

1-1-2005

An Environmental Justice Perspective on African-American Visitation to Grand Canyon and Yosemite National Parks

Andrea Wayne

Follow this and additional works at: https://repository.uchastings.edu/hastings_environmental_law_journal



Part of the [Environmental Law Commons](#)

Recommended Citation

Andrea Wayne, *An Environmental Justice Perspective on African-American Visitation to Grand Canyon and Yosemite National Parks*, 11 *Hastings West Northwest J. of Env'tl. L. & Pol'y* 125 (2005)
Available at: https://repository.uchastings.edu/hastings_environmental_law_journal/vol11/iss2/4

This Article is brought to you for free and open access by the Law Journals at UC Hastings Scholarship Repository. It has been accepted for inclusion in *Hastings Environmental Law Journal* by an authorized editor of UC Hastings Scholarship Repository. For more information, please contact wangangela@uchastings.edu.

*Everybody needs beauty, as well as bread,
Places to play in and pray in,
where nature may heal and give strength
to body and soul alike*

– John Muir¹

**An Environmental
Justice Perspective on
African-American Visitation to
Grand Canyon and Yosemite
National Parks**

By Andrea Wayne*

Introduction

In the introduction to his book on the history of the National Park Service, John C. Miles writes, “The National Park System ranks among the most popular of American institutions. Designate a national park and the people come....”² Miles’ statement is only partially correct—while national parks are clearly popular institutions,³ if you build a national park not all people will come. In 1992, researchers at Texas A&M found that though the nation is 12 percent African American, of visitors to the Grand Canyon only 1.5 percent arriving by car and only 2 percent arriving by bus are black.⁴ Similarly, of visitors to Yosemite only 0.4 percent arriving by car and only 3.8 percent arriving by bus are black.⁵

* The author received her A.B. from Brown University in 2000 and is a J.D. Candidate at the University of Colorado School of Law. The author would like to thank Sarah Krakoff, Julie Solomon, Arthur Cormier, and the editors of this journal for their assistance and encouragement.

1. JOHN MUIR, *THE YOSEMITE* 256 (1912).

2. JOHN C. MILES, *GUARDIANS OF THE PARK: A HISTORY OF THE NATIONAL PARKS AND CONSERVATION ASSOCIATION* xiii (1995).

3. JAMES RIDENOUR, *THE NATIONAL PARKS COMPROMISED: PORK BARREL POLITICS & AMERICA’S TREASURES* 45 (1994) (stating that the NPS has the largest public approval rating of any federal agency).

4. Jack Goldsmith, *Designing for Diversity*, 68 *NATIONAL PARKS* 20, 20 (May/June 1994).

5. *Id.*

Robert Stanton, the first African-American director of the National Park Service ("NPS"), has said, "The fact is, the National Park Service has not done a very good job of welcoming people of color into parks or encouraging non-white Americans to work in them."⁶ During the 1990s, there were more visitors to Yellowstone from Japan, Hong Kong, and Taiwan than the number of African Americans, Native Americans, and Hispanic Americans combined.⁷ The low level of African-American visitation cannot be explained solely on socio-economic grounds. Researchers have found that ethnic differences in visitation rates remain even when socioeconomic factors are held constant.⁸ The problem is not that African Americans are not traveling, but that they are not traveling to the national parks.⁹

The problem of low African-American visitation to the national parks has been discussed before, but never from the perspective of environmental justice. While the environmental justice movement initially focused on the inequitable distribution of environmental burdens, the focus has recently been extended to include the inequitable distribution of environmental

benefits, especially in the natural resources context.¹⁰ Low African-American visitation to the national parks qualifies as an environmental injustice within this broader focus. When considered from an environmental justice perspective, it is clear that there is more at stake than how one African-American family chooses to spend its vacation time. What is at stake is that a historically underprivileged group is not experiencing one of the most important communal environmental benefits in this country, a benefit that their tax dollars are helping to fund and that is supposed to be available to all.¹¹

Considering this issue from the environmental justice perspective highlights the fact that the NPS is not fulfilling one of its principal missions and is not abiding by Executive Order 12,898 ("Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations").¹² One of the principal missions of the NPS is to ensure that all people have access to and participate in the enjoyment of the national parks.¹³ African Americans do not have equal access to, and do not participate equally in the enjoyment of, the national parks.¹⁴

6. Todd Wilkinson, *The Cultural Challenge*, 74 NATIONAL PARKS 20, 21 (Jan./Feb. 2000).

7. *Id.*

8. Deborah S. Carr & Daniel R. Williams, *Understanding the Role of Ethnicity in Outdoor Recreation Experiences*, 25 J. LEISURE RES. 22, 23 (1993).

9. See *infra* discussion accompanying notes 86-91.

10. See generally JUSTICE AND NATURAL RESOURCES (Kathryn M. Mutz et al., eds., 2002). "However, environmental inequity is not solely the result of the pollution burdens that first galvanized the environmental justice movement. Our natural environment also bestows many benefits on those able to use and enjoy it... Failure to provide equi-

table access to the nation's natural resources... can also constitute injustice." *Id.* at xxxi.

11. 16 U.S.C. § 1a-1 (Supp. II 2003) (parks to be "preserved and managed for the benefit and inspiration of all the people of the United States" and promoted and regulated "to the common benefit of all the people of the United States.")

12. Exec. Order No. 12,898, 59 Fed. Reg. 7629 (Feb. 11, 1994).

13. 16 U.S.C. §§ 1, 1a-1 (2000 & Supp. II 2003).

14. I am not suggesting that African Americans are physically shut out of the national parks but rather that they don't feel welcome in the parks. See *infra* discussion accompanying notes 100-110.

In 1994, President Bill Clinton issued Executive Order 12,898, which declared that every federal agency should make environmental justice “part of its mission by identifying and addressing . . . disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.”¹⁵ The Executive Order’s conception of environmental justice includes consideration of unequal distribution of environmental benefits. Section 2.2 of the Order states that “[e]ach Federal agency shall conduct its programs, policies, and activities that substantially affect . . . the environment” so as to avoid “excluding persons (including populations) from participation in, denying persons . . . the benefits of, or subjecting persons . . . to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.”¹⁶ The NPS explicitly acknowledges that its management decisions are guided by two other executive orders,¹⁷ but makes no mention of the executive order on environmental justice. The NPS must abide by its mission and by Executive Order 12,898, and take action to increase African-American visitation to Grand Canyon and Yosemite national parks.

