

LETTERS OF OPPOSITION

W10D

6-11-068

June 19, 2012

Kanani Brown
7575 Metropolitan Dr. St 103
San Diego, CA 92108

1108 Van Nuys St
San Diego, CA 92109

RECEIVED

JUN 21 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

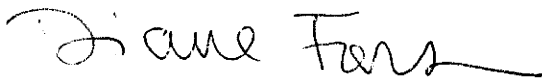
RE: NO PERMANENT ROPE AT CHILDREN'S POOL (6-11-078)

To the Coastal Commission,

I strongly oppose a permanent rope at Children's Pool. The city started this whole mess by creating safe spaces for the seals (not letting people on the flat rock, then widening the "no people" zone in the water and finally letting the seals haul out onto the sand). As the seals were protected, their population grew. The person in charge of enforcing the Mammal Protection Act even spoke to City Council years ago and told them not to let the seals haul out onto the sand, predicting an increase in seals and this present problem. Having lived within blocks of the Children's Pool for 20 years, I saw the kids in the water in the day, and the seals come in at night. Intervention by us has caused this imbalance. Basic science knows you cannot protect one species over another-unnatural selection. Please let nature take its course!! No more intervention. The people and the seals will work it out, as they did for all those years in the past.

NO PERMANENT ROPE

Thanks,



Dr. Diane Fons

Gaspar De Portola Middle School
11010 Clairemont Mesa Boulevard
San Diego, CA 92124
May 31, 2012

Mr. Steve Blank
California Coastal Commission
45 Fremont St. ,Suite 2000
San Francisco, CA 94105

Dear Mr. Blank:

Why have we not solved the La Jolla Seals problem? I would like for you to vote against the permanent rope barrier. I believe the seals should not be allowed to stay at the La Jolla Children's Pool. My first reason for wanting the seals gone is La Jolla Children's Pool was originally made for the children of La Jolla. However, for more than a decade, colonies of seals have polluted the Children's Pool. A rope barrier designed to discourage people from disturbing harbor seals at the Children's Pool.

My second reason is that the seals use the children's pool as a toilet. The seals inhabit the beach year-round.

Some people say they want the seals to stay. They say they attract many people which bring in money. They are also great learning experience for the young kids. And if we move them what will they do with the pups? They will come back.

I am against the seals staying because they are a huge disturbance . They pollute the beach by going to the bathroom they also leave food debris in the ocean which attracts annoying seagulls.

In conclusion, the seals really shouldn't able to stay because they just make the pool smell. Make sure that the kids of La Jolla get their pool back. Thank you for considering my request.

Sincerely,

Nicole Gregory

Nicole Gregory

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JUN 20 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission

File: 6-11-078 (Children's Pool)

RECEIVED

Attn: Kanani Brown

JUN 18 2012

To Whom It May Concern,

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I am an ocean recreationalist who freedives for pleasure and for food. I have spent many days at the Children's Pool beach in La Jolla for purposes of gathering lobster and fish, or mostly, to simply enjoy the surrounding beauty of the ocean while diving. The Children's Pool is a critical access point to the ocean for me because of the man-made sea wall, which during prevailing moderate to heavy swell conditions, makes it the only safe entry for spear fishermen in the La Jolla area. In addition, I have enjoyed on many occasions beach "get-togethers" with my friends at the Children's Pool in which we grill our fresh catch and enjoy sharing the beach with the seals.

It is very important to me that the California Coastal Commission uphold the conditions of the Children's Pool Land trust, which states, besides the amended language introduced in 2009 relating to a "marine mammal park," that the beach shall remain "a bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as maybe incident to, or convenient for the full enjoyment of such purposes" as well as guaranteeing "The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California." These are the terms which the Coastal Commission needs to keep in mind when making a decision on a year around rope barrier. Is a beach roped off year around "convenient for the full enjoyment of such purposes?" Does a year around rope guarantee the "right of convenient access to said waters" for the purpose of fishing? The Coastal Commission is best advised to reject any proposals for such an obstruction to beach access that the year around rope represents.

The stated mission of the California Coastal Commission is to "Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by ~~current~~ and future generations." I believe it is obvious that the Children's Pool, as a man-made structure and the tidelines contained therein, has as its primary purpose ~~to be a place of unrestricted access for the general public~~. If the Commission is to consider ~~approve a rope barrier permit for year around~~, how is such approval congruent with its mission? Stringing permanent ropes along our beaches is as far from "protecting and enhancing resources of the California coast for prudent use" by the people.

Some may argue that the presence of harbor seals on this beach outweighs the right of people to access the beach unimpeded. In my view, simply because the seals have taken a liking to this beach does not justify restricting access. Additionally, there is no evidence that the use of the beach by humans has detrimentally impacted the health of the harbor seals at the Children's Pool. Consider the fact that, in the time since harbor seals began giving birth on this beach (since the 1990s), the population utilizing the beach and number of seal pups born there have only

flourished with the "shared use" policy that has been in place. As the Commission is aware, the seals are already protected by the National Oceanographic and Atmospheric Agency (NOAA) through enforcement of the Marine Mammal Protection Act of 1972. It is this federal agency's responsibility to ensure the Harbor Seal population remains robust, not the City of San Diego's or the California Coastal Commission's.

I implore the Coastal Commission to deny the City of San Diego's request for a year around permit for a rope barrier on the Children's Pool beach. It is an unnecessary and unlawful impediment to public access, and is entirely against the mission of the Commission. Approval of the permit for a permanent rope barrier would set a bad precedent for limiting beach access for all sorts of nefarious reasons. I can imagine the next animal rights group down the line suing the Commission and City for a rope barrier to protect sand crabs from being molested.

Respectfully submitted,

Ryan Lawler, California resident since birth

June 13rd 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

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JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

THE DANGER OF ALLOWING STUFFING THE BALLOT BOX

Coastal Commission staff, Kanani Brown,

The issue of a new year round rope permit under Coastal Commission jurisdiction is becoming overshadowed with a larger issue. Can the Commission be overwhelmed and blinded by a storm of personal opinions so it loses the ability to function as it was intended? The answer will set the stage for permit requests already planned and funded for more stringent restrictions of vertical access at Children's Pool.

In July, the Commissioners will interpret the laws of the State of California. They are in a position of a grand jury or equivalent by mandate of the Public Trust Doctrine. They are appointed to be fair, and beyond the reach of temporal political considerations or influence by special interest groups. They have lived up to that calling over and over.

This input file has been loaded with form letters and petitions from people who show no knowledge or regard for the Coastal Act, the Statute of 1931 Chapter 937, the Public Trust Doctrine, any Local Coastal Plan or the function of the Coastal Commission. They just want something they hope will benefit them. If a well-connected and well-funded blitz like this even appears to turn a legal analysis into a popularity contest then that will become the way of the future, here and all over California. Your job is to allow the Commissioners to know of material pertinent to the issue at hand, and shield them from the irrelevant.

To defend the system and your own integrity, the local staff should present the file categorized and indexed into (1) identical form letters. (2) communications of opinion only. (3) input referencing documents and laws. (4) input referencing published studies, etc. In other words, sort the input by relevance so the Commissioners can know what input had the telling influence. Otherwise the Commission will have to assume the staff considerations were based on volume of solicited opinions without regard to content.

The reams of duplicated opinion found in the file today are equivalent to a "denial of service" attack. The message is clear. *"If we don't get what we want we can wreck the system, we can cost you big".*

After the July hearing, even should there be a favorable ruling, the matter will be less than half resolved. San Diego would still have to create and approve a new SDP and CDP through its local process which it has not started at all. What if it changes? At the same time San Diego is pursuing changes to the Local Coastal Plan to make barricading that public beach legal, which will be appealed, and the snowstorm of form letters and petitions can begin again if that is believed to be the way to overwhelm the Commission. If that LCP change succeeds, then the City will file its request for a permit to legally close the beach 5 months of the year forever, and a whole new battle will begin.

BOTTOM LINE:

The solution is more obvious than ever. To keep from being bullied, push back. There never has been a different answer anywhere.

Tell San Diego to file a NEW permit request under Coastal Commission jurisdiction as it was told to do 9 month ago.

Tell San Diego to make its last permit request; the one that solves all its alleged problems.

Tell San Diego to come back with a permit request it has taken through its own local land use procedures and safeguards, just like everybody else in California.

Tell San Diego to explain completely why its plans are within the purposes of the Public Trust Doctrine and applicable State laws like it has failed to do.

Tell San Diego to have the approval of the State Lands Commission and DFG, as was stipulated in the permit application it filed 9 months ago.

Tell San Diego to explain why the 3/1/01 Commission decision refusing a permanent structure at Seal Rock no longer applies.

San Diego has abused the system and every inch of consideration it was given, and there is no end in sight, because it has learned what any clever 4 year old learns: "It is easier to get forgiveness than to get permission". But San Diego is just a large corporation with shoreline land holdings it wants to convert to a single purpose to increase its cash value and do away with maintenance costs. It contrived to hand responsibility for the consequences of its past actions to the Coastal Commission. There is an alternative to granting a permit so poorly conceived, cynically done, having no recourse, conditions, alternatives, sunset date, review period, oversight – just a permit "in perpetuity".

Take care – we care about the Coastal Act.

John Leek, secretary, Friends of the Children's Pool

3090 Admiral Ave, San Diego, CA 92123



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MAY 24 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

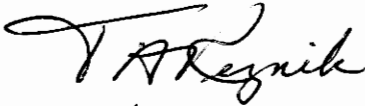

California Coastal Commission
7575 Metropolitan Drive Ste 102
San Diego CA 92108-4402

Re: File 6-11-078
Public Input to Children's Pool in La Jolla

The entire beach should be dedicated to public use.

The seals and birds can find some other location to defecate and destroy the surrounding environment with a putrid odor that ruins a beautiful location for tourists as well as locals including businesses.

Respectfully,

Ted & Ginger Reznik

RECEIVED

MAY 24 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

7560 Eads Avenue, #8
La Jolla, CA 92037
May 17, 2012

California Coastal Commission
7575 Metropolitan Drive
San Diego, CA 92108

To whom it may concern:

I want to voice my opinion that the conditions of Ellen Browning Scripps' gift of the Childrens' Pool beach to San Diego should be adhered to. I would like to see the sluices, which have been silted up, opened and the beach and water cleansed of seal feces.

If the seals must stay, so should people be allowed use of the beach. I walk past the beach almost every day and have seen no evidence of people scaring away the seals. I believe the propaganda promulgated by the pro-seal advocates exaggerates the problem of co-existence, and their behavior sometimes exacerbates the situation.

Thank you for the opportunity to express my views.

Sincerely,

Carol Reilly

Carol Reilly

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MAY 31 2012

File 6-11-078
California Coastal Commission

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: Preserve human access and enjoyment of the Children's Pool in La Jolla, CA

Greetings,

I just signed the following petition addressed to: California Coastal Commission and San Diego City Council. To Preserve human access and enjoyment of the Children's Pool in La Jolla, CA Eco-groups and "friends of the seals" have orchestrated a campaign of harassment and intimidation against divers, fishermen and the beach-going public for over a decade now. Actions such as throwing rocks, spitting, stealing, vandalizing, punching, shoving, yelling profanity and even assaults with a stun gun perpetrated by animal-extremists against beach-goers and tourists are commonplace and often ignored by the police and the City of San Diego. Additionally, despite court orders and in violation of state law, the City of San Diego has continuously ignored its obligations to the citizens of the State of California and residents of San Diego. These obligations are set-out in the so-called Children's Pool Trust and the State Constitution. Among these obligations is the guaranteed right of "convenient access" to the Children's Pool beach for fishermen. Despite this constitutional right to access, the City has, in the past, closed this beach and continues to post rope barriers and warnings across the beach. The City has even sought to outright close the beach and pool for part of the year in violation of State law and the Constitution.

Unfortunately, what was once recognized as a true San Diego treasure and originally built primarily for a Children's bathing pool and playground has been neglected and virtually destroyed. Hollywood once shot movies there. Detroit shot a car commercial at the Children's Pool. The first permanent San Diego Lifeguard Station was constructed there. National Geographic once wrote of the Children's Pool: "Even Alice, fresh from Wonderland, would have gasped at the landscape spread below me". However, we have a lifeguard station, which has been condemned. We have "port-a-potties" on the sidewalk. The sea wall and stairs are literally crumbling. The cliff-side has collapsed onto the beach and undermined the sidewalk. Extremists populate the sidewalk shouting obscenities at anyone with the temerity to step foot on the beach. The City Police Department has a special "policy" not to enforce many City codes and ordinances at the Children's Pool. The sand is polluted with seal feces. This San Diego treasure has nearly been lost.

A proposal to either close the beach and/or further encroach on public access is before the Coastal Commission and San Diego City Council. We respectfully petition that the rights of the citizens of the State of California be recognized and the Children's Pool beach remains open and is quickly restored to its original condition. Please do not allow this treasure entrusted to us from previous generations to be destroyed and sold to environmental activists. Keep the Children's Pool open! Do not approve any proposal to close or limit access at the Children's Pool beach.

Sincerely,

Robert J. Velez

21 of This Form letter were
Received

June 18th 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

RECEIVED

JUN 19 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Explanatory Letter from Dan Daneri of May 22

Dear Coastal Commission staff,

In the letter, the City supplied some information that was incomplete if not misleading. I know as much about the history and problems with Children's Pool as anybody in town. Let me point out some problems, in no particular order.

1. **The claim the rope was placed from some consideration of what seals do.**

No, the rope was placed above the high tide line in order to put the 5 previous rope barriers in place with City jurisdiction permits. It also keeps tide waters from washing the posts away. The placement has nothing to do with the unpredictable habits of seals. In section 4 of the letter that is made clear.

2. ***"The only additional assistance to ensure that people adhere to standing behind the rope is the City Park Ranger".***

Not true. When the ranger is there or not there is a core of vigilantes who yell at people or use a bullhorn to admonish, insult or intimidate people who cross the rope. Now, with no rope, they try to keep people away and even claim going on the beach at all is illegal. Hey, if the rope is advisory and not intended to impact beach use, why is the stated goal "to ensure that people adhere to standing behind the rope".

3. ***"Again, no enforcement system is in place when the park ranger is not on site...."***

Do we understand the ranger provides rope enforcement when he is on site? How? The police are not allowed to enforce any City statutes there without violence. You can find 3 sales tables on the sidewalk any weekday. Two sell t-shirts and have permits. The 3rd refuses to get the permits but is allowed to conduct sales there and yell at persons who go down on the beach. Their profits allow them to maintain this function. If you find the ranger on site, ask him if this is not so. He will have to tell you the truth, but you have to ask the right question.

4. ***"The rope is a visual deterrence only and as per the City's Site Development Permit"***

The SDP 701765 does not contain the term "visual deterrence". This is a new term to more accurately describe the rope barrier. The dictionary says: **Deterrence** is the use of punishment as a threat to deter people from offending. Yes, its appearance as an enforceable barrier deters vertical access. It works.

5. ***"The original 3 foot gap made the rope presence unmistakable and made its purpose clear..."***

The 3 foot opening is not visible from the sidewalk. Only after descending 2 flights of stairs does one discover a 3 foot opening exists. The signs are not readable from the

stairs either. What is the clarity of purpose of a hidden opening?
Read the council minutes supplied. The City council did not vote for any opening at all. Nor did they mention the Coastal Act or Public Trust Doctrine or the 1931 Trust in their deliberations.

6. ***"No additional information was requested"***

Is he saying nobody told Parks and Rec they wanted notification? That would be a lie that can be proven. Parks and Rec had a mailing notification list from the appeal of SDP 701765 who would all be even more interested and by City land use procedures, all persons within 500 feet must be notified and they have that list. There is a clause in the City land use procedures which says if notification is not complete, that will not nullify a hearing. It appears Parks and Rec is planning to take advantage of that by blindsiding the public knowing there will be no consequence. Please see to it I get my notification so I can send copies to people disenfranchised by this scheme.

7. ***"Individuals will place banners, umbrellas, and non-official signage....;"***

The fact they find this reprehensible shows the goal is to keep people from finding out the beach is open. He even shows how much better it is when people do not know the facts. He says nothing of the vigilantes the City gives defacto authorization to place even more signs on public property to convince the public it should not go on the beach at all. Their illegal signs are just fine. He says our evil acts are ***"to demonstrate the beach is open for public use and that the rope is only a guideline, not a legal barrier"***. Is that not what he said is so, and is it not proclaimed throughout the SDP? Why is the truth a bad thing?

8. ***"...but has no jurisdiction as to enforcing any Federal Marine Mammal Protection Act (MMPA) laws."***

Right, and neither does the Coastal Commission. If this rope is to protect seals as a requirement of the MMPA it would be a violation of section 109(a) of that act. Take care.

9. ***"The Park Ranger's responsibilities include educating the public aboutJoint Use"***

The Ranger does not have any education activity. He answers questions honestly but does not offer unrequested facts.

10. ***"...in the ranger's absence due to....there is no replacement/back-fill"***

When the year round rope was approved 5/17/10, the City Council also mandated that the ranger's duties would include a docent program instituted. In the 2 years since, the docent program had one false start and finally died Dec 8, 2011 by a unilateral decision by the director of Parks and Rec. Parks and Rec has no volunteer help for the ranger by its own choice – because the director would not place volunteers where they would be harassed by the anti-access bullies that control the public so well. If you don't believe me I can produce 5 other people who were there, including the ranger. Like I say, he will reply to direct questions honestly.

11. ***"...maintaining a safe distance that varied with the tides and also the location of hauled out seals."***

How can the right distance vary every day? In a letter from NOAA on May 14, 2010 ~~a~~ a 50' recommended viewing distance was recommended. Now he quotes the latest NOAA recommended 20' distance. But the rope does not move. Further in the text he

states sometimes the seals are on both sides of the rope. How does 7 more months of this make less problems than 5 months?

12. ***"Many visitors are confused as to the purpose of the rope".***

Then the City should put signs where people can read them from the sidewalk. Oh, but there are 2 big signs up there, designed by the first ranger. They state "The beach is open to the public at all times". Fancy that. No wonder many visitors are confused as to the purpose of the rope barrier. How could they not be? More rope will not change that.

13. ***"The City has not completed any technical studies.. No formal studies...No record so human impacts...no substantiated reports...cannot be scientifically determined....have not been documented..."***

Yet the City wants a permit with no conditions, no oversight, no sunset date, no studies, no reviews, no contact with DFG, no clearance with SLC (see 2001 decision on the Seal Rock Reserve), no legal analysis of conflict with the 1931 State Trust, no new SDP as was requested, no approval by San Diego's own land use procedures.

14. ***"...reading the official signage that explains their responsibilities of keeping far enough away so as not to disturb the seals."***

He means the little signs on the posts? That say "watch from a distance" but don't say what distance or that the rope has anything to do with such a distance. (Which it does not) At the end of section 2 of the letter he explains why there is no such distance.

John Leek 858-610-4724
3090 Admiral Ave
San Diego CA jleek001@san.rr.com



Calendar Year
2010

CITY OF SAN DIEGO

ORGANIZATION LOBBYIST REGISTRATION FORM

[Form EC-602]

Type or Print in Ink. File Original with the City Clerk.

☐ Check Box if an Amendment (explain: _____)

Total Number of Pages: 3

Identify the organization.

Animal Protection and Rescue League

Name of Organization

Telephone Number

San Diego

CA

92103

Business Address (Number & Street)

(City)

(State)

(Zip)

Schedule A: Organization Disclosure.

Part 1: Description of Organization. Describe the nature and purpose of the organization.

Part 2: Lobbyist Disclosure. Identify the individuals authorized to lobby on behalf of the organization.

Schedule B: Municipal Decisions.

Part 1: Number of Contacts. Identify the number of lobbying contacts within the past 60 calendar days.

Part 2: Description of Decisions. Describe each municipal decision the organization is currently seeking to influence or has lobbied on during the past 60 calendar days.

Schedule C: Activities Disclosure. Complete this schedule if any "Yes" boxes are checked.

		Check box if the organization has information to report regarding the applicable activity.
		Check box if the organization has <u>no</u> information to report regarding the applicable activity.
YES	NO	Check one box for each part of Schedule C.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 1: Fundraising Activities. Owners, compensated officers, and lobbyists of the organization who fundraised \$1,000 or more for a current elected City Official within the last two years.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 2: Campaign Services. Owners, compensated officers, and lobbyists of the organization who provided compensated campaign services to an elected City Official within the last two years.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 3: Contract Services. Owners, compensated officers, and lobbyists of the organization who provided compensated services under a City contract within the last two years.

Schedule D: Deleting Lobbyists (Amendment Only). Complete this schedule if removing lobbyists from your registration (must check the amendment box above).

VERIFICATION

I have been authorized by the Organization Lobbyist identified above to make this verification. I have reviewed and understand the requirements of the Lobbying Ordinance (San Diego Municipal Code §§ 27.4001-27.4055). I have exercised reasonable diligence in the course of reviewing this Registration Form for completeness and accuracy. I declare under penalty of perjury under the laws of the State of California that the contents of this Registration Form, including all attached schedules, are true, correct, and complete, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on March 18, 2010 at San Diego, CA
(Date) (City and State)

By: [Signature] Bryan Pease Director
(Signature) (Print Name) (Title)

Email address for a point of contact within the organization (optional): Bryan@APRL.org

Note: Registration Terminates Every January 5. Annual Re-Registration is Required.

THE REAL
REASON PARKS &
REC HAS TO
HAVE A ROPE
BARRIER
6-11-078

SCHEDULE A: ORGANIZATION DISCLOSURE

Name of Organization Lobbyist: Animal Protection and Rescue League

PART 1 – DESCRIPTION OF ORGANIZATION

Describe the nature and purpose of the organization: Non-profit organization that advocates for the humane treatment of all animals.

PART 2 – LOBBYIST DISCLOSURE

Identify the Organization's Lobbyists. List the name of each owner, compensated officer, and employee of the organization who is authorized to lobby City Officials on behalf of the organization.

Name of Individual

Name of individual

✓ Bryan Pease

✓ Dorota Valli

✓ Sara Goldsmith

Comments: _____

☐ If more space is needed, check box and attach continuation sheet(s).

SCHEDULE B: MUNICIPAL DECISIONS

Name of Organization Lobbyist: Animal Protection and Rescue League

PART 1 – NUMBER OF LOBBYING CONTACTS (PRECEDING 60 DAYS)

Identify the total number of lobbying contacts that the owners, compensated officers, and employees of the organization have had with City Officials during the preceding 60 calendar days.

