force.

I. Counterparts

This Consent Decree may be executed in counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same instrument. Facsimile signatures shall be considered valid signatures as of the date thereof, although the original signature pages shall thereafter be appended to this Consent Decree and filed with the Court.

DATED:

BONNIE TUCKER

DATED:

PETER MENDOZA

DATED: 6-22-05

CALIFORNIA COUNCIL OF THE BLIND

JEFF THOM

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

Each Party to this Consent Decree acknowledges that it has been represented by legal counsel, and that each Party has reviewed, and has had the benefit of legal counsel's advice concerning, all of the terms and conditions of this Consent Decree.

G. **Successors**

This Consent Decree shall be binding upon and inure to the benefit of the respective heirs, successors, assigns and representatives of the Parties.

H. **Severability**

In the event that any one or more of the provisions contained in this Consent Decree shall, for any reason, be held to be invalid, void, illegal or unenforceable in any respect, such invalidity, voidness, illegality or unenforceability shall not affect any other provision of this Consent Decree, and the remaining portions shall remain in full force.

I. **Counterparts**

This Consent Decree may be executed in counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same instrument. Facsimile signatures shall be considered valid signatures as of the date thereof, although the original signature pages shall thereafter be appended to this Consent Decree and filed with the Court.

DATED:

BONNIE TUCKER

DATED:

PETER MENDOZA

DATED:

CALIFORNIA COUNCIL OF THE BLIND

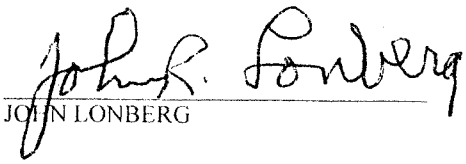
JEFF THOM

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

Deleted: <sp><sp><sp><sp><sp>

DATED: 6/21/05

CALIFORNIANS FOR DISABILITY RIGHTS



JOHN LONBERG

DATED:

STATE OF CALIFORNIA, DEPARTMENT OF PARKS & RECREATION

RUTH COLEMAN
Director

APPROVED AS TO FORM:

DATED:

DISABILITY RIGHTS ADVOCATES

By:

LAURENCE PARADIS
Attorneys for Plaintiffs

DATED:

BILL LOCKYER
Attorney General of the State of California

CARYN L. CRAIG
Deputy Attorney General
Attorneys for Defendants

\\Server\cases\Tucker CalStateParks\Settlement\Consent_Decree_final doc

Deleted: <sp>¶

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

DATED:

CALIFORNIANS FOR DISABILITY RIGHTS

JOHN LONBERG

DATED: 6/20/05

STATE OF CALIFORNIA, DEPARTMENT OF PARKS & RECREATION

RUTH COLEMAN
Director

APPROVED AS TO FORM:

DATED: 6/24/05

DISABILITY RIGHTS ADVOCATES

By:

LAURENCE PARADIS
Attorneys for Plaintiffs

DATED: 6/21/05

BILL LOCKYER
Attorney General of the State of California

CARYN L. CRAIG
Deputy Attorney General
Attorneys for Defendants

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

\\Server\cases\Tucker.CalStateParks\Settlement\Consent_Decree_final.doc

INDEX OF EXHIBITS

Transition Plan ..... A
Work Plan ..... B
Trails Plan C
Self-Evaluation ..... D
California State Parks Accessibility Guidelines ..... E
Accepted Minor Deviations List ..... F
Transition Plan Programs, Level 2 Parks – Major Activities ..... G
Transition Plan Programs, Level 3 Parks – Major Activities ..... H
Transition Plan Programs, Level 4 Parks I
List of Locally Operated Park Units ..... J
List of Concessions ..... K
Accessibility and Historic Properties Policy L
Accessible Campsites Policy ..... M
Sign Language Interpreter Policy ..... N
Accessibility and Publications Policy ..... O
Complaint Policy ..... P
Special Events Checklist ..... Q
Year One List ..... R
Class Notice (Mailed & Posted) ..... S
Letter to Locally Operated Parks ..... T
Release of Named Plaintiffs' Damages Claims ..... U
Class Notice (Published) V

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644