In Part I, I will discuss the value of the national parks, drawing on personal experiences, as excerpted from my journal, and on academic research. I will show that access to the Grand Canyon and Yosemite is a true environmental benefit because

the parks provide “outstanding opportunities to keep life wonderful.”¹⁸ In Part II, I will present an overview of the history of the NPS in general, and Grand Canyon and Yosemite national parks in particular. I will show that the NPS is duty bound to provide access to the parks for all Americans. In Part III, I will discuss three theories that may account for the low visitation rates of African Americans. I will argue that the evidence clearly shows that the sources of the problem are not merely economic in nature. Rather, I will suggest that the problem of low African-American visitation to national parks results from a combination of cultural factors that discourage park visitation by ethnic minorities and the failure of the NPS to actively encourage such visitation. In Part IV, I will discuss five concrete measures that the NPS can implement to encourage African-American visitation.

This note will focus primarily on the differences in visitation between African Americans and white Americans, even though the data indicate that African Americans are not the only ethnic minority group who visit the national parks less frequently than white Americans. The reason for this limited focus is that African Americans lack traits that vary among other ethnic minority groups and that might complicate a purely racial analysis. For example, African Americans are largely not recent immigrants, are legal citizens, and speak English as a first language. The same generalizations cannot be made for other minority groups. Thus,

15. 59 Fed. Reg. 7629.

16. *Id.* at 7630-31.

17. National Park Service, U.S. Dep’t of Interior, *Yosemite National Park – Laws and Policies: Executive Orders*, at http://www.nps.gov/yose/planning/planning/law.htm#_Executive_Orders (last modified Dec. 22, 2004) (listing Executive Order 11,988 for the

Management of Floodplains and Executive Order 11,990 for the Protection of Wetlands, but not listing Executive Order 12,898).

18. Holmes Roston III, *Life and the Nature of Life – in Parks*, in *THE FULL VALUE OF PARKS: FROM ECONOMICS TO THE INTANGIBLE* 103, 112 (David Harmon & Allen D. Putney, eds., 2003).

the study of African-American visitation to national parks allows for a more focused study of racial factors in such visitation. This note will also focus on the Grand Canyon and Yosemite, even though the problem of low African-American visitation is not limited to these two parks. As two of the most popular national parks,¹⁹ these are good starting points for this research.

I. The Value of the Parks

If the Grand Canyon and Yosemite were not such unique places, then the fact that African-Americans visit them less frequently than white Americans would not pose an environmental injustice. But these parks are unique places, and African Americans, as a group, are missing out on the experiences these parks provide.

I was a junior in college when I had my first encounter with the Grand Canyon. Inspired by a picture in a geology book, my friend Julie and I flew from Providence to Phoenix, rented a car, and drove north.

We continue driving, stopping only for dinner, and when we grow tired, we turn down an unmarked fire road and find ourselves in a storybook forest of towering pines. The next day, we eat granola by the handful, and head north, on Route 89, towards the Canyon. We are alone on the road, the sun is rising, and the view is breathtaking. We pass the signs for Chief Yellowhair's Trading Post and we enter Grand Canyon National Park via the east entrance. We read through the

Official Guide that we are handed at the gate: "Perhaps no landscape on Earth is as startling to the observer as the vast yet intricate face of the Grand Canyon . . . The world seems larger here, with sunrises, sunsets, and storms taking on an added dimension to match the landscape. It is a land to humble the soul."

Twenty minutes later, we get our first look at the Canyon. The sky is overcast and the fog is thick, but we are humbled nonetheless. The Canyon is stunning. The colors, though muted by the fog, are magnificent. When you're standing at the rim of the Canyon and the air is quiet and everything is still and all you see are the rocks and the sky stretching on forever—everything else seems to pale in comparison.

The Canyon is two hundred twenty three miles long and about five thousand feet deep. It is five million years old and the rocks at the bottom are over two billion years old.²⁰ Geologic time and human time cannot really be reconciled; comparing the two is like comparing God and man. My life is but an instant in geologic time, but the thought of this does not make me feel insignificant. In fact, the opposite is true. I am here next to these rocks and no matter where I go from here, I will always have this place to come back to and it will be just like it is today. The Canyon is something against which I can measure myself.

19. Great Smoky Mountain is the most visited national park. Grand Canyon is the second most-visited national park, and Yosemite is the third most-visited national park. PUBLIC USE STATISTICS OFFICE, NATIONAL PARK SERVICE, U.S. DEP'T OF INTERIOR, RECREATION VISITORS RANKED BY SIZE

2003, at 1, available at <http://www2.nature.nps.gov/stats/ranked2003.pdf> (last visited Apr. 16, 2004).

20. John William Uhler, *Grand Canyon National Park Information: The Geologic Story at Grand Canyon*, The Grand Canyon National Park Page, at <http://www.grand.canyon.national-park.com/info.htm> (last visited Apr. 5, 2005).

We spent our first day enjoying the view, learning about the park, and doing some short hikes. On the second day, we took a float trip down the Colorado from Glen Canyon Dam to the Vermillion Cliffs, near Marble Canyon. On the third day, we boarded the hiker's shuttle from Bright Angel Lodge to the South Kaibab trailhead, ready to hike to the bottom:

There are about twenty of us on the bus, sitting next to our packs, and the excitement is palpable. We are all from different places, here for different reasons, lured by the landscape itself, or by everything it has come to symbolize.

We hiked down quickly, and spent the afternoon and evening meeting other hikers and enjoying Phantom Ranch. The next day, we awoke early, and hiked back to the top.

As we rise out of the Canyon, we encounter a different world, full of tourists and less amenable to restful contemplation. At the Bright Angel trailhead, we drop our packs, and enjoy the aching feeling in our legs. We splurge on lunch at the Bright Angel Restaurant and talk of the Canyon, which I feel like I have encountered in some intimate way. I know what each layer feels like beneath my feet. I know how fast the water flows. The experience of being in the Canyon is so overwhelming. It is larger than I imagined, and more powerful.

21. In 2003, 4,102,541 visits were recorded at Grand Canyon National Park. National Park Service, U.S. Dept. of Interior *Grand Canyon National Park: Facts*, at <http://www.nps.gov/grca/pphtml/facts.html> (last visited Feb. 7, 2004).

22. See, e.g., Cheech Calenti, *The Grand Canyon of Arizona*, at <http://manta.fm.arizona.edu/canyon/gc.htm> (last modified Jan. 5, 2005); Michael John

Julie and I take one last look over the rim, and then leave the Canyon behind, and head south, towards Phoenix. If a home is a place where one develops one's sense of self, then the Grand Canyon is not just a destination; it is a home.

What is truly remarkable about my Grand Canyon story is neither the experience I had nor the way in which I memorialized it, but the fact that this story is not mine alone. In 2003, there were more than four million visits to Grand Canyon National Park.²¹ Many of the millions who visit the Grand Canyon every year have their own Grand Canyon websites,²² Grand Canyon photo albums, and Grand Canyon stories. One of the most famous environmentalists, John Muir, published his Grand Canyon story in *The Atlantic Monthly* in 1901.