Number of Contacts: 30

PART 2 – DESCRIPTION OF MUNICIPAL DECISIONS (CURRENT & PRECEDING 60 DAYS)

Describe each municipal decision that the organization (a) is currently seeking to influence or (b) lobbied on during the preceding 60 days, and the outcome sought:

Description: Asking the San Diego City Council to accept our proposal to extend full protection to the harbor seals that live on Casa Beach. ✓

Outcome sought: We are seeking the beach be closed during pupping season, that the guideline rope be up year round, and the beach deemed a marine mammal park. ✓

Description: _____

Outcome sought: _____

Description: _____

Outcome sought: _____

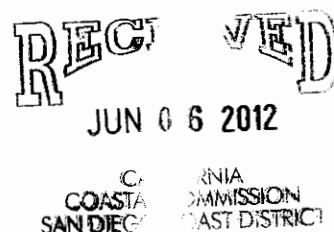
Description: _____

Outcome sought: _____

Comments: _____

☐ If more space is needed, check box and attach continuation sheet(s).

From: Richard Merino
Friday 6-1-12
To: California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402
Subject: CCC File # 6-11-078



Re: Children's Pool Rope Barrier

Dear Commissioners

I want register my opposition to Rope Barrier at Children's Pool for the following reasons:

1. The City of San Diego has never obtained an Environmental Impact Report (EIR) allowing any Rope Barrier to exist on Children's Pool as required by CEQA.
2. The City of San Diego has never obtained an Environmental Impact Report (EIR) allowing the "seals " to occupy Children's Pool as required by CEQA. This is despite the fact that Children's Pool is considered Public Health Hazard by The San Diego Public Health Department because of "seal fecal contamination".
3. The fact that the Trust at Children's Pool was changed by AB428, does not exempt the City from complying with California CEQA regulations and the Trust which allows the Public free access to a clean and safe beach.
4. The City denied public input concerning the EIR at Children's Pool by its obscure method of notifying the public of its plan to exempt the CDP of an EIR and study. In fact I challenge members of the California Coastal Commission to find the posting in the City Web site exempting this project of an EIR.
5. It has already been legally established (O'Sullivan vs. The City of San Diego) that a Rope Barrier at Children's Pool denies the Public free access to the beach at Children's Pool. The Rope Barrier also continues to exacerbate the Public Health Hazard posed by seal fecal contamination.

Sincerely,
Richard Merino MD
42 year resident of La Jolla

A handwritten signature in black ink, appearing to read "Richard Merino MD", with a stylized flourish at the end.

San Diego Freedivers

Date: June 4, 2012

Melissa Ahrens
California Coastal Commission
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

Re: Children's Pool Coastal Development Permit Application #6-11-078

Dear Ms. Ahrens:

I am writing to express my concern regarding a request by the City of San Diego for a Coastal Development Permit to place a year-round rope at the Children's Pool Beach (CP) in La Jolla. I write on behalf of the San Diego Freedivers. The San Diego Freedivers are San Diego's oldest and largest spearfishing club representing over one hundred members. As such, we are uniquely affected by any proposal which impacts access at this beach. The City of San Diego has a long history of attempted closures and discouraging access through various means (including placing a rope) at the Children's Pool Beach. Likewise, we have a long and proud history of use at this particular beach. We therefore, strongly oppose any sort of closure or access restrictions at the Children's Pool.

Historic Access:

Spearfishing is one of the oldest forms of fishing with a past stretching beyond recorded history. However, the modern sport of spearfishing has developed relatively recently. In the United States, spearfishing developed in the mid-1930's here in San Diego. A group of spearfishermen known as the "Bottom Scratchers" were the first modern spearfishing club. This group of individuals, including Jack Pradanovich, Wally Potts, Kamar Boren and several others invented new techniques and equipment and helped popularize the sport of spearfishing. In-fact, these "founding fathers" of the sport are literally responsible for legalizing spearfishing in the State of California. The sport was so new that it initially was not recognized in the regulations. After talking to a State legislator, he observed, "anyone who wants a fish badly enough to hunt him out in his own element deserves the right to spear him" and spearfishing was soon legalized.

The Bottom Scratcher's primary fishing grounds were in La Jolla centered at the CP. Their early club meetings were held at the Casa De Manana which is adjacent to the CP (now a retirement home). The CP has long been recognized as a productive fishing ground with protected access. In-fact, the oldest permanent lifeguard station in San Diego is located at the CP. The combination of good fishing, protected access and lifeguard presence has made the CP an invaluable fishing area since the 1930's soon after the wall was built. The Children's Pool was prominently featured in a 17-page National Geographic article titled, Goggle Fishing in California Waters. This



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article features the Bottom Scratchers diving at the CP. Since that time, spearfishermen have continuously accessed the Children's Pool Beach and the waters surrounding the CP.

Importance of Access:

As mentioned above, the Children's Pool Beach has been a popular shore access for spearfishermen for many years because of the ease of access, safe water entry (protected from waves), good fishing, and the presence of lifeguards. Generally, the community of La Jolla has extremely good shore access and very good fishing. For this reason, it has long been a popular spot for fishermen in San Diego County. Unfortunately, recent regulations implemented as a result of the Marine Life Protection Act (MLPA) have created State Marine Reserves (SMR) along approximately 70% of the coast of La Jolla. These beaches are off-limits to spearfishermen. As a result, approximately six beaches remain open for spearfishing along this stretch of the California Coast. Many of these beaches are hazardous in rough water conditions. With names like "Boomers" and "Wipeout" beach, it is no wonder why the City of San Diego Lifeguards warn of "a condition on steep beaches which results in hard breaking surf right at the shoreline". Of these beaches, only one beach remains a reliably safe ocean entry and exit location in almost any water condition. This beach is the Children's Pool Beach which is protected by the seawall built in 1931. Unfortunately, the reality is that many areas which are open to the general public and which provide safe and easy access to swimmers like La Jolla Cove and La Jolla Shores are simply off-limits to spearfishermen. Therefore, any impediment to access at the CP is not only a practical concern for spearfishermen but a true safety concern.

City of San Diego Violations of the Coastal Act and Municipal Code:

As you may be aware, the existing so-called "pupping season rope barrier" has been placed at the Children's Pool Beach for several months during the winter months for the past several years. Prior to the current rope barrier, the City of San Diego instituted an unlawful closure of the beach in an attempt to create a marine mammal park at the CP. This closure lasted for several years and was subject to a lawsuit known as the O'Sullivan case. Although appealed all the way to the State Supreme Court, all courts recognized that the City of San Diego had illegally closed the CP and had allowed the beach to reach an unsafe and unsanitary condition in violation of State law. After recognizing that outright closure of the CP was illegal, the City of San Diego re-opened the CP but installed a "pupping season rope barrier" without permits in violation of the law and the California Coastal Act. Unfortunately, the City of San Diego also ignored its own development procedures in doing so.

Eventually, the City applied and granted itself a Coastal Development Permit to install the seasonal rope barrier in violation of State Law and City Code. Recently, your office noticed an improper boundary determination and correctly concluded that the City of San Diego did not have the authority under State law to issue itself a Coastal Development Permit on the CP Beach and the Coastal Commission itself had jurisdiction. However, you did not require the City to obtain a correct permit through the Coastal Commission for the seasonal barrier and instead ignored the violation of your procedures. Unfortunately, the City of San Diego ignored its own Municipal Code in granting the Coastal Development Permit. Specifically, Section 143.0130 (b) which is a list of permitted uses and activities in Coastal Beach Areas. Informational signs are specifically allowed but fencing is specifically excluded.



In any case, the City of San Diego wrote for itself and approved a Coastal Development Permit for itself allowing the seasonal rope barrier. Even though they wrote and approved their own permit with specific dimensions and a description of the rope barrier at the CP, the City of San Diego still violated the terms of the permit over the last several years by installing a barrier that was both too long and too tall. This violation was noticed by members of the San Diego Freedivers late last year when the City once again installed the rope barrier. After substantial media attention, the violations were finally corrected.

Marine Mammal Protection Act Violations:

Section 109 (a) of the Marine Mammal Protection Act states: "No State may enforce, or attempt to enforce, any State law or regulation relating to the taking of any species (which term for purposes of this section includes any population stock) of marine mammal within the State unless the Secretary has transferred authority for the conservation and management of that species (hereinafter referred to in this section as "management authority") to the State under subsection (b)(1)." As defined by the MMPA, taking is defined extremely broadly and includes any action which alters the natural behavior of marine mammals. The MMPA specifically reserves the authority for the "conservation and management" of marine mammals to the Federal Government and denies it to the States. I am unaware of any transfer of authority to the State of California for the California Harbor Seal population. Therefore, it is not only inappropriate but a potential violation of the MMPA to pass any law or regulation relating to the natural behavior of these species. Unfortunately, the City of San Diego has in the past closed the CP Beach and is currently installing a rope barrier which impedes access in the interests of creating and maintaining an artificial marine mammal sanctuary at the CP. This has the unfortunate effect of usurping the specifically reserved authority of the Federal Government in this area. Likewise, requesting a Coastal Development Permit to install a year-round rope barrier would conflict with the MMPA as neither the State or the City of San Diego have any authority with regard to the conservation and management of the seals.

California State Constitution:

As you are aware, Article I, Section 25 of the California State Constitution explicitly states, "The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon"

Additionally, Article X, Section 4 of the California State Constitution states, "No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof."

Based on these sections of the Constitution along with numerous State laws and the Children's Pool trust, it is apparent that access is a critically important right of the people of the State. The California Coastal Commission is



responsible for guarding this right. The City of San Diego is not permitted to "exclude the right of way to such water" or "obstruct the free navigation of such water" or inhibit the "right to fish upon and from the public lands of the State and in the waters thereof". Unfortunately, the rope barrier inhibits the flow of traffic across the CP and to the water and restricts the "right to fish" at the CP. Of course, the City of San Diego has artfully crafted their Coastal Development Permit request to claim it is not inhibiting access. However, the plain meaning of warning signs and a "barrier" is absolutely clear. The encouragement of a seal colony on the beach limits access to such an extent that the CP is not usable on many days due to the presence of seals across the entire beach. No attempt has been made by the City of San Diego to abate this nuisance and instead, every effort has been maintained to ensure the continued presence of seals and prevent access. The currently proposed rope barrier is simply another attempt to continue this policy. It is extremely concerning that the City of San Diego has just allocated \$30,000 to pursue an outright closure of the CP beach in clear violation of the State Constitution.

Children's Pool Trust:

The so-called Children's Pool Trust is actually a State law called the Statute of 1931, Chapter 937. This law was amended in the Statute of 2009, Chapter 19 (aka SB 428). However both the original Statute and the subsequent amendment contain language in part b which says, "The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California". This law is compliant with the State Constitution and includes some of the same language of Article I, Section 25 concerning the "right to fish". It is clear from these laws that the State legislature has reserved the right to fish with "convenient access" to the people. It is likewise clear that putting up a rope barrier with a three foot opening and encouraging the growth and development of a seal colony at the CP is a severe restriction of "convenient access" and does not comply with State law.

City Park Ranger:

In a letter to the California Coastal Commission dated December 15, 2011, the City of San Diego, Park and Recreation Department stated that the purpose of the City Park Ranger is "to inform the public of the purpose of the rope barrier, the shared use of the beach by the public and the seals, assure that public access is provided and the importance of staying a safe distance from the seals to prevent harassment and flushing". Unfortunately, this purpose has not been communicated to this Ranger or past Rangers. In fact, another letter from the City of San Diego, Park and Recreation Department dated May 22, 2012 explicitly states, "the only additional assistance to ensure that people adhere to standing behind the rope and not getting too close to the seals is the City Park Ranger who is assigned to the Children's Pool". If the rope were only a "visual deterrence only" and was not intended to deter access, there would be no reason for the Ranger to "ensure" that people "adhere to standing behind the rope". It is clear that the rope is only PART of the City's policy of deterring our outright prohibiting access at the Children's Pool beach in violation of the State laws and Constitution mentioned above. On many occasions, the Park Rangers have moved the public behind the rope barrier. The City Park Ranger has in the past ticketed individuals enjoying the beach for unauthorized recreation. Most recently, despite numerous requests, the City Park Ranger has refused to assist the public in gaining access to the water. When animal activists have blocked the



stairs, formed a human chain, harassed fishermen and screamed through a bullhorn, "get off the beach", the Ranger has refused to "assure access", enforce State laws and Municipal Codes or provide assistance to the public. In one case, the San Diego Union-Tribune was able to photograph a chain and concrete barrier placed across the opening in the rope barrier and illegally preventing access. On several occasions, the Ranger has been asked to investigate and/or prevent harassment or outright obstruction of access for fishermen in violation of Fish & Game Code Section 2009 as well as numerous Municipal Codes. Although the City Park Ranger has ticketed individuals using the beach, the Ranger has not worked to "assure that public access is provided" despite the claim of the City of San Diego Park and Recreation Department. It is absolutely clear that the purpose of the Ranger and the rope is to deter access and this is what the Coastal Commission should be concerned about.

California Environmental Quality Act:

As noted in the CEQA Guidelines (14 CCR §15002), "An agency will normally take up to three separate steps in deciding which document to prepare for a project subject to CEQA. (1) In the first step the lead agency examines the project to determine whether the project is subject to CEQA at all. If the project is exempt, the process does not need to proceed any farther. The agency may prepare a notice of exemption.... (2) If the project is not exempt, the lead agency takes the second step and conducts an initial study (Section 15063) to determine whether the project may have a significant effect on the environment... (3) If the initial study shows that the project may have a significant effect, the lead agency takes the third step and prepares an EIR". Obviously, as a discretionary approval subject to both Coastal Commission and City of San Diego approval, the rope barrier project is ordinarily subject to CEQA. A Notice of Exemption was previously filed for the earlier temporary (partial year) rope barrier permit. However, the project has not only changed in scope but description as well. The year-round rope barrier is a permanent structure which would not meet the same exemption for "placement of seasonal or temporary use items such as lifeguard towers... in generally the same locations from time to time in publicly owned parks". The new rope permit therefore may no longer be categorically exempt under CEQA. Additionally, the change from a 130 foot rope to a 148 foot rope is a change in description which explicitly does not meet the conditions of the earlier Site Development Permit on which the earlier CEQA exemption was based. The City of San Diego Municipal Code states, "As part of the preliminary review of an activity proposed within the City of San Diego, the Development Services Director shall determine whether the proposed activity is exempt from CEQA as described in Section 128.0203 and in the State CEQA Guidelines, Section 15061 and shall file a Notice of Right to Appeal Environmental Determination in accordance with Section 112.0310" (§128.0207 (a)). The City of San Diego Development Services Department has been repeatedly contacted by interested parties and no new Notice of Exemption or Notice of Right to Appeal Environmental Determination has been prepared consistent with the City of San Diego Municipal Code. Since the current permit demonstrably cannot fall under the previous exemption and no new one has been prepared for the currently proposed rope barrier, the Coastal Commission, as a Public Agency cannot take action. It is clear that the first step mentioned in the CEQA Guidelines has not yet been completed. The environmental effects of the year-round rope barrier are unknown. On the other hand, the denial of a project is not subject to CEQA. Therefore, denial of the project is the only action left to the Coastal Commission.




Conclusion:

The Children's Pool Beach was once described in National Geographic by the words, "Even Alice, fresh from Wonderland, would have gasped at the landscape spread below me". What was recognized as a treasure of the City of San Diego and one of the most enduring gifts of a past generation has become an unsightly ruin. The access road to the Children's Pool Beach has already been closed by a locked gate and the stairs are blocked virtually every night by cones, duct tape, chains, concrete and rope. The City of San Diego has done its part in installing an illegal seasonal rope barrier with outright beach closures in the past. Unfortunately, the "convenient access" and "right to fish" guaranteed by the State Constitution and State law has been sadly impacted through the actions of the City of San Diego. The State of California has reserved over five and a half miles of coastline surrounding the Children's Pool on both sides for State Marine Reserves where the seals can be protected. However, the City of San Diego wishes to further impede access at the Children's Pool Beach.

The City of San Diego has requested a year-round rope barrier permit and has plans for an outright beach closure in clear violation of State law and the Constitution. The purpose of the California Coastal Commission is to preserve public access to coastal resources. After losing over 70% of the coastline of La Jolla for fishing, it is the clear responsibility of the Coastal Commission to maintain and enhance access at the few remaining beaches. Of these beaches, the CP beach is most significant for spearfishermen not only for its historical aspects but for safety reasons. The City of San Diego has repeatedly broken State laws as has been proven in court. They have not lived up to the permit conditions they themselves wrote and approved. They have prohibited access and have made repeated and ongoing attempts to impact access at this beach. When will this stop? The fiction that the rope barrier does not impede access has repeatedly been shown as a lie. The City has not complied with the law in the past, what assurance do we have that they will in the future? It is clear that the rope barrier does not comply with the City of San Diego, Municipal Code, State Law, Federal Law or the State Constitution. The environmental effects of the year-round rope barrier remain unclear. With all these problems, the Coastal Commission must deny this permit request as well as any future proposals to impact access on the Children's Pool Beach. I would request that the California Coastal Commission investigate past violations of the Coastal Act by the City in this location and rescind the existing seasonal rope barrier Coastal Development Permit. We request the Coastal Commission's assistance in restoring full and convenient beach access at the Children's Pool

Sincerely,

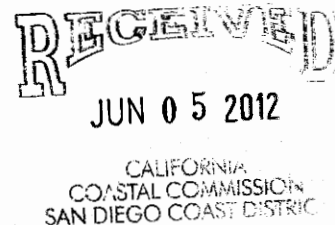

Justin P. Schlaefli
President- San Diego Freedivers

Cc: Sherilyn Sarb, Deputy Director, San Diego Coast District Office; Deborah Lee, District Manager

original to file
cc: DNL
Lee McEachern



David Pierce
9344 Leticia Drive
Santee, Ca. 92071
6-1-12



Coastal Commission, c/o Kanani Brown
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402

File 6-11-078

Not in favor of Children's Pool rope barrier permit

To all commissioners,

The rope is a line in the sand that causes more problems than it solves and creates contention and lawlessness. It makes people hate the seals. Shared use is a solution, not a problem. The seals are just a concession, like a merry go round the City might want to favor attracting tourists over local use. CCC approval will allow conversion of any California parkland to inappropriate defacto animal reserves on public beaches for gain.

The Coastal Commission should not bow to special interest groups determined to convert historic tidelands solely to their desired use. We can share. They cannot. A suit is now filed against the State and San Diego for violation of the 1931 Tidelands Trust. It will prevail easily and if the CCC acts in haste to encourage San Diego with a permit allowed by a twisting its own procedures, it stands to be reversed in the courts. This matter needs a special legal study, not a one day pile of opinions and special interest claims. There is no emergency. This is only a stepping stone for a closure of the entire beach 5 months every year. Let San Diego show it should have that first, and then approve a summer rope.

This matter needs a studied legal opinion, not a one day flurry of personal opinions and anecdotal claims. There is no emergency. This permit would be forever. This "buffer" created denies use of the entire beach because it sweeps completely across. Turn the rope the other way so people and seals can have vertical accesses. This is called "an effective visual deterrence" by the City. That is all you need to know. It is more than an encroachment. It is a means of denial of access.

The City states it has not completed any technical studies on the effectiveness of the rope. If it is effective, it is a denial of access. If it is not, then it is a perpetual mistake. Pick one. The City states no records of human impacts on seals have been kept. CCC endorsement of a permanent "visual deterrent" will impact 100,000 humans for unsubstantiated reasons. The City states instances of seal aggression towards humans on land have not been documented. It states no substantiated reports of malicious or violent behavior by a human towards a seal at the Children's Pool been filed or observed. It wants a permanent solution but alleges it has no problem. People get stung by stingrays at La Jolla Shores. There is no rope across that beach. There are lots of sea lions at La Jolla Cove. There is no rope across that beach. That's good.

There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat; it is cultivating an unnatural habitat.

The CCC has a proud history of preventing greedy corporations with seaside holding from preventing public access for convenience. San Diego is just such a greedy landed corporation.

Protect us, and the children that this small beach was intended for.

A handwritten signature in black ink, appearing to read "Art Pine". The signature is fluid and cursive, with the first name "Art" and the last name "Pine" clearly distinguishable.

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SAN DIEGO COAST DISTRICT

Patricia & Mark Nussbaum
6292 Avenida Cresta
La Jolla, CA 92037

June 2, 2012

Ms. Kanani Brown
California Coastal Commission
7575 Metropolitan Dr., Ste. 103
San Diego, CA 92108-4402

Dear Ms. Brown:

We are writing about File 6-11-078, the Children's Pool in La Jolla. As 22 year La Jolla residents, we remember back when "shared use" actually worked. We would take our three sons, (now ages 24, 26 & 28) to this beach where they would romp in the small waves and play in the sand. Seals would come and go in close proximity to people. Divers and swimmers went into and came out of the water without incident. There were no signs, banners or ropes. It was very pleasant and peaceful.

Most seals hauled out on the big rock north of the Children's Pool. In fact, visitors and local walkers would stop along the sidewalk, well north of the lifeguard station, to view the big rock and watch the seals. It's where most of the seal activity occurred.

Like many La Jollans, we have been very distressed by the making of the Children's Pool into a tourist destination, something like a free SeaWorld attraction. We resent the massive tour buses, the extra traffic in an already busy area. When we try to park to visit a friend in the Casa de Manana across the street, we have to circle the block two or three times to find an open space.

We are opposed to the rope barrier at any time during the year. Prior to the imposition of the January-May barrier, seals somehow had their offspring and nursed them....have you ever thought about that? How did pupping occur before the rope barrier?

Please allow this beach to return to its early 1990s condition: people and seals peacefully sharing the beach without any ropes. Thank you very much.

Sincerely,



Patricia & Mark Nussbaum
(H) 858-454-9625

6-11-078

California Coastal Commission
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

Re: Children's Pool Coastal Development Permit Application #6-11-078

Somehow we are supposed to prepare for a hearing on a permit that is not a permit with no SDP and no CDP because San Diego is being given a rare dispensation. It gets a permit hearing on a permit under Coastal Commission jurisdiction, for historic trusted tidelands which can only bless its efforts to go back and try to get such a thing through its local coastal land use procedures after failing for 2 years.

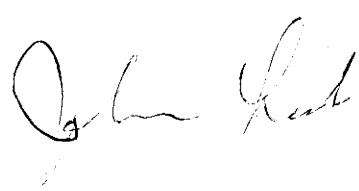
This is just like the waiver San Diego requested with no justification but it is not a waiver of procedure nor is there any name for it.

San Diego was expressly told it had to submit an entirely new permit as a Coastal Commission jurisdiction permit. It has not done so. After a bad start, it has submitted something amounting to a date change to a locally-self granted permit. The first was rejected. An incomplete reply followed. Then an amendment was requested. After each of these, the Staff was supposed to reply with a letter within 30 days letting Parks and Rec know its application was complete or not. I have found no record of such, which explains why the City has not tried to submit a proper permit application. It can rightfully claim it was not their fault.

