

1 is to selectively utilize the federal civil and criminal enforcement apparatus to prioritize
2 enforcement against certain entities and to attempt to create economic equity in underserved
3 and marginalized communities, all under the guise of environmental justice; and

4 WHEREAS, the Department of Justice has created the Office of Environmental
5 Justice within the Environment and Natural Resources Division and has created the
6 Environmental Justice Enforcement Steering Committee comprised of representatives from
7 the Office of the Attorney General, Office of the Deputy Attorney General, Office of the
8 Associate Attorney General, the Environment and Natural Resources, Civil rights, and Civil
9 Divisions, the Executive Office for U.S. Attorneys, the Offices of Justice Programs, Tribal
10 Justice, and Access to Justice, the Community Relations Service, the Federal Bureau of
11 Investigation, and the Department of Justice's law enforcement agencies; and

12 WHEREAS, the Department of Justice strategy intends to utilize tools outside of
13 traditional environmental statutes in pursuit of enforcement actions, including the use of
14 Supplemental Environmental Projects (SEP), which often facilitate payments to
15 non-government third parties who are neither victims nor directly involved in the
16 enforcement action and which may bear a tenuous connection to redress of a violation; and

17 WHEREAS, monetary penalties are imposed in enforcement actions to address the
18 gravity of the violation and to recoup the economic gain realized through noncompliance
19 with the law; SEP diverts penalty funds away from the United States Treasury; and

20 WHEREAS, the Department of Justice previously prohibited its components from
21 entering into settlement agreements that directed or provided for payments to
22 non-government third parties, under 28 C.F.R. §50.28; however, the department has issued
23 an interim rule rescinding 28 C.F.R. §50.28 and reinstating the use of SEP in enforcement
24 policy; and

25 WHEREAS, current Department of Justice policy allows for the input of unelected
26 officials in selecting SEP recipients and beneficiaries and does not require the authorization
27 of Congress, presenting a conduit for corruption and undue influence in the enforcement of
28 environmental law, outside the bounds of restitution; and

29 WHEREAS, the Department of Justice's Environmental Justice Enforcement Strategy
30 threatens the abandonment of the principle of equal justice under the law and presents