No matter how far you have wandered hitherto, or how many famous gorges and valleys you have seen, this one, the Grand Canyon of the Colorado, will seem as novel to you, as unearthly in the color and grandeur and quantity of its architecture, as if you had found it after death, on some other star; so incomparably lovely and grand and supreme is it above all other canyons in our fire-moulded, earthquake-shaken, rain-washed, wave-washed, river and glacier sculptured world.²³

Briski, *Grand Canyon*, at <http://www.briski.us/Exploits/GrandCanyon/grand.htm> (last visited Apr. 5, 2005); Robert R. Marley, *Ultimate Grand Canyon Backpack*, at <http://www.kwagunt.net/gctrek/gctrek1.html> (last modified June 4, 1999).

23. See JOHN ISE, *OUR NATIONAL PARK POLICY: A CRITICAL HISTORY* 230 (1961).

The Grand Canyon is clearly an astounding place, a “crown jewel,” a source of many stories.²⁴

And then there is Yosemite National Park. For hikers, campers, and rock climbers everywhere, Yosemite is a sacred place. For a climber like Arthur Cormier, owner of the Rok Haus climbing gym in Lafayette, Louisiana, a trip to El Capitan at Yosemite represented nothing less than the fulfillment of a lifelong dream.²⁵ Arthur Cormier was born in southwestern Louisiana, one of the two states in the country without any natural rock climbing.²⁶ As a teenager, Cormier read an article on rock climbing and decided that he wanted to be a climber.²⁷ In the mid-1970s, Yosemite was thought to be the mecca of American rock climbing.²⁸ Cormier considered heading west after high school to climb, but decided to stay in Louisiana, where he became a police officer, married, and started a family.²⁹ When he had the money, Cormier opened a rock climbing gym, one of only three climbing gyms in Louisiana.³⁰ The gym became a popular place for youth groups and birthday parties, and helped to foster the development of a local climbing com-

munity.³¹ In 2001, Cormier finally made the trip to Yosemite.³² With two of his Louisiana-based climbing partners, he flew to California, rented a car, and made it up a big wall.³³ The way he tells it, the climb was neither easy nor particularly fun, but it was a dream come true.³⁴ Yosemite remains, by some accounts, “the best place to climb rock in the United States . . . [and] arguably the most sought-after climbing destination in the world!”³⁵

Rock climbers are not alone in their belief that Yosemite is an amazing place. For backpackers and day hikers, for people who camp and for people who stay in hotels, Yosemite is special because of the recreational opportunities it offers and the natural beauty it contains. In *Our National Parks in Color*, author Devereux Butcher describes what makes Yosemite unique.

There are aspects of this park that have so profound an effect on the beholder that to convey the impression is verbally not possible. It may be enough to recite that it is thrillingly inspiring to see Bridalveil Fall tossed

24. GEORGE B. HARTZONG, JR, *BATTLING FOR THE NATIONAL PARKS* 12 (1988) (noting that former NPS Director Newton Drury described the parks as America’s “crown jewels”).

25. Interview with Arthur Cormier, in Lafayette, Louisiana (Feb. 25, 2002).

26. *Id.*

27. *Id.*

28. *Id.* Yosemite’s Camp 4 is listed with the National Register of Historic Places for the role that it played in the growth of climbing and mountaineering from 1947 to 1970. News Release, Yosemite National Park Media Relations Office, Camp 4 Listed With National Register of Historic Places (Feb. 27, 2003), at <http://www.nps.gov/yose/news/2003/camp0227.htm> (last modi-

fied Dec. 22, 2004).

29. Interview with Arthur Cormier, *supra* note 25.

30. There are two other dedicated climbing gyms in Louisiana: Slidell Rocks is located in Slidell and ClimbMax is located in New Orleans. See *Louisiana Rock Climbing Walls, Halls and Gyms*, at <http://www.indoor-climbing.com/louisiana.html> (last visited Apr. 5, 2005).

31. Interview with Arthur Cormier, *supra* note 25.

32. *Id.*

33. *Id.*

34. *Id.*

35. See Rock Climbing.com, *Yosemite National Park Overview*, at <http://www.rockclimbing.com/routes/listArea.php?AreaID=2067> (last visited Apr. 16, 2005).

by the wind in transparent waves of descending mist, to watch the shifting of the rainbow at its base and hear the falling water. Words can do no more. One must see the Fall.³⁶

In 2004, more than three million people visited Yosemite National Park and saw the Fall.³⁷

The Grand Canyon and Yosemite are two of the crown jewels of the National Park System, a system which includes 384 areas and covers more than 83 million acres of land.³⁸ Areas included in the National Park System are of “such national significance as to justify special recognition and protection.”³⁹ The value of the national parks cannot be overstated. The parks have been described as “foundations of life”⁴⁰ and “schools of awareness, personal growth, and maturity.”⁴¹ As evidenced by the stories above, the parks provide experiences “that may prove to be the most meaningful of your life.”⁴² As Newton Drury, former director of the NPS explains:

In our rootless, restless society . . . we need a sense of place in which to discover Who am I; a special place that is as constant as love, as never-changing as the

cycle of the seasons, as joyous as the shriek of a child on Christmas morning, as exhilarating and re-creating as freedom itself. That special place is to be found in America’s national parks.⁴³

In his book *National Parks: Rights and the Common Good*, Francis N. Lovett explains four benefits of the national parks. First, the parks help build community by providing “safe and inviting public spaces,” that offer opportunities for “expressive . . . interaction,” and help provide a space for “diversity within unity.”⁴⁴ Second, the parks reinforce our national identity: “It may be that the essential purpose of the national parks is to help bind us together as Americans . . . [P]ark use . . . is partly an act of nation building.”⁴⁵ Third, the parks promote the development of nature and environmental values: Quoting Michael Frome’s view on the parks, Lovett writes, “National Parks are schools of awareness, personal growth, and maturity, where the individual learns to appreciate the sanctity of life and to manifest distress and love for the natural world.”⁴⁶ Last, the parks provide a positive federal presence: The NPS has the “highest approval rating of any U.S. Federal agency.”⁴⁷ When the federal government shut down in 1990 due to lack of

36. DEVEREUX BUTCHER, *OUR NATIONAL PARKS IN COLOR* 122 (1965).

37. In 2004, 3,272,155 visits were recorded at Yosemite National Park. National Park Service, U.S. Dep’t of Interior, *Yosemite National Park: Facts*, at <http://www.nps.gov/yose/pphtml/facts.html> (last visited Apr. 6, 2005).

38. National Park Service, U.S. Dep’t of Interior, *The National Park System: Caring for the American Legacy*, at <http://www.nps.gov/legacy/mis-sion.html> (last modified Feb. 2, 2001).