You have plenty of documented communications from the San Diego public as to why this permit would be illegal. I still give you my honest best advice. Do not let San Diego heap the responsibility for its malfeasance on your desk. Send the whole mess back to San Diego to produce a single legitimate permit application – the last one – the one that solves their problems – not just a stepping stone. San Diego has wasted the last 6 months when it could have been at least starting its local land use procedures to make such a permit legal. It has done nothing.

There is no emergency. That is well established. Extending special privilege to San Diego has only wasted half a year while waiting for them to produce a coherent plan with any justification included. Without well ordered civil paperwork from the City, you will have to preside over a confused mass of frustrated citizens unaware of what is at stake or how to address issues in some manner above that of a quiz show or popularity contest. You are not obliged to sort out this mess just because San Diego can't get used to not having absolute jurisdiction by whim. Send it back.

John Leek jleek001@san.rr.com



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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



Raymond B. Whitmer
Secretary-Treasurer



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June 11, 2012

Kanani Brown
Coastal Commission File 6-11-078
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Suggestions for Children's Pool

Dear Kanani:

It is my understanding that the Coastal Commission will be considering whether to approve a year round rope at the Children's Pool. I would like to weigh in on behalf of the Lifeguards that have worked at the area for years. I want to make it clear that I am speaking as the union representative, and I am in no way speaking on behalf of the City. I feel that my fellow Lifeguards and I have valuable information that the commission should hear prior to making such an important decision.

We believe that a year round rope will not help the current situation. There truly is no reason to have it and the ability to compromise on a common sense solution needs to be considered. There are two simple facts that should be looked at: seals do not like the beach when it is warm out or during extreme low tide and during these times, they prefer to be on the rocks. People, especially children, do not use the pool when it is cold. The rope was somewhat effective until it became clear that there is no legal way to enforce it. People pass freely over, under and around it. Lifeguards, Rangers and Police receive countless calls about those crossing over. It takes up resources and distracts us from our primary mission.

We propose that rather than putting up the rope, we instead use large moveable boulders. The boulders would create a separate pool within the pool. During the winter months, the seals use the beach more frequently. During pupping season, it would be logical to block approximately seventy-five percent of the beach. The rocks would be adjusted so that twenty-five percent of the beach would be left open to the public. It would include an area on the east side close to the stairs that would have water

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*File per 18 June 5th
attached*

Page two
June 11, 2012
Kanani Brown

access. Seventy-five percent of the beach would be blocked off for the seals.

During the summer months, beginning after the pupping season, the rocks would be adjusted to the west. Twenty-five percent of the beach would be roped off for the few seals that use the beach during the warmer months. The rest of the beach would remain open for the public. By doing so, there would be no reason to cross into the protected area. Access and protection would be achieved so you would have more acceptance from the community. The seals naturally gravitate towards the wall, this would be the area reserved for them.

It is important to note that the Lifeguards have remained neutral. We enjoy the seals and the public equally. There have been copious amounts of misinformation put out from both sides. We believe the seals need space during the pupping season. We have observed the people and seals cohabitating far before this was a newsworthy debate. Contrary to what is often portrayed, the seals do not fear us. They frequently follow swimmers, snorkelers and divers for hours. They play with our fins and playfully bump us with their bodies.

On another note, we are deeply concerned about contamination of the water and sand. If one were to visit a local dog park, there are signs encouraging all to pick up after their pet. The signs provide information about the dangers of bacteria due to fecal matter. Imagine if no one picked up after his or her pet in your local park. There has been no cleanup of seal feces at the Children's Pool that I am aware of. We have had several hundred seals defecating on the beach daily for over ten years. The bacteria have percolated through the sand and have polluted the water. As part of the plan, we suggest that each time the rocks are moved, several feet of sand should be moved out. We would like the Coastal Commission to address this issue and consider recommending a low cost solution.

The Children's Pool has an unnatural structure that traps sand and bacteria like no other place in San Diego. Natural flushing is prevented even during the largest swell and tide. On most beaches, large quantities of sand shift from one beach to another. Large swells can take ten to fifteen feet of sand off a beach in a day. Smaller swells push sand up and can replace it in equal time. The north swells of winter often take sand from various beaches and then the south swell brings it back. The

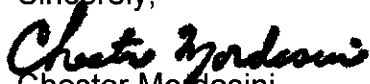
Page three
Kanani Brown
June 11, 2012

movement of sand is most noticeable at Windansea, Boomer and Shell Beach. Clean up does not require expensive dredging and hauling. The City moves sand and cleans beaches year round.

As a solution, we suggest to use City bulldozers to scoop sand out of the pool after pupping season. The bulldozer can easily dump the sand over the wall. The south swell will clean the sand and replace it. Seal feces are a natural element that will no longer pollute the area once dispersed into smaller quantities.

Please take these matters into consideration. Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Chester Mordasini". The signature is stylized with a cursive script.

Chester Mordasini
Teamsters Local 911 President

Enclosures

c: Jerry Sanders, Mayor
 David Alvarez, Councilmember
 Carl DeMaio, Councilmember
 Marti Emerald, Councilmember
 Kevin L. Faulconer, Councilmember
 Todd Gloria, Councilmember
 Sherri S. Lightner, Councilmember
 Tony Young, Councilmember
 Lorie Zapf, Councilmember
 Ed Harris

JUN 14 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT





Coastal Commission File 6-11-078
C/O Kanani Brown
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

6/2/2012

Re: From the lifeguard's view

It is my understanding that the Coastal Commission will be considering whether to approve a year round rope at the Children's Pool. I would like to weigh in on behalf of the Lifeguards that have worked the area for years. I want to make it clear that I am speaking as the union representative, and I am in no way speaking on behalf of the City. As a twenty-three year veteran and current sergeant, I feel that my fellow Lifeguards and I have valuable information that the commission should hear prior to making such an important decision.

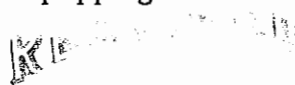
A year round rope will not help the current situation. There really is no reason to have it. The ability to compromise on a common sense solution needs to be considered. There are two simple facts that should be looked at. Seals do not like the beach when it's warm out or during extreme low tide. During these times, they prefer to be on the rocks. People, especially children, do not use the pool when it's cold. The rope was somewhat effective until it became clear that there is no legal way to enforce it. People pass freely over, under and around it. Lifeguards, Rangers and Police receive countless calls about those crossing over. It takes up resources and distracts us from our primary mission.

Solution

Rather than putting up the rope, use large moveable boulders. The boulders would create a separate pool within the pool. During the winter months, the seals use the beach more frequently. During pupping season, it would be logical to block approximately seventy five percent of the beach. The rocks would be adjusted so that twenty five percent of the beach would be left open to the public. It would include an area on the east side close to the stairs that would have water access. Seventy five percent of the beach would be blocked off for the seals.

During the summer months, beginning after the pupping season, the rocks would be adjusted to the west. Twenty five percent of the beach would be roped off for the few seals that use the beach during the warmer months. The rest of the beach would remain open for humans. By doing so, there would be no reason to cross into the protected area. Access and protection would be achieved so you would have more acceptance from the community. The seals naturally gravitate towards the wall; this would be the area reserved for them.

It is important to note that the Lifeguards have remained neutral. We enjoy the seals and humans equally. There have been copious amounts of misinformation put out from both sides. We believe the seals need space during the pupping season.


JUN 05 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

We have observed humans and seals cohabitating far before this was a newsworthy debate. Contrary to what is often portrayed, the seals do not fear us. They frequently follow swimmers, snorkelers and divers for hours. They play with our fins and playfully bump us with their bodies.

Contamination

We are deeply concerned about contamination of the water and sand. If you visit your local dog park, there are signs encouraging all to pick up after their dog. The signs provide information about the dangers of bacteria due to fecal mater. Imagine if no one picked up after his or her dog in your local park. There has been no clean up of seal feces at the Children's Pool that I am aware of. We have had several hundred seals defecating on the beach daily for over ten years. The bacteria have percolated through the sand and have polluted the water. As part of the plan, we suggest that each time the rocks are moved, several feet of sand should be moved out. We would like the Coastal Commission to address this issue and consider recommending a low cost solution.

Solution

The Children's Pool is an unnatural structure that traps sand and bacteria like no other place in San Diego. Natural flushing is prevented even during the largest swell and tide. On most beaches, large quantities of sand shift from one beach to another. Large swells can take ten to fifteen feet of sand off a beach in a day. Smaller swells push sand up and can replace it in equal time. The north swells of winter often take sand from various beaches, then the south swell brings it back. The movement of sand is most noticeable at Windansea, Boomer and Shell Beach. Clean up does not require expensive dredging and hauling. The City moves sand and cleans beaches year round.

SKIPLoaders

Use City bulldozers to scoop sand out of the pool after pupping season. The bulldozer can easily dump the sand over the wall. The South swell will clean the sand and replace it. Seal feces are a natural element that will no longer pollute the area once dispersed into smaller quantities.

Ed Harris, Teamsters Local 911

SKIPLoaders





begin boulder
boundary

seal pupping area
(winter)

public area
(winter)

end boulder
boundary

Children's Pool
Seal Pupping Season



begin boulder
boundary

seal area
(summer)

end boulder
boundary

public area
(summer)

Children's Pool
Seal Non-Pupping Season

Coastal Commission file 6-11-078 (Children's Pool)
Attn: Kanani Brown,
Fax # (619) 767-2384

Dear Commission members,

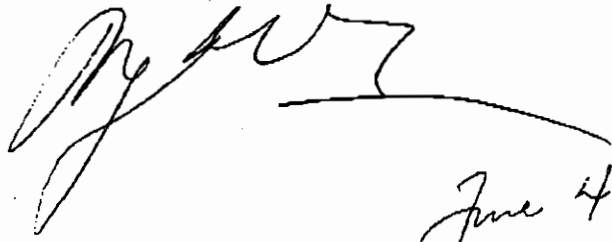
I am a long time La Jolla resident and am against the limiting of the use of the Children pool by Children (human)

Why is it possible to restrict usage of a public beach for use of a selected few??

The seals are growing to over populating that small man made beach, will they be taking over other beaches as the seal move to the other area?

Please do your job of protecting the coast! I would like to see my grand children play in an area where the rip current can't harm them.

Sincerely,
Inge Wang



June 4, 2012

RECEIVED

JUN 05 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

JUN 05 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

6-11-078

change.org

To: California Coastal Commission and San Diego City Council
Subject: **Preserve human access and enjoyment of the Children's Pool in La Jolla, CA**
Letter: Greetings,

I just signed the following petition addressed to: California Coastal Commission and San Diego City Council.

Preserve human access and enjoyment of the Children's Pool in La Jolla, CA

Eco-groups and "friends of the seals" have orchestrated a campaign of harassment and intimidation against divers, fishermen and the beach-going public for over a decade now. Actions such as throwing rocks, spitting, stealing, vandalizing, punching, shoving, yelling profanity and even assaults with a stun gun perpetrated by animal-extremists against beach-goers and tourists are commonplace and often ignored by the police and the City of San Diego. Additionally, despite court orders and in violation of state law, the City of San Diego has continuously ignored its obligations to the citizens of the State of California and residents of San Diego. These obligations are set-out in the so-called Children's Pool Trust and the State Constitution. Among these obligations is the guaranteed right of "convenient access" to the Children's Pool beach for fishermen. Despite this constitutional right to access, the City has, in the past, closed this beach and continues to post rope barriers and warnings across the beach. The City has even sought to outright close the beach and pool for part of the year in violation of State law and the Constitution.

Unfortunately, what was once recognized as a true San Diego treasure and originally built primarily for a Children's bathing pool and playground has been neglected and virtually destroyed. Hollywood once shot movies there. Detroit shot a car commercial at the Children's Pool. The first permanent San Diego Lifeguard Station was constructed there. National Geographic once wrote of the Children's Pool: "Even Alice, fresh from Wonderland, would have gasped at the landscape spread below me". However, we have a lifeguard station which has been condemned. We have "port-a potties" on the sidewalk. The sea wall and stairs are literally crumbling. The cliff-side has collapsed onto the beach and undermined the sidewalk. Extremists populate the sidewalk shouting obscenities at anyone with the temerity to step foot on the beach. The City Police Department has a special "policy" not to enforce many City codes and ordinances at the Children's Pool. The sand is polluted with seal feces. This San Diego treasure has nearly been lost.

A proposal to either close the beach and/or further encroach on public access is before the Coastal Commission and San Diego City Council. We respectfully petition that the rights of the citizens of the State of California

be recognized and the Children's Pool beach remain open and be quickly restored to its original condition. Please do not allow this treasure entrusted to us from previous generations to be destroyed and sold to environmental activists. Keep the Children's Pool open! Do not approve any proposal to close or limit access at the Children's Pool beach.

Sincerely,

Signatures

Name	Location	Date
Justin Schlaefli		2012-03-08
Brett Bertr	San Diego, California, United States	2012-03-08
Patricia Daly-Lipe	Haymarket, Virginia, United States	2012-03-08
Dan Byrnes	San Diego, California, United States	2012-03-08
Brett Palser	el Cajon, California, United States	2012-03-08
Ryan Sweeney	San Diego, California, United States	2012-03-08
Brian Kendrick	Venice, California, United States	2012-03-08
Sandi Nielubowicz	Santee, California, United States	2012-03-08
Bob Ewing	San Diego, California, United States	2012-03-08
phyllis minick	La Jolla, California, United States	2012-03-08
Kent Trego	La Jolla, California, United States	2012-03-08
thomas lynch	San Diego, California, United States	2012-03-08
Concerned Citizen	New City, New York, United States	2012-03-08
Butch Batten	Oceanside, California, United States	2012-03-08
David Pierce	Santee, California, United States	2012-03-08
Christopher Davis	Vista, California, United States	2012-03-08
Daniel McRae	San Diego, California, United States	2012-03-08
Michael Delgado	San Diego, California, United States	2012-03-08
bryant smyth	Temecula, California, United States	2012-03-08
Jordan Hamann	San Diego, California, United States	2012-03-08
scott Gardner	San Diego, California, United States	2012-03-08
Ken Hunrichs	San Diego, California, United States	2012-03-08
John Leek	San Diego, California, United States	2012-03-09
Cecily Jenkins	Oceanside, California, United States	2012-03-09
Daniel Burke	Dana Point, California, United States	2012-03-09
Chris McRae	San Diego, California, United States	2012-03-09
Anne Cleveland	La Jolla, California, United States	2012-03-09
Tara Davis	Vista, California, United States	2012-03-09
Alyss Lange	Boca Raton, Florida, United States	2012-03-09

Name	Location	Date
Bradley Doke	bonsall, California, United States	2012-03-09
Cody Gilstrap	El Cajon, California, United States	2012-03-09
Katherine Vineyard	la jolla, California, United States	2012-03-09
Randy Thomas	san diego, California, United States	2012-03-09
Monica Chase	Piedmont, California, United States	2012-03-09
John Steel MD	La Jolla, California, United States	2012-03-09
Dana Joseph	san diego, California, United States	2012-03-09
JOEL OLENIK	SAN CLEMENTE, California, United States	2012-03-09
Kevin Lass	San Diego, California, United States	2012-03-09
Davin Dandoy	Torrance, California, United States	2012-03-09
andy stock	San Francisco, California, United States	2012-03-09
Brian Bailey	Huntington Beach, California, United States	2012-03-09
Cliff Crozier	Littleton, Colorado, United States	2012-03-09
Alicia Dandoy	Torrance, California, United States	2012-03-09
Barbara Held	San Diego, California, United States	2012-03-09
Roger Cobb	Oceanside, California, United States	2012-03-09
Maddie Alanis	La Jolla, California, United States	2012-03-09
Michael Gould	Ventura, California, United States	2012-03-09
Allen Repashy	La Jolla, California, United States	2012-03-09
Brittany Cobb	Oceanside, California, United States	2012-03-09
Erika Pettite	Anaheim, California, United States	2012-03-09
Damien Salerno	San Diego, California, United States	2012-03-09
Doug Burley	San Diego, California, United States	2012-03-09
Lyf Todd	Laguna Beach, California, United States	2012-03-09
jeff brecht	murrieta, California, United States	2012-03-09
Marcia Littler	La Jolla, California, United States	2012-03-09
David Johnson	San Diego, California, United States	2012-03-09
Anthony Porrello	san diego, California, United States	2012-03-09
Romel Hokanson	San Diego, California, United States	2012-03-09

Name	Location	Date
Lilo Creighton	La Jolla, California, United States	2012-03-09
Robert Jenkins	Oceanside, California, United States	2012-03-09
Nathan Yates	Lakewood, California, United States	2012-03-09
Nick Schillign	el cajon, California, United States	2012-03-09
Marisa Espinosa	Chula Vista, California, United States	2012-03-09
William Brown	Poway, California, United States	2012-03-09
John Weymouth	Moorpark, California, United States	2012-03-09
Andrew Lee	Torrance, California, United States	2012-03-09
Jack Brown	San Diego, California, United States	2012-03-09
Garry Lough	Wylie, Texas, United States	2012-03-09
Casey Jardim	San Diego, California, United States	2012-03-09
Randy Barry	San Diego, California, United States	2012-03-09
Ashley Davis	SAN DIEGO, California, United States	2012-03-09
Scott Darnell	San Diego, California, United States	2012-03-09
Rita Alanis	La Jolla, California, United States	2012-03-09
Chris White	Temecula, California, United States	2012-03-09
richard guarascio	la jolla, California, United States	2012-03-09
Alan Van Antwerp	El CAjon, California, United States	2012-03-09
Edward Brandreth	Encinitas, California, United States	2012-03-09
Rose Marie Krupens	San Diego, California, United States	2012-03-09
David Smith	La Mesa, California, United States	2012-03-09
Larry Redden	Lakeside, California, United States	2012-03-10
Tom Peek	Park City, Utah, United States	2012-03-10
Herendira Alanis	La Jolla, California, United States	2012-03-10
Nicholas DuMong	Santa Barbara, California, United States	2012-03-10
William Miller	La Jolla, California, United States	2012-03-10
Dina Robinson	La Jolla, California, United States	2012-03-10
Yasiu Kruszynski	Chicago, Illinois, United States	2012-03-10
john sabin	La Joll, California, United States	2012-03-10
Becky Conder	Lehi, Utah, United States	2012-03-10

Name	Location	Date
Linda Evans	La Jolla, California, United States	2012-03-10
Wayne Katzw	San Diego, California, United States	2012-03-10
kim woodworth	Escondido, California, United States	2012-03-10
Lewis Robinson	La Jolla, California, United States	2012-03-10
BARBARA BENSON	YONKERS, New York, United States	2012-03-10
Jerry Burleson	San Diego, California, United States	2012-03-10
Nicole Perry	Austin, Texas, United States	2012-03-10
Tom Benzing	La Jolla, CA, California, United States	2012-03-10
Bob Whitney	La Jolla, California, United States	2012-03-10
Boni Scott	San Diego, California, United States	2012-03-10
Ronald Newcomb	San Diego, California, United States	2012-03-10
Cassandra Ewing	San Diego, California, United States	2012-03-10
Ronald Hancock	San Diego, California, United States	2012-03-10
SANDRA ALBERT	KNOXVILLE, Tennessee, United States	2012-03-10
Tom Narasaki	Camarillo, California, United States	2012-03-10
charles collins	El Cajon, California, United States	2012-03-10
Michael Mann	Oceanside, California, United States	2012-03-10
Dolores Robbins	La Jolla, California, United States	2012-03-10
john merutka	san diego, California, United States	2012-03-10
John Moorehead	La Mesa, California, United States	2012-03-10
Ryan Lawler	Newport Beach, California, United States	2012-03-10
Laura Katz	San Diego, California, United States	2012-03-10
Patricia Keim	La Jolla, California, United States	2012-03-10
Mary Gantz	La Jolla, California, United States	2012-03-10
Carmen Piscitelli	La Mesa, California, United States	2012-03-10
John Benton	La Jolla, California, United States	2012-03-11
Timothy Abrams	Escondido, California, United States	2012-03-11
Steele Lipe	Haymarket, Virginia, United States	2012-03-11
Marshall Sass	Austin, Texas, United States	2012-03-11
Donald Dawson	El Cajon, California, United States	2012-03-11

Name	Location	Date
Ethna Piazza	La Jolla, California, United States	2012-03-11
Bruce Wilson	La Mesa, California, United States	2012-03-11
Matt Burnes	La Mesa, California, United States	2012-03-11
William Hunrichs	San Diego, California, United States	2012-03-11
Dave PETERSON	La Jolla, California, United States	2012-03-11
Elizabeth Katz	San Dieo, California, United States	2012-03-12
Richard Boyce	La Jolla, California, United States	2012-03-12
Elaine Rogers	La Jolla, California, United States	2012-03-12
Olivia Boyce	La Jolla, California, United States	2012-03-12
Sherryle Barker	San Diego, California, United States	2012-03-12
David Russell	San Diego, California, United States	2012-03-12
Alnoor Alarakhia	San Diego, United States Minor Outlying Islands	2012-03-12
Marshall Bubel	San Diego, California, United States	2012-03-12
Kurt Frees	Cincinnati, Ohio, United States	2012-03-12
sara stolarski	Troy, Michigan, United States	2012-03-12
Deborah Daine	Glenwood Springs, Colorado, United States	2012-03-12
Joseph & Clementine Whelan	Spring Valley, California, United States	2012-03-13
George Greer	Temecula, California, United States	2012-03-13
Patricia R Nussbaum	La Jolla, California, United States	2012-03-13
Amy Cheshire	La Jolla, California, United States	2012-03-13
Nancy Taxson	La Jolla, California, United States	2012-03-13
ruth hansen	La Jolla, California, United States	2012-03-13
David Valentine	La Jolla, California, United States	2012-03-13
Jamison Ginsberg	La Jolla, California, United States	2012-03-13
Lori Frankhauser	La Jolla, California, United States	2012-03-13
Mary Ann Eger	La Jolla, California, United States	2012-03-13
Kathleen Steele	San Diego, California, United States	2012-03-13
Murray Helm	La Jolla, California, United States	2012-03-13
Doris White	La Jolla, California, United States	2012-03-13