39. *Id.*

40. EDITORS OF SUNSET BOOKS AND SUNSET MAGAZINES, *NATIONAL PARKS OF THE WEST* 11 (1965).

41. MICHAEL FROME, *REGREENING THE NATIONAL PARKS* 7 (1992).

42. BUTCHER, *supra* note 36, at v (quoting John Muir).

43. HARTZONG, *supra* note 24, at xv.

44. FRANCIS N. LOVETT, *NATIONAL PARKS: RIGHTS AND THE COMMON GOOD* 6-8 (1998).

45. *Id.* at 8-9.

46. *Id.* at 10; *supra* note 41.

47. LOVETT, *supra* note 44, at 10.

a budget, “the strongest complaints and protests concerned the closing of NPS parks.”⁴⁸

Joseph L. Sax also provides a strong justification for the parks in his book *Mountains Without Handrails: Reflections on the National Parks*. Sax writes that the national parks are “places where recreation reflects the aspirations of a free and independent people”; they are “an object lesson for a world of limited resources”; they are “great laboratories of successful natural communities”; and they are “living memorials of human history on the American continent.”⁴⁹ For Sax, the national parks provide “an opportunity for respite, contrast, contemplation, and affirmation of values for those who live most of their lives in the workaday world.”⁵⁰ The parks in particular, and nature as a whole, promote self-understanding, and “an understanding of the world in which we live.”⁵¹ As a result, according to Sax, our government should continue to play a role in promoting and protecting the experiences that the parks provide.⁵²

Though the national parks are faced with problems of over-crowding and under-staffing, and though the parks are frequently criticized as being too loud, too busy, and too polluted,⁵³ they still provide an important and meaningful experience for many Americans. According to a study by the Travel Industry Association of

American (TIA), approximately 40 percent of American adults have visited a national park at least once in the last five years.⁵⁴ Ninety-three percent of those who have visited a national park said that they were highly satisfied with their experience.⁵⁵ The national parks are valuable places where stories are created and lives are changed. African Americans as a group are missing out on the positive experiences that these parks provide. Access to public lands in general and the national parks in particular is an environmental benefit that should be available to all. The fact that a large majority of African Americans feel that the national parks are not available to them constitutes an environmental injustice.

II. The Mission of the Parks

The Grand Canyon and Yosemite would not be preserved today were it not for their status as national parks. The government has assumed the task of protecting these parks, even though the land might be able to be put to greater economic use, because the government has recognized the special value of these areas. The NPS has a continuing responsibility to promote and protect these national parks and the experiences that they provide. This responsibility stems both from the value of the parks and from the mission set by Congress for the NPS. This section will first review the history of Grand Canyon and Yosemite

48. *Id.*

49. JOSEPH L. SAX, MOUNTAINS WITHOUT HANDRAILS: REFLECTIONS ON THE NATIONAL PARKS 111-13 (1980).

50. *Id.* at 42.

51. *Id.* at 46.

52. *Id.* at 111-13.

53. See, e.g., Richard J. Ansson, Jr., *Our National Parks – Overcrowded, Underfunded, and Besieged with a*

Myriad of Vexing Problems: How Can We Best Fund Our National Park System?, 14 J. LAND USE & ENVTL. LAW 1 (1998).

54. Press Release, Travel Industry Association of America, US National Parks Enjoy High Awareness and Satisfaction Among American Travelers (Feb. 25, 2004), at <http://www.tia.org/Press/pressrec.asp?Item=317> (last visited Mar. 17, 2005).

55. *Id.*

national parks and then discuss the mission of the NPS, as exemplified in its founding documents and as informed by Executive Order 12,898.

On June 30, 1864, President Abraham Lincoln signed a bill granting Yosemite Valley and the Mariposa Grove of Giant Sequoias to the State of California—this was an historic land grant, as it was “the first time in history that a federal government had set aside scenic lands simply to protect them and to allow for their enjoyment by all people.”⁵⁶ This land grant did not cover the entire Yosemite region. Largely as a result of John Muir’s efforts, H.R. 12187, which provided for the federal protection of the rest of Yosemite, was enacted into law on October 1, 1890.⁵⁷ In presenting this bill to the House, Representative Lewis A. Payson of Illinois presented the report of the Committee on Public Lands, which stated, “[It is] incumbent on the Government in so far as may be to preserve the wonders and beauties of our country from injury and destruction, in order that they may afford pleasure as well as instruction to the people.”⁵⁸ From 1890 through 1906, Yosemite was governed by both state and federal authorities.⁵⁹ In 1906, the California legislature gave Yosemite Valley and the

Mariposa Grove back to the federal government, thus laying the foundation for Yosemite to be recognized as a national park when the NPS was created in 1916.⁶⁰ Today, Yosemite encompasses 761,266 gross area acres of land and has an annual budget of around \$ 23 million.⁶¹

In 1869, Major John Wesley Powell, a one-armed Civil War veteran, and his nine companions became the first men to journey 1,000 miles on the Colorado River, through the Grand Canyon.⁶² Powell is credited for naming the Grand Canyon and his journey sparked interest in what was then “one of the last unexplored parts of the region.”⁶³ Shortly after Powell’s journey, the discovery of zinc, copper, lead, and asbestos in the Grand Canyon led miners to develop the first pioneer settlements along the rim of the Canyon.⁶⁴ Tourism was soon discovered to be more profitable than mining, and tourists flocked to the Grand Canyon in the early 1900s.⁶⁵

In 1898, W.P. Hermann, forest supervisor of the Grand Canyon, wrote that the canyon “is becoming so renowned for its wonderful and extensive natural gorge scenery and for its open clean pine woods, that it should be preserved for the everlasting pleasure and instruction of our intelligent citizens”⁶⁶ In 1908,

56. National Park Service, U.S. Dep’t of Interior, *Yosemite National Park: History*, at <http://www.nps.gov/yose/nature/history.htm> (last modified Dec. 22, 2004).

57. *Id.*

58. 21 CONG. REC. 10,751-52 (1890) (Committee Report by Rep. Payson as printed in the Record).

59. *Yosemite National Park: History*, *supra* note 56.

60. *Id.*

61. National Park Service, U.S. Dep’t of Interior, *Yosemite National Park: Facts*, at <http://www.nps.gov/yose/pphtml/facts.html> (last visited Apr. 16, 2005).

62. American Park Network, *Grand Canyon*

History, at <http://www.americanparknetwork.com/parkinfo/gc/history/> (last visited Apr. 8, 2005).

63. *Id.*

64. *Id.* See also National Park Service, U.S. Dep’t of Interior, *Geology Field Notes, Grand Canyon National Park, Arizona*, at <http://www2.nature.nps.gov/geology/parks/grca/> (last modified July 18, 2000).

65. *Geology Field Notes, Grand Canyon National Park, Arizona*, *supra* note 64.

66. KARL JACOBY, CRIMES AGAINST NATURE: SQUATTERS, POACHERS, THIEVES, AND THE HIDDEN HISTORY OF AMERICAN CONSERVATION 175 (2001).

President Theodore Roosevelt heeded Hermann's advice and upgraded the Grand Canyon from a national forest to a national monument.⁶⁷ On February 26, 1919, Congress further upgraded the Grand Canyon from a national monument to a national park.⁶⁸ President Gerald Ford signed an act in 1975 which doubled the size of Grand Canyon National Park.⁶⁹ Today, Grand Canyon National Park encompasses 1,217,403 gross area acres of land and has an annual budget of around \$ 19 million.⁷⁰

As the history of Yosemite and the Grand Canyon reveals, the federal government protects these areas because of their "superlative" status.⁷¹ On August 25, 1916, President Woodrow Wilson enacted the National Park Service Organic Act, which created the NPS. Woodrow's intention was to unify the management of the various national parks. Section 1 of the Organic Act states that the "fundamental purpose" of the NPS is "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."⁷² NPS management documents state that "the 'enjoyment' contemplated by the statute is broad; it is the enjoyment of all the people of the United States."⁷³

The NPS, by the language of its founding documents and by its own inter-

pretation of these documents, is duty bound to manage the parks for the enjoyment of all. The fact that African Americans visit Grand Canyon and Yosemite national parks disproportionately less than white Americans indicates that the parks are not being enjoyed equally by African Americans. The NPS has the authority to "encourage, promote, and develop travel within the United States"⁷⁴ and should use this authority specifically to increase African-American visitation.

In fulfilling its obligations, the NPS must explicitly acknowledge its responsibilities under Executive Order 12,898.⁷⁵ This Order requires every federal agency, specifically including the Department of Interior (which the NPS is a part of), "to make achieving environmental justice part of its mission."⁷⁶ The Order does not define "environmental justice" so it is reasonable to read the term broadly to include the denial of environmental benefits as well as the imposition of environmental burdens. Section 2-2 of the Order requires each federal agency to:

conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying

67. *Grand Canyon History*, *supra* note 62; see *Geology Field Notes, Grand Canyon National Park, Arizona*, *supra* note 64.

68. *Grand Canyon History*, *supra* note 62.

69. *Id.*

70. *Grand Canyon National Parks: Facts*, *supra* note 21.

71. 16 U.S.C. § 1a-1.

72. 16 U.S.C. § 1 (2000).

73. NATIONAL PARK SERVICE, U.S. DEP'T OF INTERIOR, MANAGEMENT POLICIES 2001, at 12, ¶ 1.4.3 (2000), available at <http://www.nps.gov/policy/mp/policies.pdf> (last visited Apr. 16, 2005).

74. 16 U.S.C. §§ 18, 18a (2000).

75. 59 Fed. Reg. 7629.

76. *Id.*

persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.⁷⁷

The programs, policies, and activities of the NPS certainly affect the environment. These programs, policies, and activities arguably have the effect of denying African Americans the benefit of the national parks on account of their race. It is not my contention that the NPS intends to discriminate against African Americans; however, Executive Order 12,898 does not restrict federal agencies to consideration only of the *intended* effects of their programs, policies, and activities. Rather, federal agencies must consider all effects of their programs, policies, and activities, even if these effects are influenced by factors outside of the agency's control. Thus, the Organic Act, NPS' interpretation of the Organic Act, and Executive Order 12,898 require the NPS to increase African-American visitation to Grand Canyon and Yosemite national parks.

III. Sources of the Problem

While the problem of low African-American visitation to the national parks has been widely recognized, there is no general consensus about the source of this problem. Three main theses have been proposed: the marginality thesis, the

ethnicity thesis, and the ethnic boundary maintenance thesis.⁷⁸

1. The Marginality Thesis

According to the marginality thesis, African-Americans visit the national parks less frequently than white Americans because they have less money, less leisure time, and less adequate means of transportation⁷⁹ than white Americans due to the "the cumulative effects of social, economic, and education discrimination and segregation practices."⁸⁰ This theory suggests that the fact that African Americans visit the parks less frequently than white Americans is merely a reflection of broader social and economic inequalities. There is reason to believe that there is some truth to this theory because African Americans are economically disadvantaged as compared to white Americans and studies show that people of lower socioeconomic status take fewer trips and thus represent a disproportionately smaller percentage of the travel market.⁸¹

If the marginality thesis provided the *sole* explanation for the problem of low African-American visitation, then the only way to address this problem would be to improve the overall economic status of African Americans within our society—a task which is beyond the reach of the NPS. But there is evidence to suggest that the marginality thesis does not fully explain the ethnic visitation differential. In 1977, the

77. *Id.* at 7630-31.

78. See, e.g., John Schelhas, *Race, Ethnicity, and Natural Resources in the United States: A Review*, 42 NAT. RESOURCES J. 723, 751 (2002); RANDEL WASHBURNE & PAUL WALL, BLACK-WHITE ETHNIC DIFFERENCES IN OUTDOOR RECREATION, USDA FOREST SERVICE RESEARCH PAPER INT 249 (1980); Myron F. Floyd, *Getting Beyond Marginality and Ethnicity: The Challenge for Race and Ethnic Studies in Leisure Research*, 30 J. LEISURE RES. 3, 4-5 (1998).

79. Schelhas, *supra* note 78, at 751; WASHBURNE & WALL, *supra* note 78, at 1.

80. WASHBURNE & WALL, *supra* note 78, at 1.

81. See PATRICIA S. HU & TIMOTHY R. REUSCHER, U.S. DEP'T OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION, SUMMARY OF TRAVEL TRENDS: 2001 NATIONAL HOUSEHOLD TRAVEL SURVEY 18, tbl. 8 (Dec. 2004) (comparing the number of person trips by annual household income), available at <http://nhts.ornl.gov/2001/pub/STT.pdf> (last visited Apr. 16, 2005).