Name	Location	Date
Gary Frankhauser	La Jolla, California, United States	2012-03-13
Kay Stafford	La Jolla, California, United States	2012-03-13
Pamela Amundson	San Diego, California, United States	2012-03-13
Leslie Barbier	La Jolla, California, United States	2012-03-13
Clement Hoffman	La Jolla, California, United States	2012-03-13
Amy Crocker	Del Mar, California, United States	2012-03-13
Caroline Nierenberg	La Jolla, California, United States	2012-03-13
Eugene Novak	Framingham, Massachusetts, United States	2012-03-13
Nicolas Nierenberg	La Jolla, California, United States	2012-03-13
Carol Novak	Framingham, United States Minor Outlying Islands	2012-03-13
Enrica Pearson	La Jolla, California, United States	2012-03-13
EDITH KORNBERG	La Jolla, California, United States	2012-03-13
Joan Chesner	La Jolla, California, United States	2012-03-13
Barbara Lubin	La Jolla, California, United States	2012-03-13
Patrick Cunningham	San Diego, California, United States	2012-03-13
sophia wong	la jolla, California, United States	2012-03-13
Barbara Hoffman	La Jolla, California, United States	2012-03-13
M Ruth Lawson	La Jolla, California, United States	2012-03-13
Matthew Poole	San Diego, California, United States	2012-03-13
Marianne Nakamura	La Jolla, California, United States	2012-03-13
wilma engel	la jolla, California, United States	2012-03-13
Connie Brown	LaJolla, California, United States	2012-03-13
Diana Saxon	El Cajon, California, United States	2012-03-13
Theresa Kruger	La Jolla, California, United States	2012-03-13
Raymond Patridge	poway, California, United States	2012-03-13
michael osment	La Jolla, California, United States	2012-03-14
Timothy Barry	La Jolla, California, United States	2012-03-14
Daniel Cox	San Diego, California, United States	2012-03-14
Liana Bowdler	La Jolla, California, United States	2012-03-14

Name	Location	Date
Alicia Booth	La Jolla, California, United States	2012-03-14
Mark Roberts	La Jolla, California, United States	2012-03-14
charles booth	LA JOLLA, California, United States	2012-03-14
Barbara Paull	San Diego, California, United States	2012-03-14
Joan Ogelsby	San Diego, California, United States	2012-03-14
Greg W	la jolla, California, United States	2012-03-14
shannon van buskirk	La Jolla, California, United States	2012-03-14
Brandon Evangelista	Toronto, Canada	2012-03-14
Davidq Ambrose	Poway., California, United States	2012-03-14
kelly dougherty	la jolla, California, United States	2012-03-14
Janet Lind	La Jolla, California, United States	2012-03-14
Harvey Rosenkrantz	La Jolla, California, United States	2012-03-14
jacky feighan	La Jolla, United States Minor Outlying Islands	2012-03-14
Sergio M	Los Angeles, California, United States	2012-03-14
James Peyton	San Antonio, Texas, United States	2012-03-14
Bob Ginsberg	La Jolla, California, United States	2012-03-14
kathy bettles	La Jolla, California, United States	2012-03-14
steve bettles	La Jolla, California, United States	2012-03-14
Anne Horton	Kirkwood, Missouri, United States	2012-03-14
Jim Entwisle	San Diego, California, United States	2012-03-14
Linda Rutgard	La Jolla, California, United States	2012-03-14
Mitch Thrower	La Jolla, California, United States	2012-03-15
Richard Burns	La Mesa, California, United States	2012-03-15
Raoul Harpin	La Jolla, California, United States	2012-03-15
Nelson Alapi	La Jolla, California, United States	2012-03-15
LaDonna Sullivan	Gilbert, Arizona, United States	2012-03-15
Ken McKeown	San Diego, California, United States	2012-03-15
Jim Tetlow	La Jolla, California, United States	2012-03-15
Marie Hunrichs	San Diego, California, United States	2012-03-15

Name	Location	Date
Bambi Merryweather	La Jolla, California, United States	2012-03-15
Tracy Nelson	La Jolla, California, United States	2012-03-15
Wes Jones	San Diego, California, United States	2012-03-15
Melissa Cunningham	San Diego, California, United States	2012-03-15
Elizabeth Nichol	La Jolla, California, United States	2012-03-16
Steve Preddy	San Diego, California, United States	2012-03-16
Thomas Stanton	La Jolla, California, United States	2012-03-16
Maile Aguerre	La Jolla , California, United States	2012-03-16
Jakue Aguerre	La Jolla, California, United States	2012-03-16
Kaila Aguerre	La Jolls, California, United States	2012-03-16
Tiare Aguerre	La Jolla, California, United States	2012-03-16
Dan Simonelli	San Diego, California, United States	2012-03-17
Michelle Conway	La Jolla, California, United States	2012-03-17
joseph pereue	san diego, California, United States	2012-03-17
Scott Brown	San Diego, California, United States	2012-03-18
Rosemary Shadek	La Jolla, California, United States	2012-03-18
Linda Dieckmann	La Jolla, California, United States	2012-03-18
Bakir Silajdzic	Irvine, California, United States	2012-03-19
tyler durden	la jolla , California, United States	2012-03-19
John Tench	Goleta, California, United States	2012-03-19
Dallas Morrow	San Jose, California, United States	2012-03-19
George ` staehling	seal beach, California, United States	2012-03-19
JOSHUA Russo	Fairfield, California, United States	2012-03-19
john schaar	Malibu, California, United States	2012-03-19
Daniel Joline	Chino Hills, California, United States	2012-03-19
Kris Cram	Pine Valley, California, United States	2012-03-19
Jeffrey Benedict	Long Beach, California, United States	2012-03-19
Louis Rosales	redondo beach, California, United States	2012-03-19
lonnie nelson	Santa Barbara, California, United States	2012-03-19
Eric Bodjanac	Moorpark, California, United States	2012-03-19

Name	Location	Date
Cheyne Peterson	Irvine, California, United States	2012-03-19
Joseph acevedo	fallbrook , California, United States	2012-03-19
CODY ANNETT	costa mesa, California, United States	2012-03-19
Devin Lew	San Diego, California, United States	2012-03-19
Jon Meyer	Chino Hills, California, United States	2012-03-19
jeff foust	huntington beach, California, United States	2012-03-19
Eric Stayton	Oceanside, California, United States	2012-03-19
Ethan Laird	Escondido, California, United States	2012-03-19
Roger Schlierkamp	Long Beach, California, United States	2012-03-19
Chris Flerro	San Diego, California, United States	2012-03-19
Mitchell Masuda	Sunnyvale, California, United States	2012-03-19
Scott Reznicek	Clovis, California, United States	2012-03-19
Tom Stahl	Chula Vista, California, United States	2012-03-19
Steven Rathfon	El Cajon, California, United States	2012-03-19
Austin Yule	Costa Mesa, California, United States	2012-03-19
Dan Wartian	Hawaiian Gardens, California, United States	2012-03-19
David Rada	San Diego, California, United States	2012-03-19
Stephan Grothues	Anaheim, California, United States	2012-03-19
Jack Kneeoff	la jolla, California, United States	2012-03-19
Albert Sopher	spring valley, California, United States	2012-03-19
Jon Reed	san diego, California, United States	2012-03-19
Denise Reed	san diego, California, United States	2012-03-19
Aric Curtis	San Diego, California, United States	2012-03-19
Gabriel Rodriguez	Santa Barbara, California, United States	2012-03-19
Scott Edgar	bend, Oregon, United States	2012-03-19
Brian Mills	Chino Hills, California, United States	2012-03-19
trevor roberson	newbury park, California, United States	2012-03-19
tony medina	san diego, California, United States	2012-03-19
Robert Moyer	Cqameron Park, California, United States	2012-03-19

Name	Location	Date
David Schniepp	Newport Beach, California, United States	2012-03-19
James Gillen	torrance, California, United States	2012-03-19
Alan BLake	Spring Valley, California, United States	2012-03-19
Ernesto Fernandez	San Diego, California, United States	2012-03-19
Eric Stewart	San Diego, California, United States	2012-03-19
Beatrice Reed	Poway, California, United States	2012-03-19
Tom Baronner	Solana Beach, California, United States	2012-03-19
Colin Willer	winfield, Canada	2012-03-19
steven Dye	santa monica, California, United States	2012-03-19
Darren Essman	Irvine, California, United States	2012-03-19
Santino Bernazzani	Concord, California, United States	2012-03-19
Krisann Shaler	san marcos, California, United States	2012-03-19
Myrran McKeen	Anaheim, California, United States	2012-03-19
Collin Chambers	Oceanside, California, United States	2012-03-19
Mary Olin	La Jolla, California, United States	2012-03-19
Pete Gutkowski	Jamul, California, United States	2012-03-19
Sandy Gutkowski	jamul, California, United States	2012-03-19
Stephen Anderson	San Diego, California, United States	2012-03-19
Nathan Golwitzer	La Mesa, California, United States	2012-03-19
jake wright	oceanside, California, United States	2012-03-19
Jess Macias	SAN BERNARDINO, California, United States	2012-03-19
John Barrus	Thousand Oaks, California, United States	2012-03-19
chris tota	santee, California, United States	2012-03-19
rocelle evangelista	La Mesa, California, United States	2012-03-19
Zach Davis	Oceanside, California, United States	2012-03-19
vincent hoang	san diego, California, United States	2012-03-19
David Sunderland	San Marcos, California, United States	2012-03-19
Scott Bamsey	Huntington Beach, California, United States	2012-03-19
Cary Humphries	San Diego, California, United States	2012-03-19

Name	Location	Date
Jared Wilmarth	san diego, California, United States	2012-03-19
Tsuey-Ying Tsai	La jolla, California, United States	2012-03-20
Toby Brittain	Lancaster, California, United States	2012-03-20
ARTURO AGUIRRE	LOS ANGELES, California, United States	2012-03-20
Jorge Santoy	Brownsville, Texas, United States	2012-03-20
Allain Armean	Vista, California, United States	2012-03-20
Reid Abrams	La Jolla, California, United States	2012-03-20
Tom Sim	Santa Clara, California, United States	2012-03-20
Tom Scripps	San Francisco, California, United States	2012-03-20
Kenneth Smith	Franklin, Wisconsin, United States	2012-03-20
Rob Andrew	Schomberg, Canada	2012-03-20
Joey S	los angeles, California, United States	2012-03-20
Terri Haas	La Jolla, California, United States	2012-03-20
Peter Venieris	san diego, California, United States	2012-03-20
Lino Veiga	HILMAR, California, United States	2012-03-20
Patrick Antonius	Laguna Niguel, California, United States	2012-03-20
scott rapp	cerritos, California, United States	2012-03-20
Patricia Komoroski	Strawberry Plains, Tennessee, United States	2012-03-20
Wendi Carlock	La Jolla, California, United States	2012-03-20
Robert Kuzman	Solana Beach, California, United States	2012-03-20
Timothy Hughbanks	Hollister, California, United States	2012-03-20
Mark Valade	Carlsbad, California, United States	2012-03-20
brett mehl	oxnard, California, United States	2012-03-20
todd farquhar	fullerton, California, United States	2012-03-20
Lisa Ramirez	Chino Hills, California, United States	2012-03-20
Margaret Wiesehan	San Diego, California, United States	2012-03-20
jeffrey miller	Avalon, California, United States	2012-03-20
alex angulo	Chino Hills, California, United States	2012-03-20
SEAN THOMPSON	OCEANSIDE, California, United States	2012-03-20

Name	Location	Date
KHOSROW MESRI	LA JOLLA, California, United States	2012-03-20
Angela Preisendorfer	La Jolla, California, United States	2012-03-20
Andrew Sneddon	foothill ranch, California, United States	2012-03-20
Michael Maheu	San Diego, California, United States	2012-03-20
Melissa Meyer	Chino Hills, California, United States	2012-03-21
Larry Simanek	Lakeside, California, United States	2012-03-21
Kyle Martin	San diego, California, United States	2012-03-21
Mark Martin	Escondido, California, United States	2012-03-21
Jake Friday	Runavík, Faroe Islands	2012-03-21
ellen haley	la jolla, California, United States	2012-03-21
mona cacciari	la jolla, California, United States	2012-03-21
Garrett Mattrocce	Reedley, California, United States	2012-03-22
Chris Frymann	La Jolla, California, United States	2012-03-23
Ross Myers	Alpine, California, United States	2012-03-25
Alexis Moustakas	San diego, California, United States	2012-03-30
Bart Sefton	La Jolla, California, United States	2012-03-30
Kathy Simmons	San Diego, California, United States	2012-03-31
rachel welsh	la jolla, California, United States	2012-03-31
Wayne Katz	San Diego, California, United States	2012-03-31
Lewis Robinson	La Jolla, California, United States	2012-03-31
Daira Paulson	La Jolla, California, United States	2012-03-31
John Benton	La Jolla, California, United States	2012-03-31
William Crane	San Diego, California, United States	2012-03-31
robert f. clarke	la jolla, California, United States	2012-03-31
Steven Dockstader	La Jolla, California, United States	2012-03-31
Paula Selby	La Mesa, California, United States	2012-03-31
Mark Price	Salt Lake City, Utah, United States	2012-03-31
toni boeh	san diego, California, United States	2012-04-01
Laurie Nicholson	Nashville, Tennessee, United States	2012-04-01
Kenneth van Wormer	Alpine, California, United States	2012-04-01

Name	Location	Date
Marva West	San Diego, California, United States	2012-04-02
Eugene Novak	Framingham, Massachusetts, United States	2012-04-02
Thomas Close	Del Mar, California, United States	2012-04-02
Raoul Harpin	La Jolla, California, United States	2012-04-02
Kathleen Harrison	La Jolla, California, United States	2012-04-02
Danielle Behr	La Mesa, California, United States	2012-04-02
Jon Luevanos	San Diego, California, United States	2012-04-02
Tom Reid	San Diego, California, United States	2012-04-03
nicholas arthur	la jolla, California, United States	2012-04-03
John Musselman	Jamestown, Rhode Island, United States	2012-04-03
Pamella BF Binder	Bay City, Michigan, United States	2012-04-03
Charles Dall	Merrill, Michigan, United States	2012-04-03
Peter Jensen	Del Mar Heights, California, United States	2012-04-03
Michael Dong	San Diego, California, United States	2012-04-03
chris Arthur	La Jolla, California, United States	2012-04-03
Joel montion	San Diego, California, United States	2012-04-04
Tim Kelly	Solana Beach, California, United States	2012-04-04
Maria Shea	San Diego, California, United States	2012-04-05
dean ericson	La Jolla, California, United States	2012-04-06
David Adams	El Dorado, Kansas, United States	2012-04-06
William Kullman	Culver, Oregon, United States	2012-04-07
Ryan Sweeney	San Diego, California, United States	2012-04-11
John Wood	Adelanto, California, United States	2012-04-11
Volker Hoehne	San Diego , California, United States	2012-04-11
Jamie McCroskey	Mena, Arkansas, United States	2012-04-11
Greg Gonzalez	Central Point, Oregon, United States	2012-04-11
dennis mulligan	del mar, California, United States	2012-04-11
Michael Petschek	Jamul, California, United States	2012-04-11
Cheryl Aspenleiter	San Diego, California, United States	2012-04-11

Name	Location	Date
Britt McCann	Carlsbad, California, United States	2012-04-12
Mark HarveyMarkH	La Jolla, California, United States	2012-04-17
Darby Alden	Chula Vista, California, United States	2012-04-17
Edgar Berner	La jolla, California, United States	2012-04-17
Michael Hennessy	La Jolla, California, United States	2012-04-17
Rebecca Perols	La Jolla, California, United States	2012-04-17
joann corder	san diego, California, United States	2012-04-17
Peter Clark	La Jolla, California, United States	2012-04-17
ruth winter	san diego, California, United States	2012-04-17
Ann Parker	La Jolla, California, United States	2012-04-17
Jenny Zenni	Henderson, Nevada, United States	2012-04-17
ellan cates	La Jolla, California, United States	2012-04-17
Craig Zacheis	San Diego, California, United States	2012-04-17
Buster Mico	La Jolla, California, United States	2012-04-17
Debbie Adams	La Jolla, California, United States	2012-04-18
stephen metcalfe	La Jolla, California, United States	2012-04-18
Peter Kalamaras	Naples, Florida, United States	2012-04-18
Alexandra Stanton	La Jolla, California, United States	2012-04-18
Barbara Allen	Encinitas, California, United States	2012-04-18
Sugar Marshall	La Jolla,, California, United States	2012-04-18
George Kuznecovs	KAUNAKAKAI, Hawaii, United States	2012-04-18
Howard Pratt	La Jolla, California, United States	2012-04-18
David Pendarvis	La Jolla, California, United States	2012-04-18
Joe Wulff	Escondido, California, United States	2012-04-18
Blayney Colmore	La Jolla, California, United States	2012-04-18
sheila swartz	la Jolla, California, United States	2012-04-18
James Phelan	San Diego, California, United States	2012-04-18
Bill Howard	San Diego, California, United States	2012-04-18
Steven Haskett	La Jolla, California, United States	2012-04-18
brian collins	la jolla, California, United States	2012-04-18

Name	Location	Date
sean mosch	san diego, California, United States	2012-04-18
Katherine Gill	San Diego, California, United States	2012-04-18
Andrew Haskett	San Diego, California, United States	2012-04-18
David Gill	Atlanta, Georgia, United States	2012-04-18
Susan Myerson	La Jolla, California, United States	2012-04-18
Glen Rasmussen	La Jolla, California, United States	2012-04-18
Charles Barringer	La Jolla, California, United States	2012-04-18
Portia Wadsworth	La Jolla, California, United States	2012-04-18
lynn bell	la Jolla, California, United States	2012-04-18
Mike Mulligan	La Jolla, California, United States	2012-04-18
Mary hilary Brady	la Jolla, California, United States	2012-04-19
Tiffany Montalbo	Anchorage, Alaska, United States	2012-04-19
Lacey Colmore	La Jolla, California, United States	2012-04-19
Kristin Jeffery	La Jolla, California, United States	2012-04-19
Sandralee Gill	Atlanta, Georgia, United States	2012-04-20
kathryn murphy	la jolla, California, United States	2012-04-20
Sharon Considine	San Diego, California, United States	2012-04-21
Diana Deciga	Glendale, California, United States	2012-04-22
carol brean	san diego, California, United States	2012-04-22
ernest brean	san diego, California, United States	2012-04-22
Carol Hunte	La Jolla, California, United States	2012-04-22
Henry Hunte	La Jolla, California, United States	2012-04-22
Timothy Daly	La Jolla, California, United States	2012-04-23
Robert Baker	La Jolla, California, United States	2012-04-23
Diane Kuerbis	San Diego, California, United States	2012-04-23
sally Miller	La Jolla, California, United States	2012-04-23
melinda merryweather	La Jolla, California, United States	2012-04-23
John Beaver	La Jolla, California, United States	2012-04-23
Diane Hall	Portland, Oregon, United States	2012-04-23
Phyllis Minick	La Jolla, California, United States	2012-04-23

Name	Location	Date
Dustan Baker	Ladera Ranch, California, United States	2012-04-23
Don Perry	La Jolla, California, United States	2012-04-24
erin benton	la jolla, California, United States	2012-04-24
Edward Mracek	La Jolla, California, United States	2012-04-26
Karen Rockwell	La Jolla, California, United States	2012-04-26
TIMOTHY BESSELL	LA JOLLA, California, United States	2012-04-26
Diego Kreuzer	La Jolla, California, United States	2012-04-26
Morgan Smith	La Jolla, California, United States	2012-04-26
Tim Hoover	San Diego, California, United States	2012-04-26
marykate anderson	del mar, California, United States	2012-04-27
Gia Mehlos	Big Bear Lake, California, United States	2012-04-27
Joseph & Clementine Whelan	Spring Valley, California, United States	2012-04-28
nancy davidson	san diego, California, United States	2012-04-30
frank saldana	san diego, California, United States	2012-04-30
Anne Waddell	La Jolla, California, United States	2012-04-30
Hans Newman	La Jolla, California, United States	2012-05-01
Michael Marquardt	La Jolla, California, United States	2012-05-02
GRIFFIN MARQUARDT	la jolla, California, United States	2012-05-02
Alison Henry	San Diego, California, United States	2012-05-02
Andrew Harrah	Cardiff, California, United States	2012-05-02
Linda Kerberg	La Jolla, California, United States	2012-05-04
Hilary Daly	La Jolla, California, United States	2012-05-06
Jean Perry	La Jolla, California, United States	2012-05-07
Michael Delgado	San Diego, California, United States	2012-05-08
Davis Donnell	Westminster, California, United States	2012-05-08
NATHAN BREUNINGER	EL CAJON, California, United States	2012-05-08
Gianni Battaglia	El Cajon, California, United States	2012-05-08
Bryan Gener	Poway, California, United States	2012-05-08
William Barton	San Diego, California, United States	2012-05-08
Dennis Kilian	San Diego, California, United States	2012-05-08

Name	Location	Date
Craig Petersen	Laguna Beach, California, United States	2012-05-08
William Corn	Murrieta, California, United States	2012-05-08
Chris Lupin	Mission Viejo, California, United States	2012-05-08
wes pierson	trabuco canyon, California, United States	2012-05-08
Patrick Ferguson	Anaheim, California, United States	2012-05-08
Darren Essman	Irvine, California, United States	2012-05-08
Robert Boll	El Cajon, California, United States	2012-05-08
Alexander Stover	Dana Point, California, United States	2012-05-08
Eric Carlson	Chula Vista, California, United States	2012-05-08
Deanna Brink	Escondido, California, United States	2012-05-09
Marlena Shah	La Jolla, California, United States	2012-05-09
Joaquin Ballina	san diego, California, United States	2012-05-09
Karen Harris	La Jolla, California, United States	2012-05-10
Sally Irwin	La Jolla, California, United States	2012-05-11
Alicia Hallett	La Jolla, California, United States	2012-05-12
Julio Lopez	La Jolla, California, United States	2012-05-12
Cay Beed	La Jolla, California, United States	2012-05-12
Fred Hallett	La Jolla, California, United States	2012-05-12
Lindsay Lopez	San Diego, California, United States	2012-05-12
Christy Cramer	La Jolla, California, United States	2012-05-12
Richard Pack	La Jolla, California, United States	2012-05-12
Anthony Zoblescin	San Diego, California, United States	2012-05-12
John Welsh	La Jolla, California, United States	2012-05-14
Josh Billauer	La Jolla, California, United States	2012-05-14
Roddy Gibbs	San Diego, California, United States	2012-05-15
Jess Watsky	N/A, Massachusetts, United States	2012-05-15
PASCAL BESSET	Encinitas, California, United States	2012-05-15
Robert Pascucci	La Jolla, California, United States	2012-05-15
Michelle Couture	Oceanside, California, United States	2012-05-16
David Chenelle	San Diego, California, United States	2012-05-21

Name	Location	Date
Byron Quinonez	Huntington Beach, California, United States	2012-05-25
angie weber	san diego, California, United States	2012-05-30
Karin Filijan	Escondido, California, United States	2012-05-30
Martha Vaden	Sisters, Oregon, United States	2012-05-31

June 3, 2012

Faxed to 619 767 2384

Kanani Brown
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Re: Coastal Development Permit Application #6-11-078

Dear Ms. Brown:

RECEIVED
JUN 05 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I object to the placement of a perpetual year-round rope barrier across the beach at the Children's Pool in La Jolla for the following reasons:

1. **The continued presence and proliferation of seals at this site appears inconsistent with the City's claim that a year-round rope barrier is necessary for the well-being of seals and people.**

The City, by its own admission (letter to you dated 5/22/12), "has not completed any technical studies . . . on the effectiveness of the rope" nor has it provided evidence that without a year-round rope, the seal population will be harmed. In reality, various sources and my own observations¹ indicate that the seal population has been thriving and steadily increasing *without* a perpetual year-round barrier across the beach and despite the close proximity to humans.