Department of the Interior sponsored a national outdoor recreation survey that included ethnicity as a demographic variable. The researchers examined a sub-sample of 170 black and white respondents who were matched for sex, age, income, and place of residence to determine whether marginality factors, such as low income or low level of education, accounted for the different recreation rates.⁸² The results of this study indicated that “most differences in participation rates remain or decrease only slightly” when respondents are matched for the “marginality factors.”⁸³ The authors of the study concluded that “[t]he black group . . . is no more hampered by cost factors than the white group.”⁸⁴ Similarly, other researchers have found that ethnic differences in visitation rates remain even when socioeconomic factors are held constant.⁸⁵

Moreover, while African Americans may take fewer trips than white Americans, they do travel, suggesting that they have the means to visit national parks. According to a study conducted by the Strom Thurmond Institute of Government and Public Affairs at Clemson University, African-Americans take an average of 2.4 trips per year.⁸⁶ In 1991, African Americans took 77.8 million trips, representing nearly 8 percent of the

U.S. trip market.⁸⁷ In a more recent study, the Travel Industry of America (TIA) found that African Americans accounted for 75.2 million person-trips in 2002.⁸⁸ African-American households spent an average of \$428 per trip, excluding spending on transportation to their destination.⁸⁹ While African Americans do not represent a percentage of the travel market that is equivalent to their percentage of the population, they do travel in significantly greater numbers than is reflected by their visits to Grand Canyon and Yosemite national parks.⁹⁰ Visiting Grand Canyon and Yosemite national parks is not beyond the financial means of African-American travelers as a household can easily visit Grand Canyon or Yosemite national parks for less than \$428.⁹¹

The problem is not that African-Americans do not have the money, time or means of transportation to visit the national parks. Rather, the problem is that when African Americans do travel, they generally do not travel to the national parks. While the marginality thesis certainly has some merit, socioeconomic differences between African Americans and white Americans do not fully account for the differential visitation rates. According to Todd Wilkinson, “[t]here are many mid-

82. WASHBURNE & WALL, *supra* note 78, at 3.

83. *Id.*

84. *Id.* at 5.

85. Carr & Williams, *supra* note 8, at 23.

86. THE STROM THURMOND INSTITUTE OF GOVERNMENT AND PUBLIC AFFAIRS, *AFRICAN-AMERICAN TRAVELERS* 13 (1998), available at <http://www.strom.clemson.edu/teams/regdev/Af-AmerTraveler.pdf> (last visited Mar. 17, 2005).

87. *Id.* at 3.

88. Travel Industry Association of America, *Travel Statistics & Trends, Domestic Research: Travel Market Segments* (summarizing the report, *The Minority Traveler* 2003), available at <http://www.tia.org/Travel/TravelTrends.asp> (last visited Apr. 16, 2005).

89. *Id.*

90. According to the 2000 Census, African-Americans represent 12.3 percent of the U.S. population. See U.S. DEPARTMENT OF COMMERCE, *PROFILES OF GENERAL DEMOGRAPHIC CHARACTERISTICS, 2000 CENSUS OF POPULATION AND HOUSING 1*, tbl. DP-1 (May 2001), available at <http://www.census.gov/prod/cen2000/dp1/2kh00.pdf> (last visited Apr. 16, 2005).

91. The costs of visiting a national park include the costs of traveling to the park, entrance fees, camping or hotel costs, and food and souvenir costs. While these costs can vary greatly by household, trips to national parks need not be expensive.

dle-class Hispanics, Blacks, and Asians who have the money to travel to parks, but they don't do it ... At the same time, even white Americans who hail from poorer income levels know that national parks are part of their birthright."⁹² Thus, the marginality thesis does not in and of itself explain the differential visitation rate.

2. The Ethnicity Thesis

The second general thesis that has been proposed to explain the fact that African-Americans visit the parks less frequently than white Americans is the ethnicity thesis. According to this thesis, differential visitation rates result from different values and expectations,⁹³ reflecting "divergent norms, value systems, and social organization between majority and minority populations."⁹⁴ According to this theory, African Americans do not visit the national parks as frequently as their white counterparts because they have not been exposed to the value of the parks. The idea is that people of all races are "socialized into activities and cultures over generations" and African Americans visit the parks less frequently than white Americans because they have not been socialized into this activity.⁹⁵ Thus, African Americans may not visit national parks because they have not had experiences in the parks as children,⁹⁶ or

because they do not see other African Americans visiting or working in the parks.⁹⁷ Visiting the parks "hasn't been a major part of the culture of people of color in the U.S. up to this point."⁹⁸ One African-American woman, as quoted in an article by Todd Wilkinson, stated that she didn't visit the national parks because it wasn't something that people in her Baltimore neighborhood did: "We had a little hill down the street, and this was our idea of wildness . . . Although I had heard about Yellowstone and the Grand Canyon, I didn't think they were real or open to me."⁹⁹

This thesis certainly helps to account for the visitation differential. What we are exposed to by our family and our peer group matters. Patterns that are established in childhood often continue into adulthood. If African Americans are not exposed to the national parks by their parents, their teachers, or their peers, then it is unlikely that African Americans will view the parks as places that are desirable and open to visit, even if they have the economic means to do so.

3. The Ethnic Boundary Maintenance Thesis

The third general thesis that has been proposed to explain the visitor differential is the ethnic boundary maintenance

92. Wilkinson, *supra* note 6, at 21.

93. Schelhas, *supra* note 78, at 751.

94. Floyd, *supra* note 78, at 5.

95. CNN.com, *Minority Use of National Parks is Low*, Aug. 25, 1997 (quoting Jim Gramann, a professor of park sciences and rural sociology at Texas A&M University), at <http://www.cnn.com/EARTH/9708/25/minorities.parks.ap/> (last visited Mar. 17, 2005).

96. Holly Doremus, *Shaping the Future: The Dialectic of Law and Environmental Values*, 37 U.C. DAVIS L.

REV. 233, 245 (2003) (stating, "Environmental attitudes and preferences for nature have been shown to be strongly influenced by the extent to which children have actual, direct experiences in natural settings").

97. See, e.g., Schelhas, *supra* note 78, at 743 (stating that until recently, there has been little diversity in natural resources practitioners).

98. *Minority Use of National Parks is Low*, *supra* note 95.

99. Wilkinson, *supra* note 6, at 22.

nance thesis. This thesis is similar to the second except that it explains the differential visitation rates as a legacy of active discouragement of black visitation. Minorities, including African Americans, often consider the racial composition of an area in deciding whether or not to travel there.¹⁰⁰ As such, they are less likely to travel someplace if they feel they will experience discrimination there.¹⁰¹ According to Regina Austin, a law professor at the University of Pennsylvania, national parks, like tennis courts and concert halls, are “white-identified spaces.”¹⁰² Austin states that in some communities, the parks have a reputation for being places “for white people.”¹⁰³ Moreover, there is a “deeply rooted fear among people of color that a visit to our nation’s remote areas might make them vulnerable to racial hostility.”¹⁰⁴ As one commentator describes it, “[a]n African-American couple entering the average Western park would feel much like a white couple walking into a room filled with black people. It’s just a sign that you don’t belong.”¹⁰⁵

During the late 19th and early 20th century, the national parks were “almost wholly inaccessible to visitors” because of their location.¹⁰⁶ Travel was so expensive and so difficult, that the parks “catered largely to the first-class trade.”¹⁰⁷

Yellowstone, for example, “became a semi-exclusive resort for the wealthy.”¹⁰⁸ Unfortunately, though travel to the western parks became less expensive and less difficult over time, the perception that the parks were places for the white elite remained. The national parks were not intended to be semi-exclusive resorts—as discussed above, the Organic Act states that the national parks are to be managed for the benefit of all people.¹⁰⁹ However, the NPS never corrected the early misconceptions about the national parks. As Todd Wilkinson writes, quoting Roger Rivera, founder of the National Hispanic Environmental Council, “The welcome mat is not out. The caretakers of our national treasures say they are not keeping minorities out, but they have not initiated proactive efforts in the communities to tell people these places are yours, you own them, too.”¹¹⁰ The stop signs put up in a previous era have not been taken down. The NPS needs to take proactive measures to welcome African Americans and to ensure that African Americans are not being excluded from the national parks.