The finding in a Coastal Commission's report dated 03/01/01 (Application 6-00-126) states that seals at this site "are not being disturbed by humans to such a degree that it is discouraging their use of the area as a haul-out location." It goes on to say that the seals "are neither an endangered or threatened species which would afford special protection pursuant to the Coastal Act."

The applicant's own letter to you dated 5/22/12 admits that "No substantiated reports of malicious or violent behavior by a human towards a seal at the Children's Pool have been filed or observed."

2. **Violations of existing laws to protect the seals (e.g. the MMPA) should be addressed through stepped up enforcement, NOT by limiting access, visual or otherwise, to the beach.**

Consider this example: If the Highway Patrol learned that an inordinate number of speeders were being reported on a certain stretch of freeway, they would not address the problem by limiting access to the freeway or closing it down completely. Instead they would temporarily beef up

¹ As a member of the American Cetacean Society back in the early 1990's, I participated in a preliminary study of the seals at Seal Rock and Children's Pool prior to the establishment of Seal Rock Reserve. In many two-hour shifts over a several month period, I counted the number of seals on the rock and/or beach, observed their behavior, and submitted a report to the research coordinator. Back then, my counts averaged about 35 seals. Walking by the Children's Pool last month I counted at least 250 seals on the beach alone. Such an increase is a clear indication that the seal population is not in danger.

their enforcement efforts to catch those individuals who were committing the violations and issue them citations.

The Children's Pool should be handled in the same way. Since it is our government's responsibility to enforce the law--would we rather have individual citizens taking matters into their own hands?--we should demand that they address harassment at the Children's Pool by enforcing the MMPA and citing offenders. I have no doubts that with adequate enforcement in place, the public will quickly learn how to behave appropriately around the seals.

3. Coastal Commission report dated 3/01/01 (Application 6-00-126) states that "a permanent barrier on the beach which blocks access to the ocean is inappropriate."

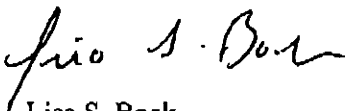
Under the amended tidelands Trust, provision (b) states "The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California."

4. If the City insists on putting up a rope barrier, an alternate configuration should be considered.

One alternative would be to place the rope perpendicular rather than parallel to the shoreline. (See attachment.) This would divide the beach into two sections. The northwest portion (closest to the breakwater) of the beach would be set aside for the seals and the southwest portion (closest to the stairs and ramp) would be used by humans. By adopting this alternate configuration, the City would be fulfilling all its obligations of the amended Trust with respect to this land, specifically preserving the public's right to convenient access to the water as well as accommodating its use as a marine mammal park.

Another advantage to a perpendicular configuration is that it would increase the visibility of signage placed on the barrier. As people walk down the stairs and across the beach, the signs would be facing them the entire time. In their current position, signs are not visible until a person faces the water and the rope.

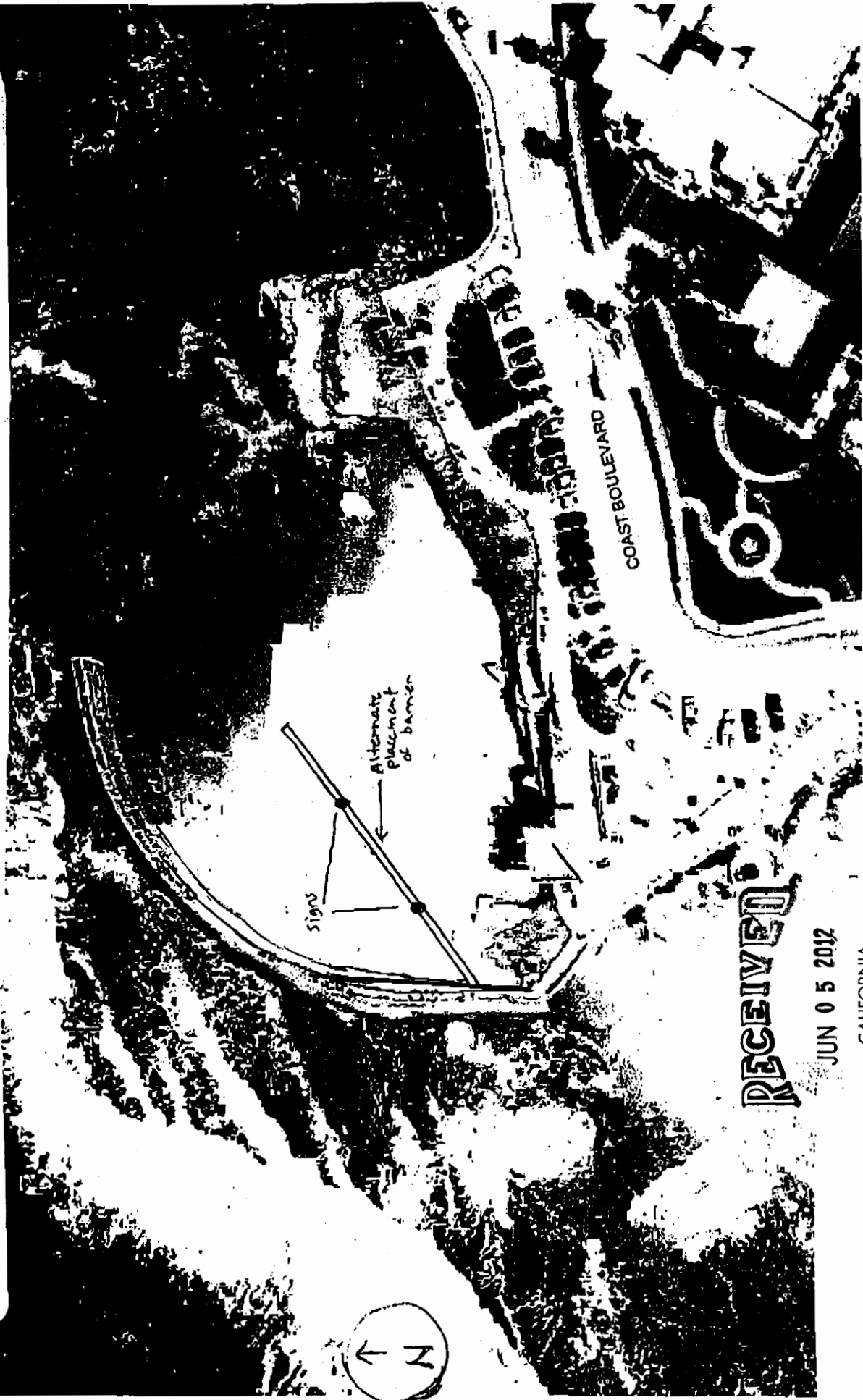
Very truly yours,



Lisa S. Bock
La Jolla resident - 49 years
437 Westbourne Street
La Jolla, CA 92037

Attachment: Alternate Placement

Alternate Placement For Illustrative purposes Only



RECEIVED

JUN 05 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Coastal Commission staff,

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool, in San Diego, because:

The proposed barrier ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game.

It would be a violation of the Local Coastal Plan as unanimously ruled by San Diego's own Planning Commission. (Later bypassed) California is bound by a trust which does not allow changing a playground, park and bathing pool into a restricted animal display concession.

RECEIVED

JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

No city should have a permit to cordon off public historic trusted tidelands.

The 3 foot opening the City wants is not visible from the sidewalk which is the real reason it is more effective than a barrier with a proper sized opening. It deceives the public.

The City lied saying the rope position was calculated from studies of seal activities. It was placed to be above the high tide line so the City could cut its own local permit. That was found to be outside its jurisdiction.

The City was required to produce a NEW permit to be under Coastal Commission jurisdiction. It has not done that.

The rope all year will be just that much stupider than a rope people ignore for 5 months.

The City wants a year round barrier because it does not cost anything and the City does not know how to solve its problems within the confines of the law. Send it back.

This will be a State issued permit under CCC jurisdiction. It will endanger every beach in California where a town can save money by discouraging ocean access in favor of an animal display.

Under federal law, "no state may enforce or attempt to enforce any law concerning the taking of marine mammals". Look it up. California has no justification to take actions based on enforcing protections reserved for the Secretary of Commerce through the MMPA.

There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat, it is cultivating an unnatural habitat.

The same day the City voted to attempt this permit, it voted to effect a 5 month closure every year forever, but seeks this perpetual rope barrier as a first step. It also promised to make a decent program to make the ranger more effective. It has never done that. That decent program should be a required first alternative.

This permit is proposed without a sunset date, no later review, no studies, no conditions, no alternatives, no legal studies. Just "in perpetuity". Where else would the CCC use its jurisdiction to do such a thing?

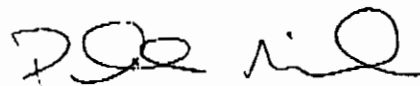
The City claims the placement of the rope is based on observation of seal activity, yet it also states

"neither federal or City law specifies a safe distance". So there is no known distance for rope placement.

California Constitution: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose.

From § 5096.27; Parks under State control: "Such projects shall also be devoted to multiple recreation purposes, as opposed to restrictive, single interest usage".

Sincerely, Philip Miller.



6317 Brooklyn Ave

San Diego Ca 92114

FAX: CCC at: (619) 767-2384 Attn: Kanani Brown

Coastal Commission File 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Clement Hoffman, MD
5503 Calumet Avenue
La Jolla, CA 92037

Re: AGAINST ANY CHILDREN'S POOL ROPE BARRIER

Dear Coastal Commission staff,

I strongly urge the Coastal Commission to disapprove the City of San Diego's permit request for a perpetual rope barrier across a public beach at Children's Pool. In fact, I respectfully request that the existing permit for the pupping season rope be rescinded. Please consider the following reasons:

San Diego has not even started a Coastal Development Plan for this action or been able to get the request through its own local Land Use Procedures. There is very strong local community opposition to any rope barrier at all. Please send the request back to the City.

The proposed barrier ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game.

It would be a violation of the Local Coastal Plan as unanimously ruled by San Diego's own Planning Commission. The City is attempting to bypass the Planning Commission in defiance of due process. Please send the request back and demand a real Site Development Permit.

The rope is a tool for activists to intimidate the public and mislead people to believe the beach is closed. The seal advocates have consistently screamed at (with bullhorns), cursed, spit upon and harassed members of the public who try to peacefully use the beach. The SD Police Department has refused to maintain the rule of law at Children's Pool. The best way to restore public order would be to rescind the current rope placed during the pupping season, let alone to allow a year-round rope. The seals will find plenty of places to go.

RECEIVED

JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

This would be a State issued permit under CCC jurisdiction. It would create a dangerous precedent which could endanger every beach in California where a town can discourage ocean access in favor of an animal display.

Under federal law, no state may enforce or attempt to enforce any law concerning the taking of marine mammals. California has no justification to take actions based on enforcing seal protections reserved for the Secretary of Commerce through the MMPA.

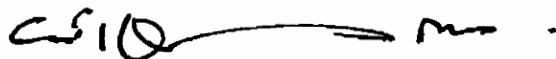
Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. The harbor seals have an extensive natural habitat and are not endangered in any way. There is no benefit to the public trust to impede public access to the Children's Pool in favor of growing an artificially imported seal colony.

A suit is now filed against the State and San Diego for violation of the 1931 Tidelands Trust. If the CCC acts in haste to encourage San Diego with a permit allowed by bypassing its own procedures, it stands to be reversed in the courts. There is no urgency to issue the permit in question. This matter needs further clarification through the courts.

The CCC has a proud history of preventing self-interested corporations and private owners with seaside holdings from blocking public access for private benefit. The City of San Diego is just such a corporation trying to carve out special use of the beach for a small parochial interest. Please protect the public at large using the Coastal Act.

Thank you for your attention.

Sincerely,



Clement Hoffman, MD
41 year La Jolla Resident

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

4 June 2012

Coastal Commission staff,

FAX 619 767 2384 ATTENTION KANANI BROWN

RE: CHILDREN'S POOL LA JOLLA

Our kids learned to swim at the Children's and to learn of tide pool animals in the 80's. Seals weren't there. Seals were occasionally on rocks but never on the beach.

Seal feces /shit has killed all the local sea animals. You used to be able to see and count about 40 different animals, sea stars at least 3, key hole limpets, various crabs, shell fish, sea anemone, lobster and more.

Now the sea lions and seals are breeding and taking over the Children's Pool, Cove and Bird Rock. They used to breed off shore.

Seals and Sea Lions can perfectly well live on the islands they always have.

You are mandating a fishing moratorium for all local indigenous animals to grow. But you have to move the seals off the beaches to really make it happen.

The Coastal Commission should not bow to special interest groups determined to convert historic tidelands solely to their desired use.

Paddi Arthur
Nicholas Arthur
5704 Abalone Place (and there are no more abalone)
La Jolla, A 92037

RECEIVED

JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission
Attn: Lee McEachern
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

5/31/2012

RECEIVED

JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Not a public input to the file – a question of procedure

When the City of San Diego submitted an incomplete application in 6-11-078 last October, a request was made for completion per § 13056 (c) and the City replied with a stack of City Council meeting minutes and transcript, and a single page of 4 item. I have pointed out the inadequacy and inaccuracy of that reply, but you may have chosen to accept it anyway. I don't know.

Further in § 13056 (c) it is stipulated "Not later than 30 calendar days after the receipt of the requested materials, the executive director shall determine whether the submittal of the requested materials is complete and transmit that determination in writing to the applicant".

I never saw a copy of such a positive determination in the file. Did it happen?

Is there no need to require a complete application after all, since the hearing is not about a real application, but a pre-ratification of concept that can only later become a permit document to go through the local land use approval procedures from scratch?

John Leek
3090 Admiral Ave
San Diego, CA 92123

Jleek001@san.rr.com



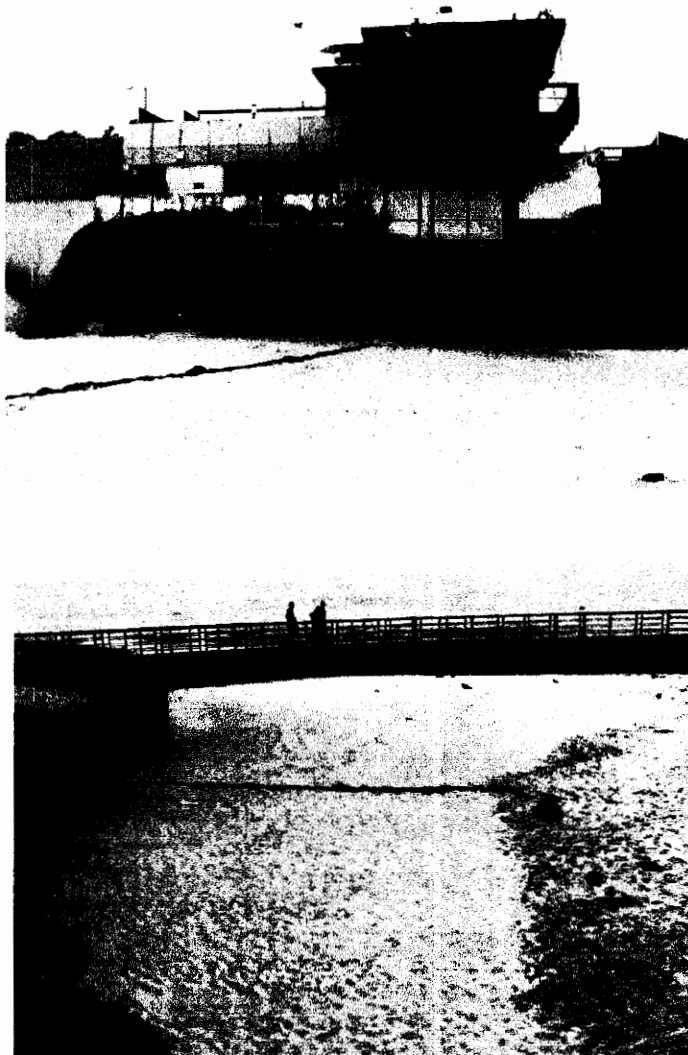
June 3rd 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

JUN 04 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission staff,

Though Parks and Rec was asked for alternatives, it never supplied any. People often point out the rope is turned the wrong way. Sometimes the Friends of the Seals notice that too. Here is a picture of what they do sometimes – a kelp line in the sand to divide the beach. It doesn't work very well without one of them there to enforce, but the idea is simple enough. The pictures show the division.



We only need a real barrier that can stand against the tides, or can be reinstalled every day easily. And new rules, no people allowed west of the dividing line. Cause for arrest and citation. AND seals get to go anywhere they want. Seals that don't like people will figure out which side to be on. People on the east side do not suffer penalty if a seal moves, since it only helps the seal figure out which side he prefers to be on. And of course woe to the person who actually hurts a seal, but that has never happened before according to Daneri of Parks and Recreation.

Another idea the City never thought of is webcams at the Pool. Nobody will harm a seal with the world watching and the goings of the seals can be studied easily. Pups can be easily counted and conditions will be available to folks before they leave home. Why not?

John Leek 858-610-4724
3090 Admiral Ave
San Diego CA
jleek001@san.rr.com

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SAN DIEGO COAST DISTRICT

California Coastal Commission
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

Re: Children's Pool Coastal Development Permit Application #6-11-078
Analysis per applicable law.

Only Public Resource code 30230 provides any excuse for recommending a permit where 30210- 30214 and 30220-20224 all require no permit be granted.

The Coastal Commission has the job of interpreting the law. The Coastal Act, the Public Trust Doctrine and any Local Coastal Plans, along with a State landgrant trust. The upcoming hearing cannot be a blog, or a town hall meeting or be driven like a popularity contest. It is to be a transparent State level legal proceeding, not a local level approval.

There is nothing in the Coastal Act making one code section ascendant over all others. On the contrary, codes assuring public access are the ones rooted in the State Constitution and so strongest.

But would 20230 even apply in this case?

Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Nothing is being restored. The stated purposes of the permit do not include enhancing any depleted resources. It is not a natural habitat. It is a manmade beach shared with harbor seal visitors since 1993. They were introduced initially by Sea World concentrating rescue releases of hand raised rehabs in the area. This is documented in court records and NOAA data files. These Eastern Pacific Harbor Seals are reproducing robustly all over the state. They are also known as "The Common Seal".

There is no mandate to restrict public access under "*Special protection shall be given to areas and species of special biological or economic significance*" except the often cited hope the economic significance of tourism will increase if local public use is reduced. This has no basis in science, experience or reason.

Restricting a public beach for a lovable predator will not "sustain the biological productivity of coastal waters" or "maintain healthy populations of all species of marine organisms". To the contrary. Our colony has steadily grown in spite of debunked claims of abuse, and the seals are not going anywhere. It shows no need for

enhancement. The seals express their satisfaction by coming back every night after hunting and playing in the water in the day. They express their trust by pupping and nursing in the company of humans, often unworried at a distance of 10' or less.

Would you rule a City should cordon off a public beach to cultivate the sea gull population that could perhaps grow faster if only made undisturbed? Especially when the real motive discussed elsewhere is to avoid the cost of beach maintenance?

There is nothing here requiring discarding sections like:

§ 30211; Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization....

§ 30212; (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects....

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

30214; (b) ...Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

§ 30221. Oceanfront land suitable for recreational use shall be protected for **recreational use** and development...(Looking from behind a barrier is not recreation)

§ 5096.27; Parks under State control: "Such projects shall also be devoted to multiple recreation purposes, as opposed to restrictive, single interest usage".

§ 30221. Oceanfront land suitable for recreational use shall be protected for **recreational use** and development...(Looking from behind a barrier is not recreation)

I am citing these facts not out of criticism for the Coastal Commission but out of faith it will do the right thing.

John Leek jleek001@san.rr.com

3090 Admiral Ave, San Diego, CA 92123



The inapplicability of the Marine Mammal Protection Act in our situation is discussed elsewhere.

Figure 2 Too bad seals can't read, or know they are supposed to be afraid of people.



Figure 1 The rope shows the proper distance to be from a seal



Figure 2 Visitors ignore the rope, seals ignore the visitors



Figure 1 A marine mammal park for the enjoyment and entertainment of children

California Coastal Commission
7575 Metropolitan Drive, Ste. 103
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Re: Children's Pool Coastal Development Permit Application #6-11-078
More problems with citing 30230 above all others.

Only Public Resource code 30230 seems to be aligned with granting a permanent year round rope where 30210 - 30214 and 30220-20224 all require the permit not be granted.

Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

<http://www.wendel.com/index.cfm?fuseaction=content.contentDetail&ID=9059>

The California Court of Appeal, in *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, Case No. A116362 (1st App. Dist.), held that the public trust doctrine extends not only to the lands underlying navigable waters, but also to wildlife not associated with any particular property. The Court described the scope of the public trust doctrine as including the governmental power and responsibility to preserve and regulate natural resources, held in trust for the benefit of public. Under this doctrine, public agencies are responsible for striking "an appropriate balance between protecting trust resources and accommodating other legitimate public interests.

But the Court observed that while the public trust doctrine requires government agencies to account for the effect of proposed permits on wildlife, government permitting agencies are not required to protect wildlife in all circumstances. As trustees under the public trust doctrine, agencies must strike an "appropriate balance" between protecting natural resources and other public interest considerations.

So how shall the CCC strike that balance? It need not. The Children's Pool is not a natural habitat for depleted animals. Favoring one animal will not "maintain healthy populations of all species of marine organisms". It is a man-made beach. It was salted with hand raised abandoned or sick rescued pups that Sea World meant to stock a seal reserve at Seal Rock. (Proved in another letter) The Seal Rock reserve was disallowed by the CCC in 2001.

John Leek jleek001@san.rr.com

3090 Admiral Ave, San Diego, CA 92123

ATTORNEYS AT LAW



THE LEADER

The Public Trust Takes to the Sky

[Originally published in the *The Wendel Report*, Winter 2008 issue.]

As with any new technology, the implementation of renewable energy technology is not entirely benign. The Center for Biological Diversity (CBD) recently sued owners and operators of wind turbine generators in the Altamont Pass Wind Resource Area in Alameda and Contra Costa Counties, alleging, among other things, that the operators were responsible for killing and injuring tens of thousands of raptors and other birds in violation of the public trust doctrine. The public trust doctrine had been generally thought to be founded on state ownership of certain types of lands –lands underlying navigable waters – held in trust for the benefit of the public. No such lands exist in the Altamont Pass, which raised the question of whether the CBD had a basis for the claimed public trust violation.