This third thesis suggests that the problem is not just that African Americans don’t have the means to travel to the parks or don’t place as great a value on the parks due to lack of exposure. Rather, the problem is that the parks are not

100. See Schelhas, *supra* note 78, at 751.

101. See *id.*

102. Regina Austin, “Not Just for the Fun of It!”: *Governmental Restraints on Black Leisure, Social Inequality, and the Privatization of Public Space*, 71 S. CAL. L. REV. 667, 695 (1998).

103. Nina S. Roberts & Donald A. Rodriguez, *Reaching Out*, 75 NATIONAL PARKS 38, 38-39 (Sept./Oct. 2001).

104. Kim A. O’Connell, *On the Front Lines*, 75 NATIONAL PARKS 36, 39 (May/June 2001).

105. Jim Woolf, *In Defense of the Metropolitan*

Mosaic, 70 NATIONAL PARKS 41, 42 (Jan./Feb. 1996).

106. CONRAD L. WIRTH, *PARKS, POLITICS, AND THE PEOPLE* 4 (1980).

107. Goldsmith, *supra* note 4, at 21.

108. *Id.*

109. 16 U.S.C. § 1.

110. Todd Wilkinson, *Attracting Minorities to National Parks*, CHRISTIAN SCIENCE MONITOR, Feb. 1, 1999, available at <http://csmonitor.com/cgi-bin/durableRedirect.pl?durable/1999/02/01/p3s1.htm> (last visited Mar. 17, 2005).

equally welcoming to African Americans. If this thesis is even partially correct, then the environmental injustice that we are considering is greater than it first appears. It is not just that African Americans are not experiencing the parks; rather it is that African Americans have effectively been prevented from experiencing the parks because they have not been welcomed back into the parks.

4. The Implications of the Three Theses

There is not enough empirical evidence to determine conclusively which of the three theses is correct. The NPS collects data on visitor numbers, but not on the socioeconomic or ethnic composition of visitors. I think the ethnic visitation differential is most likely due to a combination of the factors described by the three theses. Some African Americans might not visit the parks because the parks are too expensive or too far away. Other African Americans might not visit the parks because they have not been exposed to the value of the parks. Still other African Americans might feel that they are not welcome in the parks. It is not necessary to determine exactly what proportion of the problem can be attributed to which thesis. What matters most is that we recognize that the marginality thesis is not in itself the sole explanation for the low rate of African-American visitation. The NPS cannot meaningfully address the broad pattern of social inequality that exists between African Americans and white Americans, but the NPS can take steps to expose African Americans to the value of the parks and welcome African Americans into the parks.

IV. Concrete Solutions

There are five concrete, proactive measures that the NPS can take to

encourage African Americans to visit Grand Canyon and Yosemite national parks. First, the NPS should improve its marketing to African-American communities. Second, the NPS should improve its education and interpretation programs. Third, the NPS should make a firm commitment to achieving an ethnically diverse workforce. Fourth, the NPS should improve access to the parks themselves. Fifth, the NPS should conduct further research on this topic. By implementing these five measures, the NPS can fulfill its mission of managing the national parks for the benefit of all Americans.

First, the NPS needs to do a better job of marketing the parks to African Americans in order to counter the perception that the national parks are primarily for white people. The NPS can better market the parks to African Americans by (1) selling park passes in places that African Americans frequent; (2) reaching out to travel agents that service largely African-American populations; (3) advertising in magazines that are targeted to African Americans; and (4) ensuring that pictures of African-American visitors and employees are included in NPS brochures and on NPS websites. The United States Code specifically authorizes the Secretary of Commerce to “cooperate with public and private tourist, travel, and other agencies . . . for the purpose of encouraging, promoting, or developing such travel [to national parks, military parks, monuments, and seashores].”¹¹¹ The Secretary of Commerce should work with the NPS to promote the parks amongst African-American communities.

Second, the NPS needs to improve its education and interpretation programs in order to better meet the needs of African

111. 16 U.S.C. § 18a.

Americans.¹¹² In terms of education, the NPS should reach out to schools with large African-American populations in order to spark interest in the parks. As noted in Part III, above, adults are often shaped by their experiences as children. If African-American children are not exposed to the parks, then they are less likely to value the parks and the experiences that they provide as adults. There are a number of creative programs that the NPS can institute to expose African-American children to the national parks. For example, the NPS can send rangers into schools to talk about the parks; the NPS can develop lesson plans that incorporate information about the parks into science and history lessons; the NPS can develop interactive websites that make learning about the parks fun; and the NPS can sponsor competitions for school children to win trips to the parks. These programs, though targeted at children, can also impact African-American adults, if children talk with their parents about the parks.

In terms of interpretation, the NPS can do more to ensure that African-American visitors have more meaningful and lasting experiences in the park. As one commentator states:

For many park visitors, a memorable part of their experience is

112. For the purposes of this paper, "education" refers primarily to activities that occur outside the national parks and "interpretation" refers primarily to activities that occur inside the national park. Education informs people about the parks whereas interpretation "is the process of helping each park visitor find an opportunity to personally connect with a place." See National Park Service, U.S. Dep't of Interior, *Interpretation and Education*, at <http://www.nps.gov/learn/> (last visited Apr. 6, 2005). "The goal of all interpretive services is to increase each visitor's enjoyment and understanding of the parks, and to allow visitors to care about the parks on their own terms." *Id.*

attending a fireside talk or going on a conducted nature walk or perhaps taking part in an impromptu discussion with a park ranger or interpreter. It is through these encounters, as well as through visitor-center exhibits and movies, and from informative signs along the trails that a park's unique story is told.¹¹³

The NPS needs to ensure that the formal programs, as well as the informal fireside talks, nature walks, and discussions meet the needs of African Americans as well as white Americans.