Practice Areas

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The California Court of Appeal, in *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, Case No. A116362 (1st App. Dist.), held that the public trust doctrine extends not only to the lands underlying navigable waters, but also to wildlife not associated with any particular property. The Court described the scope of the public trust doctrine as including the governmental power and responsibility to preserve and regulate natural resources, held in trust for the benefit of public. Under this doctrine, public agencies are responsible for striking "an appropriate balance between protecting trust resources and accommodating other legitimate public interests." In reviewing the body of case law that has applied the doctrine, the Court found that it encompasses the protection of the public's rights with regard to both lands underlying navigable waters and undomesticated birds and wildlife.

Importantly, the court determined that members of the public have standing to bring an action to enforce the public trust over wildlife when the trustees – the responsible public agencies – fail to discharge their duties. But the Court held that such actions by members of the public must be brought against the responsible public agencies, not against private parties to whom those agencies have granted permits in alleged violation of the agencies' duties as trustees. According to the opinion, while members of the public may compel public agencies to perform their duties, "neither members of the public nor the court may assume the task of administering the trust," for only the appropriate public agencies have the expertise, time, and discretion to consider the competing public interests at stake when public trust resources are jeopardized.

This extension of the public trust doctrine and recognition of the standing of members of the public to enforce the doctrine may provide project opponents with an additional basis on which to oppose certain projects. But the Court observed that while the public trust doctrine requires government agencies to account for the effect of proposed permits on wildlife, government permitting agencies are not required to protect wildlife in all circumstances. As trustees under the public trust doctrine, agencies must strike an "appropriate balance" between protecting natural resources and other public interest considerations. For example, in the case of turbines, the court acknowledged that other public interest considerations would include the strong public interest in the development and operation of sustainable energy systems. Thus, while agencies must take the protection of wildlife into account, they need not place that interest above all others.

CERTIFIED FOR PUBLICATION

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE**

CENTER FOR BIOLOGICAL
DIVERSITY, INC., et al.,

Plaintiffs and Appellants,

v.

FPL GROUP, INC., et al.,

Defendants and Respondents.

A116362

(Alameda County
Super. Ct. No. RG04-183113)

Plaintiffs, the Center for Biological Diversity, Inc. and Peter Galvin (collectively CBD),¹ appeal from the dismissal of their cause of action, which alleged that defendant owners and operators of wind turbine electric generators in the Altamont Pass Wind Resource Area in Alameda and Contra Costa Counties are, by the operation of their wind turbines, responsible for killing and injuring raptors and other birds in violation of the public trust doctrine.² The trial court dismissed their action after granting defendants' motion for judgment on the pleadings on the ground that private parties are not entitled to bring an action for the violation of the public trust doctrine arising from the destruction of wildlife. We conclude that the trial court properly dismissed this particular action,

¹ Plaintiffs' amended complaint describes the Center for Biological Diversity, Inc., as a nonprofit corporation with over 12,000 members, more than 4,400 of whom reside in California, "dedicated to the preservation, protection and restoration of biodiversity, native species, ecosystems, and public lands and resources." Peter Galvin is identified as the conservation director of the center.

² Defendants consist of two groups of business entities that have appeared through separate counsel: FPL Group, Inc., FPL Energy, LLC, ESI Bay Area GP, Inc., ESI Bay Area, Inc., Altamont Power, LLC, and Green Ridge Power, LLC and GREP Bay Area Holdings, LLC, AES SeaWest, Inc. (formerly SeaWest WindPower, Inc.) and enXco, Inc.

May 30th 2010
File 6-11-078
Coastal Commission
7575 Metropolitan Drive, Ste 103
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WHO ARE THE FRIENDS OF THE SEALS?

The rope support petitions, the form letters, the organized booklet in the file are products of the La Jolla Friends of the Seals. (LJFS) They were actual docents after seals began to appear on the beach in the 90's. They have become more radical over the years and more inclined to take the law into their own hands. Their president Ellen Shively is to be arraigned for battery for spitting on a person on the seaward side of her kelp line she had put in place to close the access gap in the City advisory rope. They wear uniform shirts and use fake ID's on lanyards to add authority to their actions. They have formed human barricades across the access opening in the advisory rope.

Their lawyer, Bryan Pease introduced the use of bullhorns on the sidewalk to intimidate and discourage people from getting on the beach. He has pled not guilty to theft and destruction of property (a beach open sign) though he had his crime videotaped and released on Utube. LJFS are taken to blocking the stairs to the beach and accosting people who wish to pass. For Memorial Day weekend they brought big official looking signs designed to look like official County Health advisory signs warning of contaminated water. The lifeguards confiscated them. At night they are inclined to place red traffic cones on the stairs to the beach.

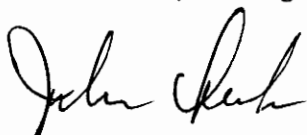
Their support for a year round rope is only as a first step. Their stated goal is complete closure of the beach. When seals turned up on South Casa beach they were quick to cordon off half of that beach.

In short, they are no friend of the Coastal Act. Their hardline stance could eventually force our City to give up shared use and either remove the seals or remove the people. The City has federal permission any time to remove the seals but never wanted that expense. The City does not have permission to close a public beach and doing so will invite a lawsuit if you issue permission. We don't want our seals removed or dispersed. We are advocating continued shared use – not a showdown.

The Coastal Commission has to interpret the law, not public opinion polls or stacks of form letters. Appeasing excitable special interest groups is not good in the long run. The City has tried for years, and found it only makes things worse. There was supposed to have been a real City Docent program in place 2 years ago. Parks and Recreation will not put volunteers on that beach because of the turmoil and discontent caused by LJFS and their parent group Animal Protection and Rescue League (APRL). You may doubt this, but I was in the meeting with Parks and Rec and all other parties involved on December 8th. The docent program was killed by unwillingness of LJFS and APRL to give up bullhorns as a means of communication with persons of their choice.

If you have read this far, if think I am just slandering the opposition, then check the next pages. Help us restore law and order and respect for the public right to lawful coastal access.

John Leek 3090 Admiral Ave, San Diego, CA 92123







Lucy Yu

To: Costal Commission file 6-11-078 Attention: Kanani Brown Fax # 619-767-2384
Cc: Inge Wang [wanginge@gmail.com]
Subject: Children's pool

This Year round rope will keep the beach for the seal and exclude the Children's use year round.

the Children Pool Sea wall was build for the use of children not the seals. The seals has been multiplying and growing in population to overcrowding the small cove.

La Jolla has little area where the Beach is protected for the children to play safely without the rip currents. We don't want it be taken away from our children and grand children. Please vote to keep the seals away and protect the area for children's use. Thank you.

Lucy C. Yu
Francis Yu

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SAN DIEGO COAST DISTRICT

Jun 02 12 03:46p

Coastal Commission file 6-11-078 Attn: Kanani Brown
 7575 Metropolitan Drive Ste 103
 San Diego, CA 92108-4402

FORBID BARRIERS AT THE LA JOLLA CHILDREN'S POOL WHY? Please read and reinforce the law.

California Constitution: ..and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

Parks under State control: "Such projects shall also be devoted to multiple recreation purposes, as opposed to restrictive, single interest usage". § 5096.27

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people. § 30210;

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization.... § 30211;

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects.... § 30212; (a)

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. § 30213;

Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution. § 30214; (b)

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses. ...(Looking from behind a barrier is not recreation) § 30220.

Oceanfront land suitable for recreational use shall be protected for recreational use and development...(Looking from behind a barrier is not recreation) § 30221.

The federal protection for marine mammals does not allow for enforcement on a state level. The Commission must obey the MMPA, but it may not attempt to enforce any aspect of it.

This year round rope is a new development because it replaces a permit awarded a structure under City rather than CCC jurisdiction. Vertical Access to the Shore, not to 80 feet back, must be provided. But its stated purpose is to serve as a visual deterrent to shore access.

The CCC is meant to protect access to the coastline FOR the people. It was not intended to protect the coastline FROM access by the people of California.

Children's Pool Land grant Trust, (b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.

The Coastal Commission acts to guarantee public access because once lost, it can never be regained. If the CCC colludes to limit access on trusted tidelands that will be reversal in purpose.

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 SAN DIEGO COAST DISTRICT

Attn: Kanani Brown

California Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

The California Coastal Commissioners have a proud history of preventing greedy corporations with seaside holding from preventing public access for convenience. San Diego is just such a corporation. Protect us using the Coastal Act.

Shared use by humans and seals works at the Children's Pool - no barrier needed.

When the City voted to attempt enforcing a permit for a barrier rope at the Children's Pool, it first voted for a 5 month closure every year forever, but now seeks this perpetual rope barrier as a first step. It also promised to make a decent program to make the ranger more effective. It has never done that.

This permit is proposed without an enddate, no later review, no studies, no conditions, no alternatives, no legal studies. Just "in perpetuity". Where else would the Coastal Commission use its jurisdiction to do such a thing?

The City complains "individuals place non-official signage on the beach to indicate the beach is open to for public use and that the rope is is only a guideline, not a barrier". So? Is that not the City's job citizens are doing? A year round rope will just bring more of the same.

The City claims the placement of the rope is based on observation of seal activity, yet it also states "neither federal or City law specifies a safe distance". So there is no known distance for rope placement. Nor do seals respond to the rope as a safety device.

There are no guarantees in place other beaches will not be set aside for new seal colonies. The seal and sea lion population in California are documented to be growing. That growth was accomplished without setting aside public beaches for them.

In the winter most people don't swim or lie on the beach but seals can. In the summer the sand is too hot for seals so they get off the beach until night time when people are gone anyway. God's timeshare plan. Shared use works.

California Constitution: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose. Please enforce this basic human right!

San Diego
San Diego

June 2, 20012

California Coastal Commission file 6-11-078 ATTN: KANANI BROWN
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

To the Coastal Commissioners:

Please deny a rope barrier or any barrier to humans who seek access to the ocean at the Children's Pool. At what point does "protecting the seals" hurt the humans? Congress, through the MMPA has prohibited harassment of seals. However, there are also laws against harassing and hurting humans. The seal activists argue to "respect the seals", "stop seal harassment" and "protect the seal pups". They cloak their activities in First Amendment protection and avoid legal consequences by intimidating the City of San Diego through lawsuits. This is manipulation of the law that is abusive and unjust.

Should you, the Coastal Commissioners – by virtue of your title, protectors of the oceans and human right to them – close off the Children's Pool beach, every ocean access in the State is in similar jeopardy. The seals' yearly rise in reproduction rate at this site is the clearest possible signal that they are in no way endangered.

Who will "respect the humans", "stop human harassment", and "protect the children". The City of San Diego should enforce the laws on the books protecting the public. If the City of San Diego will not "protect and serve", who can we turn to? Only you, our State's Coastal Commissioners.

With respect and trust,



From: Phyllis Minick
Friday 6-2-12
To: California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402
Subject: CCC File # 6-11-078

Re: Children's Pool Rope Barrier

Dear Commissioners,

I herein register my opposition to Rope Barrier at Children's Pool for the following reasons:

1. The City of San Diego has never obtained an Environmental Impact Report (EIR) allowing any Rope Barrier to exist on Children's Pool as required by CEQA.
2. The City of San Diego has never obtained an Environmental Impact Report (EIR) allowing the "seals" to occupy Children's Pool as required by CEQA. This is despite the fact that Children's Pool is considered Public Health Hazard by The San Diego Public Health Department because of "seal fecal contamination".
3. The fact that the Trust at Children's Pool was changed by AB428, does not exempt the City from complying with California CEQA regulations and the Trust which allows the Public free access to a clean and safe beach.
4. The City denied public input concerning the EIR at Children's Pool by its obscure method of notifying the public of its plan to exempt the CDP of an EIR and study. In fact I challenge members of the California Coastal Commission to find the posting in the City Web site exempting this project of an EIR.
5. It has already been legally established (O'Sullivan vs. The City of San Diego) that a Rope Barrier at Children's Pool denies the Public free access to the beach at Children's Pool. The Rope Barrier also continues to exacerbate the Public Health Hazard posed by seal fecal contamination.

Sincerely,
Phyllis Minick 53 year resident of La Jolla

Sue Bridge suekidspool@sanrr.com

California Coastal Commission
San Diego Area
ATTN: Melissa Ahrens, Coastal Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: Proposed Year-Round Rope, Children's Pool (aka Casa Beach), La Jolla, CA
FILE 6-11-078
Applicant: City of San Diego

To the California Coastal Commissioners:

Dear Commissioners, **DENY A ROPE BARRIER AT THE CHILDREN'S POOL.**

I've read your brief biographies and come to thank you for your dedication to public service. As scholars, attorneys, environmental activists, educators, artists and successful entrepreneurs – just a few qualities among your wide range of skills and accomplishments -- you represent our best hope for lawful and wise decision-making about our coastal issues.

Regarding local rulings: the LJ Community Planning Association, on September 2, 2010, heard public testimony and deliberated fully about the proposed permit for a Year-Round Rope at La Jolla's Children's Pool. The trustees took two actions:

- Denied that a "Rope Barrier" should remain in place year round on the Children's Pool Beach, because the "Rope Barrier" creates more problems than it resolves and findings cannot be made for a Coastal Development Permit. Passed 10-1-2

- Rejected the City of San Diego's determination that The Children's Pool Beach "Rope Barrier" Project is categorically exempt from CEQA Guidelines. Passed 11-0-2

The City of San Diego Planning Commission at their December 9, 2010 hearing agreed with the LJCPA's position and, with a vote of 7-0, denied the City Park & Recreation Department's request for the permit.

Regarding the law: Tidelands Trust (CH 688), the California Constitution (Article 10), and the California Coastal Act (Sections 30210 through 30213, Sections 30220, 30221) and the City's own Local Coastal Program all guarantee public right-of-way to coastal waters. Any barrier restricting coastal access violates all these laws, statutes and practices. A sign bearing the City of San Diego seal marks the entry to the Children's Pool and states, "This beach is open to public access at all times."

Regarding animal protection: Seals are not an endangered species at the Children's Pool. "Scripps oceanographers documented the harbor seal population in La Jolla as stable at 150-200 seals, with a migrating population of ~500 (Prof J. Moore & T. Linder, SIO, U-T report 5/24/10)." In 2011, 45 seal pups were born at the Children's Pool -- an all-time record birth rate there -- along with a large increase in the number of swimmers, divers and beachgoers at that beach.

Regarding the Founder's intent: "The name says it all... The Children's Pool was created specifically for the children to learn ocean swimming and appreciation of a wonderful water resource. **A bronze plaque above the stair entry stairway states: The Children's Pool Given By Ellen Browning Scripps "As a Gratuity to Children" Dedicated June 1, 1931**

As I review the Commissioners' outstanding credentials in the law and environmental protection, I urge each of you to consider – in that context – the foregoing reasons to deny this or any permit for a rope barrier at the Children's Pool.

Sincerely,

Sue Bridge

June 2012

Jun 02 12 03:48p

Coastal Commission file 6-11-078 / **KANANI BROWN**
 7575 Metropolitan Drive Ste 103
 San Diego, CA 92108-4402

Coastal Commission staff,

No permit for a perpetual rope barrier across a public beach at Children's Pool is allowable, legal or beneficial

Neither San Diego or any other city is permitted to cordon off public historic trusted tidelands.

San Diego has no Coastal Development Plan or local Land Use Procedure for Children's Pool beach.

The proposed barrier goes against this Coastal Commission's ruling in 2001: "no permanent structure or marine reserve on a trusted public beach is allowed (State Lands Commission and Department of Fish and Game).

California is bound by a trust that does not allow changing a playground, park and bathing pool into a restricted animal display concession.

The rope at Children's Pool is described by the City as a "Visual Deterrent". However, a visual deterrent to vertical access to the shore is inappropriate to a public beach under the jurisdiction of the CCC.

The City's 3 foot opening deceives the public, because is not visible from the sidewalk.

The barrier rope is a tool for activists to intimidate the public and mislead people to believe the beach is closed.

The City lied saying the rope position was calculated from studies of seal activities. It was placed to be above the high tide line so the City could cut its own local permit. That was found to be outside its jurisdiction.

The City was required but has not produced a NEW permit to be under Coastal Commission jurisdiction.

If the State under CCC jurisdiction issues a barrier permit, every beach in California is in danger of closure by special interests, since all beaches attract animals.

Under federal law, "no state may enforce or attempt to enforce any law concerning the taking of marine mammals". California has no justification to take actions based on enforcing protections reserved for the Secretary of Commerce through the MMPA.

In every public hearing local advisory groups have denied support for roping off their public beach for any reason.

Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.

***Deny any barrier to public ocean access at the Children's Pool.
 Such barriers are illegal and unnecessary.***

Sue Bridge

suekidspool@sanrr.com

Attention Hanni Brown

June 2, 2012

Dear Coastal Commissioner,

I urge you to forbid any barrier or closure that prevents human access to the Children's Pool. American FREEDOMS and LAWS absolutely deny prohibition of right of way to coastal waters.

Phyllis Minick, San Diego resident

- No one is permitted to exclude right of way to tidal lands of any harbor, bay, inlet, estuary, or other navigable water in this State whenever access is required for any public purpose. [State of California Constitution, Article 10]
- Any barrier restricting coastal access violates the Tidelands Trust (CH 688), the California Constitution, the California Coastal Act & San Diego's own Local Coastal Program.
- No CEQA exception to these laws has been validated, since no legal reason for exemption exists.
- California Senate Bill 422 established a legal enduring trust in exchange for donation of the sea wall and "bathing pool for children" to protect swimmers. The City of San Diego, Department of Public Works and Park Commission jointly approved that project and accepted Miss EB Scripps' gift (noted in her will as "a Children's Pool"). An amendment to include a marine mammal park did not change the trust's words or intent.
- The Coastal Commission has repeatedly denied requests for beach closures, because the Coastal Commission Act requires maximal public access and recreational opportunities.
- The City of San Diego Planning Commission rejected a year-round barrier rope 7-0 last December (2010).
- Fact: No marine species are endangered at the Children's Pool. In May, 2010, Scripps oceanographers documented the harbor seal population in La Jolla as stable at 150-200 seals, with a migrating population of ~500 (Prof J. Moore & T. Linder, SIO, U-T report 5/24/10). The pupping season, which extends from only mid-February to mid-May, successfully maintains and enhances the population. A full-time Park Ranger is on duty to manage the beach.

ATTN: Kanani Brown

Compliance REASONS TO DENY A PERMIT FOR ANY BARRIER AT THE CHILDREN'S POOL:

Law, Precedent & Fact

1. **LAW:** No one is permitted to exclude right of way to tidal lands of any harbor, bay, inlet, estuary, or other navigable water in this State whenever access is required for any public purpose . . . [State of California Constitution, Article 10]
2. **LAW:** Last year the State Statutes of 1931 were amended to include marine mammal park for the enjoyment and educational benefit of children, but did not change the trust's words "bathing pool for children" . . .
3. **LAW:** Any barrier restricting coastal access violates the Tidelands Trust, the California Constitution, the California Coastal Act and San Diego's own Local Coastal Program.
4. **LAW:** The CEQA exception this Commission claims is not valid, since the public was not notified as required, and the reasons for exemption are not legal.
5. **Precedent/Ruling:** "establishing an area as a reserve does not afford any more protection to the seals than signage and a good docent program [and is] inconsistent with the state tidelands grant (CH 688), which specifically calls for the "public's absolute right of access to the water."
6. **Precedent:** The Coastal Commission denied a request from Vandenberg Air Force Base for closure of beaches to protect the depleted plover population, because of the Coastal Commission Act's requirement to maximize public access and recreational opportunities.
7. **Precedent:** The Coastal Commission denied a request from the U.S. Navy in Coronado, because "State law requires that the public have access to all stretches of California beaches."
8. **LAW:** Eighty years ago, the City of San Diego, Department of Public Works and Park Commission jointly approved the (sea wall - Children's Pool). California Senate Bill 422 officially authorized the project and accepted Miss Scripps gift in an enduring trust.
9. **Precedent & LAW:** The Will of Ellen Browning Scripps uses the term "Children's Pool" 4 times to describe "the beach in front of Block 56 of the La Jolla Park subdivision." There, in 1921, she established a legal trust to donate the sea wall to protect swimmers after two children drowned there.
10. **Fact:** Seals are not an endangered species at the Children's Pool. "This May, Scripps oceanographers documented the harbor seal population in La Jolla as stable at 150-200 seals, with a migrating population of ~500 (Prof J. Moore & T. Linder, SIO, U-T report 5/24/10).

Stan Minick, La Jolla resident

To: Coastal Commission file 6-11-078 ATTN: KANANI BROWN
 7575 Metropolitan Drive Ste 103
 San Diego, CA 92108-4402

REASONS TO DENY A PERMIT FOR ANY BARRIER AT THE CHILDREN'S POOL: Law, Precedent & Fact

LAW: No individual, partnership or corporation, claiming or possessing the frontage of tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State shall be permitted to exclude the right of entry to such water whenever it is required for any public purpose ... [State of California Constitution, Article 10]

LAW: In 2009, Section 1 of Chapter 937 of the Statutes of 1931 was amended in SB428 to include *marine mammal park for the enjoyment and educational benefit of children*, but does not change the trust's words, "bathing pool for children" ...

LAW: the California Coastal Act Sections 30210 through 30213, Sections 30220, 30221 and the City's own Local Coastal Program.

the California Constitution, and the California Coastal Act Sections 30210 through 30213, Sections 30220, 30221 and the City's own Local Coastal Program.

LAW: A CEQA exception (to the requirement for beach entry) was not valid, since the public was not notified as required and legal qualifications were not met.

Precedent/Ruling: "establishing an area as a reserve will not afford any more protection to the seals than signage and a good docent program [and is] inconsistent with the state tidelands grant (CH 688), which specifically calls for the "public's absolute right of access to the water."

Precedent: The Coastal Commission denied a request from Vandenberg Air Force Base for closure of nearby beaches to protect the depleted plover population; they stated "not consistent with the Coastal Commission Act's limitations on the requirement to maximize public access and recreational opportunities. 5/30/2001, CD-23-01

Precedent: The Coastal Commission denied a request from the U.S. Navy in Coronado, because "State law requires that the public have access to all stretches of California beaches [CA Coast Commission, Section 30210; U-T report, 4/8/2010]

LAW: The City of San Diego and Department of Public Works jointly approved the (sea wall - Children's Pool) project through Resolution #54177. The Park Commission approved the Project on 7/22/1930. On 4/23/31 California Senate Bill 422 officially authorized the project and accepted Miss Scripps gift in an enduring trust.

Precedent & LAW: Will of Ellen Browning Scripps (10/21/22, codicil 15 #5) uses the term "Children's Pool" 4 times to describe "the crescent-shaped beach immediately in front of Block 56 of the La Jolla Park subdivision." There, in 1921, she donated to the City a sea wall to protect swimmers after two children drowned - legalized in a "forever" trust.

Fact: Seals are not an endangered species at the Children's Pool. "Population counts show that the harbor seal population in La Jolla is stable at approximately 150-200 seals, with a migrating population of ~500 (Prof J. Moore & T. Linder, SIO, U-T report 5/24/10).

From: **Phyllis Minick, San Diego resident:** Background: six years on SCUBA diving team for the Kelp Habitat Improvement Project with funding by the City and County of San Diego. P.I. Dr. Wheeler North, Professor, Cal Tech.

- 1.
- 2.

DISPUTE OF BARRIER OR CLOSURE AT THE CHILDREN'S POOL

To: Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

From: **Phyllis Minick**: Background: six years on SCUBA diving team for the Kelp Habitat Improvement Project with funding by the City and County of San Diego. P.I., Dr Wheeler North, Professor, Cal Tech.
Well-documented facts:

- 1) Humans and seals have co-existed safely at the Children's Pool for the 81 years since this unique ocean pool was formed upon construction of the sea wall. Therefore, shared use is reasonable.
- 2) Seals are not an endangered species at the Children's Pool. In 1995-97, "population counts show that the harbor seal population in La Jolla is stable at approximately 150-200 seals, with a migrating population of ~500 (Prof J. Moore & T. Linder, SIO). The maximum number of harbor seals using the Children's Pool can vary between 62 and 172 (H-SWRI, 1995-1997)." Yet, the count in 2009 was ~300 and 60 pups were born this season. Seals live 35-40 years; 50% die in their first year and, thereafter, 20% die/year. The estimated annual rate of increase for harbor seals is around 5%, an approximate increase of only 5 for every 100 seals ... the remainder must die! NO EMERGENCY EXISTS, but artificial protection causing seal overpopulation results in a lack of food and starvation.
- 3) Any barrier restricting coastal access violates the Tidelands Trust, the California Constitution, and the California Coastal Act Sections 30210 through 30213, Sections 30220, 30221 and the City's own Local Coastal Program. Violating citizens' rights to use public beaches and invites lawsuits, which generate enormous expense.
- 4) Law enforcement at the Children's Pool is questionable. SDPD made 41 calls there last year. At present, three animal rights "donation" tables illegally collect money (2008, \$308,000 on tax records) at the Children's Pool without permits and hire an illegal guard to warn visitors away. Visitors, especially children, are being frightened and attacked. City management of the Pool by ranger promotes its lawful use and profits the city, not special interests.
- 5) Prevent lawsuits by never violating the Trust terms, which provides for joint use of sea life and humans. Attempts to stop the public from using the Children's Pool through intimidation, harassment or force violate our federally mandated civil rights – my civil rights! Phyllis Minick

February 9, 2011

Dear Coastal Commissioner,

I urge you to forbid any barrier or closure that prevents human access to the Children's Pool. American FREEDOMS and LAWS absolutely deny prohibition of right of way to coastal waters.

Phyllis Minick, San Diego resident

June 3, 2012

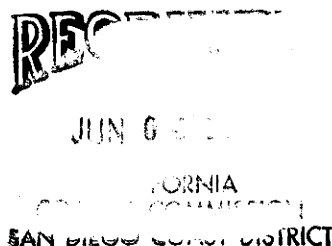
Attention: Kanani Brown

FAX (619) 767-2384

Coastal Commission file 6-11-078

7575 Metropolitan Dr., Suite 103

San Diego, CA. 92108-4402



Coastal Commission Staff,

The Coastal Commission should neither consider nor approve a permit for a perpetual rope barrier across a public beach at Children's Pool. I have lived in San Diego and swam in the waters of off Children's Cove for over 40 years. I love swimming with the seals and seeing them in their natural habitat. I have personally witness the coexistence of people and seals there during most of those 40 years. It is only recently that the misconstrued idea has arisen that this area is needed for the seal's survival and the entertainment of some who want an unnatural seal observation park.

The seal population is not endangered. Creating a "seals only" beach is not needed for their survival or well being, but does deny its use by the citizens of California. This beach is one of the treasured jewels of San Diego. If the Organ Pavilion in Balboa Park, (another jewel of our fine city) was overrun by squirrels would you consider roping it off and denying access by Park goers because some people like to come watch the squirrels? Of course not! It would be ludicrous to consider closing this one of a kind treasure and giving it over to an animal that is not threatened or endangered. The Children's Cove is also a one of a kind treasure built for the use of children and all citizens of San Diego. Roping it off would be a travesty.

There are many more other reasons not to rope this area off. Some of these are:

- It would be a violation of the Local Coastal Plan as unanimously ruled by San Diego's own Planning Commission. (Later bypassed)
California is bound by a trust which does not allow changing a playground, park and bathing pool into a restricted animal display concession.
- Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.

A rectangular stamp with the word "RECEIVED" in large, bold, slanted letters.

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- This measure is solely to help an imported seal colony grow. Its survival is not in question. How can it be the business of the Coastal Commission to nurture an imported animal on an unnatural beach at the expense of public access to public land?
- A suit is now filed against the State and San Diego for violation of the 1931 Tidelands Trust. It will prevail easily and if the CCC acts in haste to encourage San Diego with a permit allowed by a twisting its own procedures, it stands to be reversed in the courts. This matter needs a special legal study, not a one day pile of opinions and special interest claims. There is no emergency.
- There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat; it is cultivating an unnatural habitat.
- There are no guarantees in place other beaches will not be set aside for new seal colonies. The seal and sea lion population in California are documented to be growing. That growth was accomplished without setting aside public beaches for them.
- § 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development...(Looking from behind a barrier is not recreation)
- **The CCC is meant to protect access to the coastline FOR the people. It was not intended to protect the coastline FROM access by the people of California!!**

Thank you for considering these points during your evaluation of this proposal

Yours Truly,



Karl Burns

To Whom It May Concern:

(Children's pool)

Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.

This measure is solely to help an imported seal colony grow. Its survival is not in question. How can it be the business of the Coastal Commission to nurture an imported animal on an unnatural beach at the expense of public access to public land?

The seals are just a concession, like a merry go round the City might want to favor attracting tourists over local use. CCC approval will allow conversion of any California parkland to inappropriate defacto animal reserves on public beaches for gain

The Coastal Commission should not bow to special interest groups determined to convert historic tidelands solely to their desired use. We can share. They cannot. This is called "an effective visual deterrence" by the City. That is all you need to know. It is more than an encroachment. It is a means of denial of access.

There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat; it is cultivating an unnatural habitat.

The CCC has a proud history of preventing greedy corporations with seaside holding from preventing public access for convenience. San Diego is just such a corporation. Protect us using the Coastal Act.

This permit is proposed without a sunset date, no later review, no studies, no conditions, no alternatives, and no legal studies. Just "in perpetuity". Where else would the CCC use its jurisdiction to do such a thing?

There are no guarantees in place other beaches will not be set aside for new seal colonies. The seal and sea lion population in California are documented to be growing. That growth was accomplished without setting aside public beaches for them

California Constitution: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose.

Casa Cove was created for the public good. The sea lions can haul out and bask in thousands of other places along the southern California coast.

Herbert A. Flinn

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SAN DIEGO COAST DISTRICT

May 30th 2012
File 6-11-078
Coastal Commission
7575 Metropolitan Drive, Ste 103
San Diego, CA 92108-4402.

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SAN DIEGO COAST DISTRICT

ANALYZING THE BOOKLET FROM FRIENDS OF THE SEALS

The rope support petitions, the form letters, the organized booklet in the file are products of the La Jolla Friends of the Seals. (LJFS) Until they submitted their booklet and organized petitions and form letters, public input in the file was running 10:1 against a year round rope permit.

Considerable documentation has accompanied the input against the year round rope.

The LJFS binder is the only pro-rope-barrier input with documentation and history, so its content warrants scrutiny. The vast majority is not relevant to a year round rope permit.

1. The Myth of Seal Rock.

The map shown is accurate but does not show the old Seal Rock under the sea wall. Before 1900, the reef behind our sea wall was higher and its west end was often above water. Sea lions used it. Exhibit A is the same map with a scale inlay of the sea wall. Today, a different rock, north of the Pool, not west, is known as Seal Rock. Irrelevant folklore.

2. Animal Protection Laws

(A) has no application to a rope permit.

(B) (b) Restates that only federal authorities may protect marine mammals so California has no jurisdiction or authority.

(C) Also does not apply to a rope barrier analysis. The City claims it is an adequate reminder and not an enforceable restriction.

In my copy the ranger's duties are included here (for a previous part time ranger) which do not include rope enforcement. OK, the ranger is a good idea, and does a much better job than a rope.

3. City of Carpinteria Ordinance

The errors in the ordinance declaration are too numerous to examine here. Carpinteria can do what it wants above the high tide line. This became their ordinance 12.24.090. A search for any Coastal Commission permit did not come up with one. It is not known if this closure could survive a court challenge. There is no landgrant trust there to worry about.

Permission to operate a piledriver there was granted by NOAA in 2001, noting sensibly, "While behavioral modifications may be made by individuals to avoid the resultant noise and activities, the avoidance of the area is not reasonably expected to, and is not reasonably likely to, adversely affect the annual rates of recruitment or survival of the stock".

4. Overview of the Coastal Act

Only part of §30230 was quoted, with no reason it should override all the other sections requiring maximum citizens coastal access. Inapplicability of 30230 has been discussed in another letter.

5. FACT SHEET Fact?

5.1. NOAA states Children's Pool is one of 2 mainland haulouts sites "**available to the public**". There are hundreds in inaccessible locations. This wording is intentionally misleading.

5.2. True, though they do not use it 24 hours/day. And not the same seals come by every day.

5.3. The Seal Rock myth was dealt with above. Irrelevant to a rope permit anyway.

5.4. Only 34,000? This is the greatest number ever surveyed because they have increased every year. Our 45 pups this year is the highest ever, showing the seals are doing just fine.

- 5.5. This is just vicious slander. There is no group or action to require a people only beach. LJFS is the only one unwilling to share. Nobody has ever reported sick from a Children's Pool visit. I swim there whenever I can. Such hearsay has nothing to do with whether a rope ignored 12 months is required over 5 months.
- 5.6. Were there truly abuse, the feds would have stepped in long ago or the seals would have left. This fanciful seal mind reading has no place in legal analysis the CCC must do.
- 5.7. This is slander of every level of government. I have conversed a lot with the ranger and local police and local NOAA Law Enforcement Agent. They are all conscientious and professional. They rely on science and law to carry out their duties, to the disappointment of the LJFS. Such accusations have no merit and are not up to the Coastal Commission to address.
- 5.8. Here and at the end of #7, the real intent is shown. They don't want an advisory rope, they want that beach empty of people. Both adjacent beaches are posted for dangerous rip currents. No other reasonable water entry in La Jolla allows taking lobster or fish.
- 6. Coastal Development Permit 250362**
Curiously, the LJFS cites a 2006 permit 410971 showing there was not supposed to be any impact on public use. That language was omitted in the 5 month forever permit of 2010. Now, the City wants a year round rope hoping it WILL impact public use. (otherwise why have it?)
- 7. Declaration by Ben Hueso**
Modestly he does not mention he was chair at the 5/17/10 meeting and ramrodded the measure through as an emergency measure that was disallowed by the City Attorney. He termed out right afterward. The judge did not agree with the writ of mandate, and if she had, the City's land use laws would have had to be rewritten. Discovering the City had no jurisdiction for a rope permit solved the problem for the City, creating one for you.
- 8. NOAA letter to Donna Frye**
There has no mention of any imperative under federal law for the City to rope off a public beach. NOAA only "supports" such municipal action. I met with Mr. McInnis afterward and he denied it was a policy statement or that he had even read it before signing it on behalf of his staff. The letter was written, as others before, with no consideration of California laws. An earlier letter from NOAA stating Children's Pool was a local problem requiring a local solution was not included, you note. The Appendix 1 to the letter was added to torpedo an IHA request in progress to allow divers to share the beach at Children's Pool and to deny proof of "seal dumping" in La Jolla it would contain. A request for scientific references to the claims of reproductive harm from shared use at Children's Pool did not produce applicable references. Without ability to work with NOAA on such an IHA, the divers were forced to make up their own rules and share nice with the seals on their own.
- 9. &**
- 10. NOAA Letters from NOAA OLE**
There were 3 almost identical letters in 3 years. Don Masters is NOAA's top cop on the west coast yet he had to request a destitute municipality do his job for him? This only shows what I wrote in another letter. NOAA has no jurisdiction to close a beach. The MMPA is a maritime law. Note he recommended closure, but the City did not do it for him.
When he wrote in 2006 he used the myth that 80,000 people per month visit the Children's Pool. I sent him proof the number was unsubstantiated. He never answered, but note in the item 9 letter, he changed it to "numerous visitors". Write to him and ask him why he never came down here and strung his own rope.
- 11. Coastkeeper Position**
Coastkeeper has no standing to require federal enforcement nor is such a statement relevant to analysis of a state sanctioned perpetual advisory rope. The inaccuracies in their letter are too numerous to address here. The educational signage they wanted was installed in 2 places by the first ranger over a year ago.

12. NOAA guidelines

This guideline recommends 100 yards distance. It would have the sidewalk and sea wall be closed. This also is irrelevant to a year round rope. In fact, the rope contradicts it.

13. Correspondence with Tina Fahey

I wrote to NOAA headquarters about this. Jim Lecky wrote back it was wrong and I should get back with the Long Beach office. Last month I was on the beach and our NOAA local federal enforcement officer visited and asked people very close to the seals to "please step back the recommended 20 feet". Good idea. This item also has nothing to do with a year round rope. A published 50' distance would conflict with the variable distance of the rope and would contradict practice at Children's Pool by a very sensible ranger well versed in the law.

A second item 13 is a letter to the editor, opinion not related to a year round rope barrier.

14. This is their version of history and pretty laughable.

There was no beach before 1931. The myth of Seal Rock gets better here and contradicts their item 1. There is no group or action to make the beach non-seal. It is a paranoid delusion. I have been approached by people hoping there was. Sorry. The rest of the untruths presented are too numerous to even list here.

Suffice it to say this is irrelevant to an advisory rope barrier for any period. It rambles toward a complete closure that would put San Diego in conflict with the State Constitution. Renee Owens founded her own consulting firm for ecoactivism and seems to be self-accredited. She is beyond the fringe even of LJFS exaggerating everything they have said without evidence.

15. Former Lifeguard's Opinion

I have not been able to find any record of this guy. If you think an opinion from a lifeguard is good, please contact the head lifeguard at Children's Pool, Ed Harris. Alone. Lifeguards fear to speak openly. This also contains nothing relevant to the merit of a year round rope permit.

16. Harbor Seal Behavior:

There seems to be no author here, just references. I can find no such publication of this title. It seems to be a construct of out-takes from other papers, such as "Diel Haul-out patterns and site fidelity" by P. Yochem, with opinion between the references. Yochem did the only research done on Children's Pool, not about things you find here. Site fidelity is ascribed to harbor seals because they spend the majority of time within 25 km of one place.

17. Summary of Conclusions

This cherry picking of statements from the paper was done by one of the founders of LJFS. Another input with no relevance to analysis of a year round rope permit.

17 ½ Email from Parks and Recreation – Ranger duties.

Already supplied in Item 2. Describes a much better solution than a stupid rope.

18. Harbor Seals in the Bay

Now we have an unofficial guideline of 650 feet. What can these people be thinking?

It also references conclusions drawn about need for time out of the water in the Arctic. Sure, but this is San Diego. It is typical dogma repeated by deskbound biologists who study old papers done by arctic biologists looking for "unspoiled" seals. If you were to build a pen so the seals could not leave the beach on a hot day they would die here. NOAA took bad sea lions who were ravaging salmon stocks in Washington into custody in a building without a pool to submerge in. They all died overnight. Heatstroke.

Sorry to have written so much, but LJFS threw the kitchen sink at this and it had to be said.

The Coastal Commission has to interpret the law, not public opinion polls or stacks of form letters, or unsubstantiated slick publications.

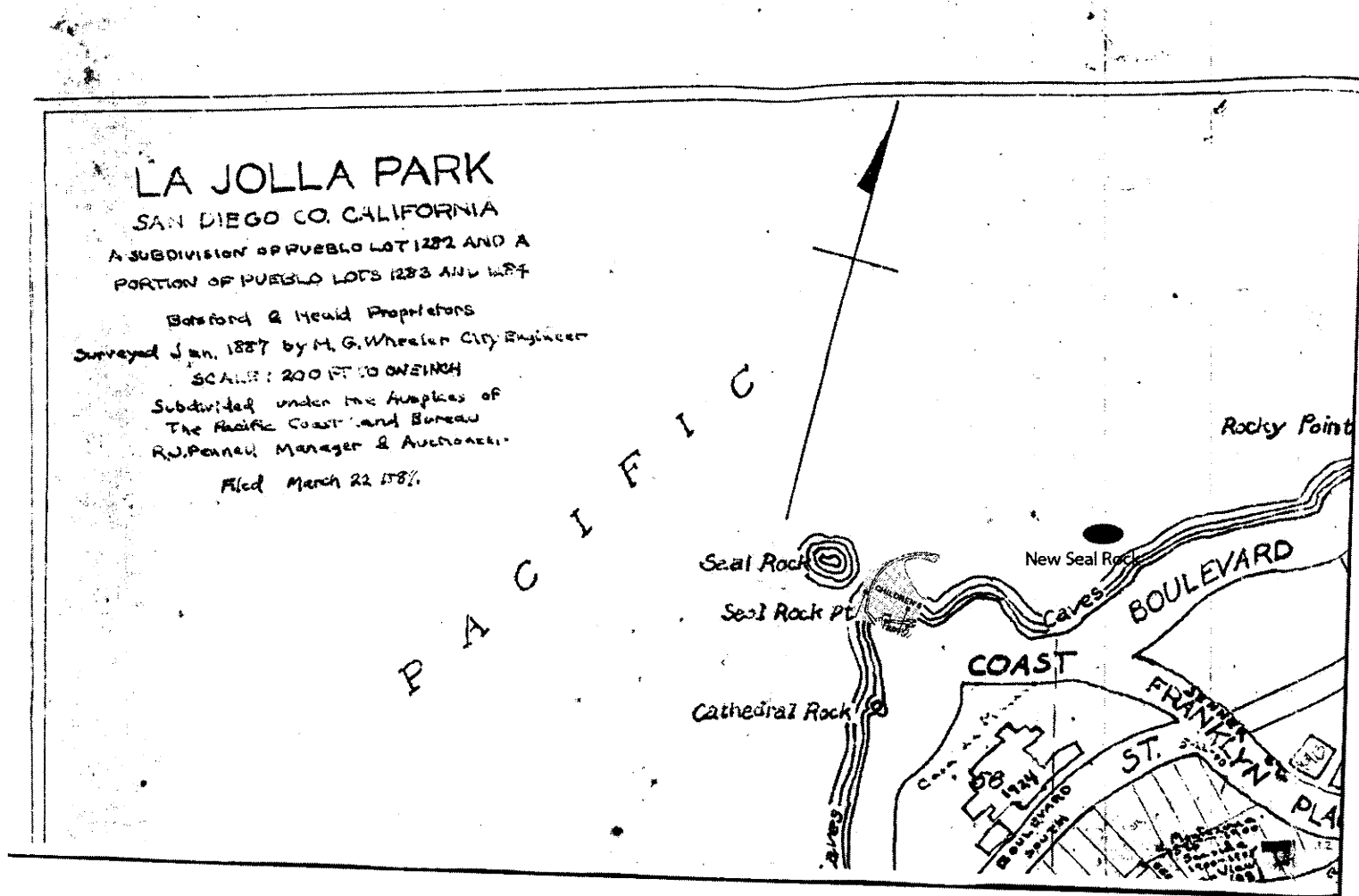
John Leek 3090 Admiral Ave, San Diego, CA 92123 jleek001@san.rr.com



The Myth of Old Seal Rock

To illustrate the difficulty separating truth from urban myth at Children's Pool, we cite the claim that the Children's Pool sea wall was built over an ancient seal habitat called "Seal Rock" and the seals have come home from their diaspora. Below is the 1887 geodetic map from the La Jolla Historical Society museum, with an insert from a 1989 City map. Note when the sea wall is shown to scale, this old Seal Rock is way outside the Children's Pool, but where was it?

Divers know – the end of the reef behind the sea wall is high at its westmost point, and anyone can see surf break out there at low tide. 100 years ago it was above the surface.



Back then it was mentioned the locals could hear seals barking all the way to "Seal Rock Point". Harbor seals don't bark. Those were sea lions.

June 2, 2012

RECEIVED

JUN 04 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

CALIFORNIA
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Coastal Commission staff,

Daniel Daneri of the City of San Diego, in a letter to the Coastal Commission dated May 22nd, 2012 responds to a request from the CCC for additional evidence to justify roping off a beach year round. Daneri makes a sincere attempt to clarify the City's position but his supporting evidence is full of errors and misinformation. His letter inadvertently reveals a major shift in the City's position about what they now consider the outcome of the year round rope to be. Statements like a "visual deterrence" and "abiding" by the rope at the direction of the Ranger are part of this shift in policy. Recall that the City's stated position has always been that the rope is simply a "guideline" to using the beach in their preferred manner. Their stated policy was never intended to deter use of a public beach. At least that was their claim. That has changed.

Ranger's responsibilities include educating visitors about the City's Children Pool Joint-Use Policy, ensuring visitors are respectful of the seals, informing and ensuring visitors follow all regulations governing their conduct while at the Children's Pool, and providing a visible presence to deter any unlawful acts at Children's Pool. As stated previously, the Park Ranger can issue citations for

The recited duties of the Ranger don't include complete information beach users need when their activities require ocean access. That component is consistently ignored when the official policy of park staff is discussed. The right to access the ocean at Children's Pool has always been an afterthought and not a primary consideration in the City's management planning.

The City is pushing forward with plans to gate and close the only remaining access to this beach for at least five months of the year. They appear to have no interest in fully complying with the terms of the Tidelands Trust governing the use of the Children's Pool. Closing a beach and blocking access is a simplistic and flawed management plan. They appear to be trying to unravel the mess created when they try to force an inconsistent Marine Mammal Reserve into public park intended for children.

Daniel Daneri's letter responds to several points to clarify questions from the Coastal Commission staff.