One way to meet the needs of African Americans is to tell the "untold stories" of African-American involvement in western history and in the history of the national parks.¹¹⁴ Recently, Yosemite National Park highlighted the fact that at the turn of the last century, more than 400 African-American soldiers patrolled Yosemite and Sequoia national parks.¹¹⁵ The NPS has created a website that provides a way for people to learn about this history.¹¹⁶ As Shelton Johnson, an African-American ranger at Yosemite, explained, "[t]he fact that African-Americans were among the first protectors of the Sierra Nevada comes as a surprise to many of us...African-Americans played pivotal

113. John E. Cook, *The Cultural Legacy of America's National Parklands*, 71 NATIONAL FORUM 24 (Spring 1991), EBSCOHost Research Databases (ISSN: 0162-1831).

114. Roberts & Rodriguez, *supra* note 103, at 39.

115. See News Release, National Park Service, U.S. Dep't of Interior, Yosemite National Park Celebrates Black History Month, at <http://www.nps.gov/yose/news/2001/buff0207.htm> (last visited Feb. 2, 2005).

116. See Yosemite National Park's Wilderness Education Project, *The Buffalo Soldiers Project: Shadows in the Range of Light*, at <http://shadowsoldier.wilderness.net/> (last visited Feb. 2, 2005).

roles in shaping the American West."¹¹⁷ Highlighting this story is one small, but important way to combat the myth that there "are no black faces in the pantheon of heroes of the Sierra."¹¹⁸

The third step that the NPS should take to increase African-American visitation is to hire a more diverse staff. Currently, 87 percent of park rangers are white¹¹⁹ even though whites make up only 75.1 percent of the US population.¹²⁰ The NPS should make every possible effort to increase the number of non-white park rangers. The NPS can accomplish this goal by instituting an affirmative action program or by simply changing its recruiting practices. While there are legal complications with affirmative action, the courts have consistently recognized diversity as a compelling government interest, and have upheld affirmative action programs that are narrowly tailored to meet this interest.¹²¹ An easier way for the NPS to change the racial composition of its workforce is for the NPS to change its recruiting practices. The NPS should actively reach out to African Americans by recruiting at African-American colleges and by placing employment notices in African-American publications. The NPS should emphasize the fact that not all park workers need previous experience in the outdoors. The NPS could even pro-

vide preference to individuals who have never been to the parks for jobs that do not require outdoor experience in order to ensure that the parks are being experienced by as many people as possible.

Fourth, the NPS should improve access to the parks by improving public transportation to the parks, increasing the number of bus tours to the parks, and offering reduced fees to low-income and first-time visitors. By improving public transportation to the parks, the NPS will make it easier and less costly for people to travel to the parks. Increasing the number of bus tours to the parks would likely increase the level of African-American visitation because the statistics indicate that a larger percentage of African-American visitors to the park use buses than automobiles.¹²² Offering reduced fees to low-income and first-time visitors would also likely increase the level of African-American visitation. Entrance fees at Grand Canyon and Yosemite national parks are currently \$20 per car for a seven-day pass or \$10 per individual on bus, motorcycle, bike, or foot for a seven-day pass.¹²³ While the expense of traveling to parks is not the only factor that keeps African Americans away from the parks, reducing the cost provides an added incentive. Offering reduced fees for low-income and first-time visitors can be justified on the basis of the mission of the

117. See Yosemite National Park Celebrates Black History Month, *supra* note 115.

118. Carl Nolte, *Buffalo Soldiers Story*, S.F. CHRON, Feb. 1, 2003, at A15, available at <http://www.yosemite.org/newsroom/clips2003/february/020103.htm> (last visited Feb. 8, 2005).

119. *Minority Use of National Parks is Low*, *supra* note 95.

120. See *Profiles of General Demographic Characteristics*, *supra* note 90.

121. For an overview of this very complex legal issue, see, e.g., Eric A. Tilles, *Lessons From Bakke*:

The Effect of Grutter on Affirmative Action in Employment, 6 U. PA. J. LAB. & EMP. L. 451 (2004); Robert A. Sedler, *Affirmative Action, Race, and the Constitution: From Bakke to Grutter*, 92 KY. L. J. 219 (2003).

122. See, e.g. Goldsmith, *supra* note 4.

123. See National Park Service, U.S. Dep't of Interior, *Grand Canyon National Park – Fees*, at <http://www.nps.gov/grca/pphtml/fees.html> (last visited April 9, 2005); National Park Service, U.S. Dep't of Interior, *Yosemite National Park – Fees*, at <http://www.nps.gov/yose/pphtml/fees.html> (last visited April 9, 2005).

NPS, which is to provide access for all Americans, as discussed above.

Finally, the NPS should do further research on this problem. The NPS should track visitor ethnicity, and should study the factors that motivate people to visit, and keep people from visiting, the national parks. With the results of further research, the NPS could institute more targeted programs to increase African-American visitation.

The NPS cannot remedy the socioeconomic differences between white Americans and African Americans, but it can reduce the cultural boundaries that contribute to keeping African Americans away from the parks. The NPS can increase African-American visitation by implementing targeted marketing to African Americans, improving its education and interpretation programs, hiring a more diverse workforce, improving access to the parks themselves, and conducting further research. As more African Americans are exposed to the parks and have positive experiences in the parks, the overall level of African American visitation will likely increase.

Conclusion

As Michael Frome writes in his book, *Regreening the National Parks*, “[n]ational parks reflect society. They tend to become what the public wants them to be, through usage as well as law.”¹²⁴ If this is the case, then today’s national parks reflect a society that is deeply divided along racial lines. While the NPS may not be able to address broad patterns of racial inequality that exist in this country, it can and should address the problem of low African-

American visitation to Grand Canyon and Yosemite national parks. These parks are “outstanding opportunities to keep life wonderful.”¹²⁵ They are sources of natural beauty and places of self-discovery. These national parks are quintessential public goods—public goods that should be equally available to all ethnic groups. The NPS must continue to implement its mission to both conserve the parks and provide access to the parks in light of its founding documents and Executive Order 12,898.

In *National Parks*, John Muir makes the following recommendation:

Climb the mountains and get their good tidings. Nature’s peace will flow into you as sunshine flows into trees. The winds will blow their own freshness into you, and the storms their energy, while cares will drop off like autumn leaves. As age comes on, one source of enjoyment after another is closed, but nature’s sources never fail.¹²⁶

The Grand Canyon and Yosemite truly are sources of enjoyment that never fail. The NPS must consider the environmental justice perspective discussed in this article, and must do everything it can to ensure that the precious benefits of Grand Canyon, Yosemite, and other national parks, are not lost to one segment of the population.

124. FROME, *supra* note 41, at 13.

125. Roston, *supra* note 18, at 112.

126. JOHN MUIR, OUR NATIONAL PARKS 56 (1901)