Point 1

Daneri claims that photos of people using this beach are the result of "banners, umbrellas and non-official signage on the beach." He goes on to imply that those items somehow demonstrate the status of the beach as an open public beach contrary to the City's policy and the actual status of this beach. Is it not the case that the beach is open to the public and people using the beach is fully within the City Joint

Use Policy established years ago? Daneri goes on to contrast conditions the following day when people are obediently standing behind the rope while seals occupy the entire shoreline. He implies that if people would just stay off the beach, there would always be seals for the seal watching public to enjoy. However, he fails to indicate if "unofficial" signs, usually present at the stairway placed by the seals only fanatics, have done their job in confusing the public into thinking the beach is closed.

Retired Coastal Commission Executive Director, Peter Douglas, recognized the "pattern of behavior" the "seals only" fanatics have used to drive people from the beach with abusive behavior. Even though he recognized the abusive behavior and promising a follow up with the City, nothing was ever done, leaving a complacent City to allow it to continue. Misleading signs placed by Friends of Seals and SealWatch reinforce the City's intended effect of a barrier rope all the way across a public beach. The effect is the actual closure of a public beach without justification or authorization by the CCC and in violation of State Law.

Daneri's observations are only his opinion about a snapshot in time and do not represent the reality of beach use at Children's Pool. His observation, relayed from the Park Ranger on, fail to account for the other "non-official signs" placed along the only access point to the beach. Those signs all but outright state the beach is closed and are contrary to the policy of the City and the required beach access component of the Coastal Act.

Point 2

Daneri again repeats the new policy of "deterrence" in claiming the rope is a visual deterrence only. He mentions a Site Development Permit (SDP) that exists for this rope barrier project. There is no SDP that has passed through the local permitting procedures for a year round rope barrier. It doesn't exist. A SDP was issued by the City for a temporary, seasonal permit issued under City jurisdiction which no longer exists. Jurisdiction has changed recently and the existence of a SDP which is no longer valid should not be used as the basis for a new project where the City no longer has permitting authority.

To approve a new barrier project on a flawed original permit would be ill advised. Require the City to justify a new SDP with current scientific data and the opinion of experts. The City is requesting a permanent change to a Trusted beach and lacks any study to justify the change. They have simply submitted the request from the City Council meeting minutes as the basis of their justification.

The City has minimized the impact of a "guideline rope" throughout this document and now expect "adherence" to the physical barrier facing beach going visitors. The Ranger is present to answer questions and should not be instructing anyone to go stand behind a rope. It is not his role to demand compliance with a "guideline" rope. He rightfully should be asking people to not approach too close to seals hauled out on the beach and has done a good job doing so. He is not empowered to herd people behind a rope to placate "seals only" fanatics who try to stop visitors on the beach by shouting and yelling.

The rope is a physical barrier constructed all the way across this beach to do one thing; block people from passing. It does impede vertical access to the shore. Otherwise, an opening of any size in the rope

would not be such a key component of this proposal and would not be necessary. The rope is an impediment to access and the CCC must not allow it on this Trusted public beach.

The often repeated characterization that the rope is a "guideline" only is false and cannot be supported by facts or observed activity on the beach. The false impression that the beach is closed has been crafted over the many years the "guideline" rope has been in place. This barrier rope, placed with health department warnings, signaled the complete beach closure. Next that same rope was placed as a "guideline" only rope bolstered the hysterical claims by the ranting of "seals only" fanatics. The "visual deterrence" augmented by shouting and yelling effectively closes the beach to all but the most informed visitor. You have all the elements of an improperly closed beach no matter what the pacifying claims to the contrary are. The City wants to close this beach and has over many years of mismanagement, conditioned its citizens into thinking that is the proper goal it should seek. This form of beach closure is misguided policy which cannot be squared with the requirements of the Coastal Act.

Daneri continues on the second page to state the Ranger is empowered to issue citations for misdemeanor and infraction level violations of the Municipal Code. He has not done so in the face of continuing violations by activists on both sides using amplified bullhorns within range of a retirement home across the street. This lack of enforcement has allowed the seal cultists to effectively close the beach using the City's rope barrier and "unofficial signs" to prevent visitors from going onto the beach and gaining access to the ocean at Children's Pool.

Points 4 & 5

Daneri describes the condition on the beach during varying tidal conditions stating there is "enough landward area to accommodate a large number of visitors." He cautiously refrains from stating the number of visitors accommodated. Does he know what that number is? How was it determined that there is "enough" room on the beach for visitors. Where are the studies backing up this claim?

landward side of the rope. Visitors may need to wait until the tide recedes far enough to draw the seals back to the seaward side of the rope before going onto the beach. The original three (3) foot gap made the rope presence unmistakable

This opinion makes the goal of a defacto seal reserve obvious. It is not a seal reserve but people will be required to stay off the beach under this scenario. A designation never intended by the legislature when an additional purpose of Marine Mammal Park was added to the existing uses enumerated in the Children's Pool Tidelands Trust.

The one true statement in this paragraph is that "Many visitors are confused as to the purpose of the rope." A more true statement couldn't be made about the rope and its illogical placement across the entire beach called Children's Pool. Daneri makes clear his personal opinion about the intent of the rope and its effect in his statement:

the beach. The original three (3) foot gap made the rope presence unmistakable and made its purpose clear while still providing a large enough opening for beach visitors to pass through. The current gap in the seasonal rope is approximately

Does this minimally sized opening satisfy the City's concept of the access required by the Coastal Act? They believe it does even though the rope hinders and restricts access. Documents from the Coastal Commission state coastal access easements should be at least ten feet wide. The City's careless request for a 130 foot rope barrier was challenged to comply with permit conditions shortening the excessively long rope barrier. This flaw highlights the frivolous and incomplete nature of the City's study of the effects of this rope barrier.

Daneri conveniently doesn't mention that the areas set aside for human visitors is the area above the high tide line where the sand is never cleaned by the actions of the rising and falling tides. He expects visitors to walk through the dirtiest part of the beach to satisfy his standard of what is "enough" space allotted to human activity on this public beach. The San Diego Park and Recreation Department have been asked for years to clean and maintain this beach as are all other beaches in the care of the City. However, this beach is deliberately neglected and is never cleaned by the park staff leaving visitors to wade through seal waste while using the beach. So much so, it appears to be a tactic to discourage beach use and potentially endangers public health from the contaminated beach.

The statement about the seals using the landward side of the beach highlights the ineffectiveness of a permanently positioned, stationary rope barrier. It is ineffective to its stated purpose since it cannot move with changing conditions. The concept that seals will be protected by a fixed position barrier is a false hope that this simple device will solve all the problems at Children's Pool. It will not solve anything and will only serve to perpetuate the division in the community created by an unreasonable hindrance to beach access on this man made beach set aside for human use. The conditions on this beach are constantly changing. The actions of the tides are predictable but the activities and position of seals is ever-changing and unpredictable. Any management plan must consider the changing conditions or it is doomed to fail as has the seasonal rope barrier erected during pupping season.

Point 7

7. No formal surveys or studies counting the number of seals hauled out on the beach at the Children's Pool have been conducted. The Park Ranger does a daily

By the City's own admission, a scientific examination or Environmental Impact Report of the effect of a rope barrier has never been done. An obvious effect can be anticipated when a beach is changed from one use to another completely different use. This kind of change requires a review under the California Environmental Quality Act (CEQA) to evaluate the impact on all users of Children's Pool Beach. No such study has ever been done evaluating the impact of effectiveness of the rope barrier. Coastal

development permits should not be granted without this study. The City continues forward relying on the speculation of laymen to try to justify human exclusion to create a defacto seal reserve in a children's bathing pool.

Daneri expresses his opinion that the Harbor Seals at Children's Pool are non-migratory. He intends to paint a picture that there is a stationary colony of seals using the beach. A more correct characterization of the seals would be they are transitory. Meaning, individual animals come and go all the time and are not dependent on this one small beach to thrive. Dr. Doyle Hannon has studied the colony at Children's pool has declared, in expert witness testimony in the O'Sullivan lawsuit, that Harbor Seals at Children's Pool are not dependent on this beach and no ill effect would result to the overall population or to these individual animals if they were somehow unable to use this beach.

exiting the water can also cause seal flushing. No substantiated reports of malicious or violent behavior by a human towards a seal at the Children's Pool have been filed or observed. Human impact or influence on seal pup miscarriages, stillbirths, or abandonments cannot be scientifically determined at this time. Instances of seal aggression towards humans by a seal on land at the

Again in the above statement, Daneri attempts to bring into the discussion the possibility there is harm done to the seal population from human/seal interaction without any substantiation. A flawed opinion lacking scientific evaluation that should not enter into the analysis to try to exclude people from this beach.

There are no plans to remove the colony of seals but the City continues to try to shield them from an unknown phantom force intent on their destruction. This phantom force can only be found in the minds and illogical ranting of seal fanatics for whom the highest purpose in life is to isolate seals at the Children's Pool and drive away humans. Falling prey to this illogical thought process would reflect poorly on the City and Coastal Commission and must be refuted.

Do not be complicit in allowing the City to further damage the intent of Coastal Act by allowing a permanent rope barrier on the Children's Pool beach.



Kenneth L. Hunrichs
San Diego, CA

California Coastal Commission
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

RECEIVED

JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Children's Pool Coastal Development Permit Application #6-11-078

Why Children's Pool is not a natural habitat but an unnatural commercial animal display.

Seventeen years ago, San Diego realized the economic benefit of a rock just off La Jolla where harbor seals gathered when conditions were conducive, as they do today. Surrounded by water, the rock was a haven, though less than 100' from the beach. To encourage a steady population there, San Diego established a reserve there in 1996 with Coastal Commission permission. Attached are pages from the Superior Court tentative decision after subpoenaed testimony revealed an arrangement was made in 1993 to change the release destination for rehabilitated rescued harbor seals in particular to La Jolla. See the Superior Court decision of Aug 5, 2005.

The whole story was not revealed to the Court. A Freedom of Information Act request to NOAA Long Beach obtained the data recorded. The spreadsheet has a column to show the seals were released in the vicinity for 11 years, stopping abruptly after the practice came to light in court. The data is clear enough, and a map showing the actual placements makes it easy to see what happened. The overwhelming majority of rescues are pups, mainly because one can just pick one up. Unlike adults, they have no experience with other places and cannot "find their way home". They tend to adopt their release area.

Much has been reported about how harbor seals do not tolerate human company anywhere else. Yet forest rangers know animals in national parks often come to disregard human traffic yet nobody has suggested every campground where animals come visiting be closed. Don't get us wrong – the seals are ok there, you just can't use them as a tool to deprive the public of vertical access at a historic trusted tidelands beach.

Harbor seals are thriving in La Jolla and all over California. The last population survey made shows this clearly and even added the population is so big it indicates "the population is approaching its environmental carrying capacity", a fancy way to say we are about full up.

Bottom line: California Code 30230 cannot be applied to a contrived animal colony on a man-made beach. If anything, the placement of hand raised harbor seals there was a violation of the law and the state trust by the authorities, verified in Superior Court in 2005.

John Leek jleek001@san.rr.com

3090 Admiral Ave, San Diego, CA 92123



	A	B	C	D	E	F	G	H	I
1	HARBOR SEAL RELEASES BY SEAWORLD (SAN DIEGO COUNTY, 1989 - 2006)								
2	Freedom of Information Act Request 2008-00188					Vicinity	Location by		
3	3 columns of 1's added for sum computations					La Jolla CP	GPS as		
4	RELDATE	RCITY	RLOC	RLAT	RLONG	released	released	93 to 2006	DDD.MM.mmm
5	12-Oct-89	SAN DIEGO	8 MILES SOUTH OF POINT LOMA				1		
6	12-Oct-89	SAN DIEGO	8 MILES SOUTH OF POINT LOMA				1		
7	12-Oct-89	SAN DIEGO	8 MILES SOUTH OF POINT LOMA				1		
8	07-Mar-90	LA JOLLA	KELP BED OFFSHORE LA JOLLA POINT				1		
9	07-Mar-90	LA JOLLA	KELP BED OFFSHORE LA JOLLA POINT				1		
10	28-Jun-90	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
11	28-Jun-90	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
12	28-Jun-90	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
13	21-Sep-90	SAN DIEGO	15 MILES SOUTHWEST OF POINT LOMA				1		
14	05-Dec-90	LA JOLLA	1 MILE WEST OF POINT LA JOLLA			1	1		
15	01-Apr-91	LA JOLLA	OFF SEAL ROCK			1	1		
16	23-May-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
17	23-May-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
18	23-May-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
19	07-Jun-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
20	07-Jun-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
21	07-Jun-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
22	07-Jun-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
23	21-Jun-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
24	21-Jun-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
25	11-Jul-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
26	11-Jul-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
27	05-Sep-91	SAN DIEGO	12 MILES SOUTHWEST OF POINT LOMA				1		
28	20-May-92	SAN DIEGO	MISSION BEACH				1		
29	20-May-92	SAN DIEGO	MISSION BAY				1		
30	27-May-92	SAN DIEGO	MISSION BAY				1		
31	27-May-92	LA JOLLA	FEW MILES WEST OF LA JOLLA SHORES				1		
32	27-May-92	SAN DIEGO	MISSION BAY				1		
33	27-May-92	LA JOLLA	2 MILES WEST OF LA JOLLA SHORES			1	1		
34	03-Jun-92	SAN DIEGO	MISSION BAY				1		
35	03-Jun-92	SAN DIEGO	MISSION BAY				1		
36	29-Jun-92	SAN DIEGO	MISSION BAY				1		
37	29-Jun-92	SAN DIEGO	MISSION BAY				1		
38	29-Jun-92	SAN DIEGO	MISSION BAY				1		
39	03-Jul-92	SAN DIEGO	MISSION BAY				1		
40	20-Aug-92	SAN DIEGO	MISSION BAY				1		
41	20-Aug-92	SAN DIEGO	MISSION BAY				1		
42	08-Oct-92	SAN DIEGO	MISSION BAY				1		
43	10-Feb-93	SAN DIEGO	MISSION BAY				1		

NOAA RECORDED
HARSONSON
RELEASES
FOIA 2008-00188

	A	B	C	D	E	F	G	H	I
44	10-Feb-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
45	10-Feb-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
46	21-May-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
47	21-May-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
48	21-May-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
49	17-Jun-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
50	17-Jun-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
51	08-Jul-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
52	08-Jul-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BEACH				1		
53	25-Sep-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
54	25-Sep-93	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1		
55	20-Dec-93	LA JOLLA	LA JOLLA KELP BED	325130	1171615	1	1	1	(<1 mile from CP)
56	20-Dec-93	LA JOLLA	LA JOLLA KELP BED	325130	1171615	1	1	1	
57	29-Sep-94	LA JOLLA	LA JOLLA KELP BED	325130	1171615	1	1	1	
58	29-Sep-94	LA JOLLA	LA JOLLA KELP BED	325130	1171615	1	1	1	
59	13-Jan-95	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
60	31-Mar-95	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
61	28-Jun-95	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
62	28-Jun-95	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
63	28-Jun-95	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
64	28-Jun-95	SAN DIEGO	12 MILES SOUTHWEST OF MISSION BAY				1	1	
65	15-Sep-95	LA JOLLA	CHILDREN'S POOL			1	1	1	
66	15-Sep-95	LA JOLLA	CHILDREN'S POOL			1	1	1	
67	15-Sep-95	LA JOLLA	CHILDREN'S POOL			1	1	1	
68	15-Sep-95	LA JOLLA	CHILDREN'S POOL			1	1	1	
69	19-Jul-96	LA JOLLA	OFF LA JOLLA COAST			1	1	1	
70	19-Jul-96	LA JOLLA	OFF LA JOLLA COAST			1	1	1	
71	03-Sep-96	LA JOLLA	1 MILE OFFSHORE CHILDREN'S POOL			1	1	1	
72	03-Sep-96	LA JOLLA	1 MILE OFFSHORE CHILDREN'S POOL			1	1	1	
73	03-Sep-96	LA JOLLA	1 MILE OFFSHORE CHILDREN'S POOL			1	1	1	
74	03-Sep-96	LA JOLLA	1 MILE OFFSHORE CHILDREN'S POOL			1	1	1	
75	28-Sep-96	LA JOLLA	CHILDREN'S POOL			1	1	1	
76	30-Jul-97	LA JOLLA	OFF LA JOLLA			1	1	1	
77	30-Jul-97	LA JOLLA	SHELL BEACH			1	1	1	
78	03-Nov-97	LA JOLLA	SHELL BEACH			1	1	1	
79	03-Nov-97	LA JOLLA	SHELL BEACH			1	1	1	
80	13-Jan-98	LA JOLLA	SHELL BEACH			1	1	1	
81	22-Apr-98	LA JOLLA	BETWEEN CHILDREN'S POOL & LA JOLLA COVE			1	1	1	
82	22-Apr-98	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
83	02-Jun-98	LA JOLLA	1 MILE WEST OF CHILDREN'S POOL			1	1	1	
84	02-Jun-98	LA JOLLA	1 MILE WEST OF CHILDREN'S POOL			1	1	1	
85	02-Jun-98	LA JOLLA	1 MILE WEST OF CHILDREN'S POOL			1	1	1	
86	06-Jul-98	SAN DIEGO	1 MILE WEST OF LA JOLLA			1	1	1	
87	06-Jul-98	SAN DIEGO	1 MILE WEST OF LA JOLLA			1	1	1	
88	06-Jul-98	SAN DIEGO	1 MILE WEST OF LA JOLLA			1	1	1	
89	06-Jul-98	SAN DIEGO	1 MILE WEST OF LA JOLLA			1	1	1	
90	05-Aug-98	LA JOLLA	7 MILES WEST OF LA JOLLA			1	1	1	
91	05-Aug-98	LA JOLLA	7 MILES WEST OF LA JOLLA			1	1	1	
92	05-Aug-98	SAN DIEGO	7 MILES WEST OF LA JOLLA			1	1	1	
93	01-Oct-98	LA JOLLA	5 MILES WEST OF CHILDREN'S POOL			1	1	1	

	A	B	C	D	E	F	G	H	I
94	01-Oct-98	LA JOLLA	5 MILES WEST OF CHILDREN'S POOL			1	1	1	
95	01-Oct-98	LA JOLLA	5 MILES WEST OF CHILDREN'S POOL			1	1	1	
96	02-Nov-98	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
97	02-Nov-98	LA JOLLA	10 MILES WEST OF LA JOLLA			1	1	1	
98	02-Nov-98	LA JOLLA	10 MILES WEST OF LA JOLLA			1	1	1	
99	26-May-99	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
100	18-May-00	LA JOLLA	1 MILE WEST OF LA JOLLA (OFF CHILDREN'S POOL)			1	1	1	
101	28-Jun-00	LA JOLLA	3 MILES WEST OF CHILDREN'S POOL			1	1	1	
102	28-Jun-00	LA JOLLA	3 MILES WEST OF CHILDREN'S POOL			1	1	1	
103	28-Jun-00	LA JOLLA	3 MILES WEST OF CHILDREN'S POOL			1	1	1	
104	30-Jul-00	LA JOLLA	4 MILES WEST OF CHILDREN'S POOL			1	1	1	
105	21-May-01	LA JOLLA	2 MILES NORTHWEST OF SEAL ROCK			1	1	1	
106	29-Jun-01	LA JOLLA	3 MILES OFFSHORE BETWEEN SCRIPPS PIER AND CHILDREN'S POOL	3251	11717	1	1	1	(This GPS value is <1mile dead west of CP)
107	03-Aug-01	LA JOLLA	2 MILES WEST OF CHILDREN'S POOL			1	1	1	
108	22-Aug-01	LA JOLLA	2 MILES WEST OF CHILDREN'S POOL			1	1	1	
109	10-Sep-01	LA JOLLA	5 MILES WEST OF CHILDREN'S POOL			1	1	1	
110	21-Nov-01	LA JOLLA	5 MILES WEST OF CHILDREN'S POOL			1	1	1	
111	23-Jul-02	SAN DIEGO	KELP BEDS OFF LA JOLLA COVE	3251	11717	1	1	1	(GPS is <1mile dead west of CP)
112	19-May-03	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
113	19-May-03	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
114	25-Jul-03	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
115	25-Jul-03	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
116	12-May-04	SAN DIEGO	10 MILES SOUTHWEST OF MISSION BAY				1	1	
117	25-May-05	LA JOLLA	OUTSIDE KELP BEDS OFF CHILDREN'S POOL			1	1	1	
118	25-May-05	LA JOLLA	OUTSIDE KELP BEDS OFF CHILDREN'S POOL			1	1	1	
119	25-May-05	SAN DIEGO	OUTSIDE KELP BEDS OFF CHILDREN'S POOL			1	1	1	
120	25-May-05	LA JOLLA	OUTSIDE KELP BEDS OFF CHILDREN'S POOL			1	1	1	
121	25-May-05	LA JOLLA	OUTSIDE KELP BEDS OFF CHILDREN'S POOL			1	1	1	
122	20-Jul-05	LA JOLLA	WEST OF LA JOLLA KELP BEDS	3250	11718	1	1	1	
123	20-Jul-05	LA JOLLA	WEST OF LA JOLLA KELP BEDS	3250	11718	1	1	1	
124	20-Jul-05	LA JOLLA	WEST OF LA JOLLA KELP BEDS	3250	11718	1	1	1	
125	20-Jul-05	LA JOLLA	WEST OF LA JOLLA KELP BEDS	3250	11718	1	1	1	
126	20-Jul-05	LA JOLLA	WEST OF LA JOLLA KELP BEDS	3250	11718	1	1	1	
127	05-Jun-06	SAN DIEGO	LOCALITY NOT RECORDED	32.42348	117.1656		1	1	(3 miles south of Mission Bay Jetty)
128	16-Jun-06	SAN DIEGO	LOCALITY NOT RECORDED	32.42348	117.1655		1	1	
129	19-Jul-06	SAN DIEGO	POINT LOMA KELP BEDS	32.43758	117.1594		1	1	
130	05-Oct-06	SAN DIEGO	LOCALITY NOT RECORDED	11720	3253		1	1	(4 miles W. Black's Beach)
131			TOTAL SEALS RELEASED OFF CHILDREN'S			61			
132			TOTAL SEALS in 17 YEARS				126		
133			TOTAL SEALS DEC '93 TO JULY '05					72	
134			TOTAL RELEASED AT LA JOLLA DEC '93 TO JULY '05			58	equals	81%	Of all harbor seal releases in 11 years
135									
136									

ENLARGED MAP
OF SEA WORLD RESCUE
AND REHAB SHOWING
RELEASES FROM
JAN 94 TO DEC 97

EACH NUMBER IS A LINE IN THE
NOAA SPREADSHEET 21 harbor seals

61 sea lions and 47 elephants seals
all released >10 miles off shore



ENLARGED MAP
OF SEA WORLD RESCUE
AND REHAB SHOWING
RELEASES FROM
JAN 98 TO DEC 02

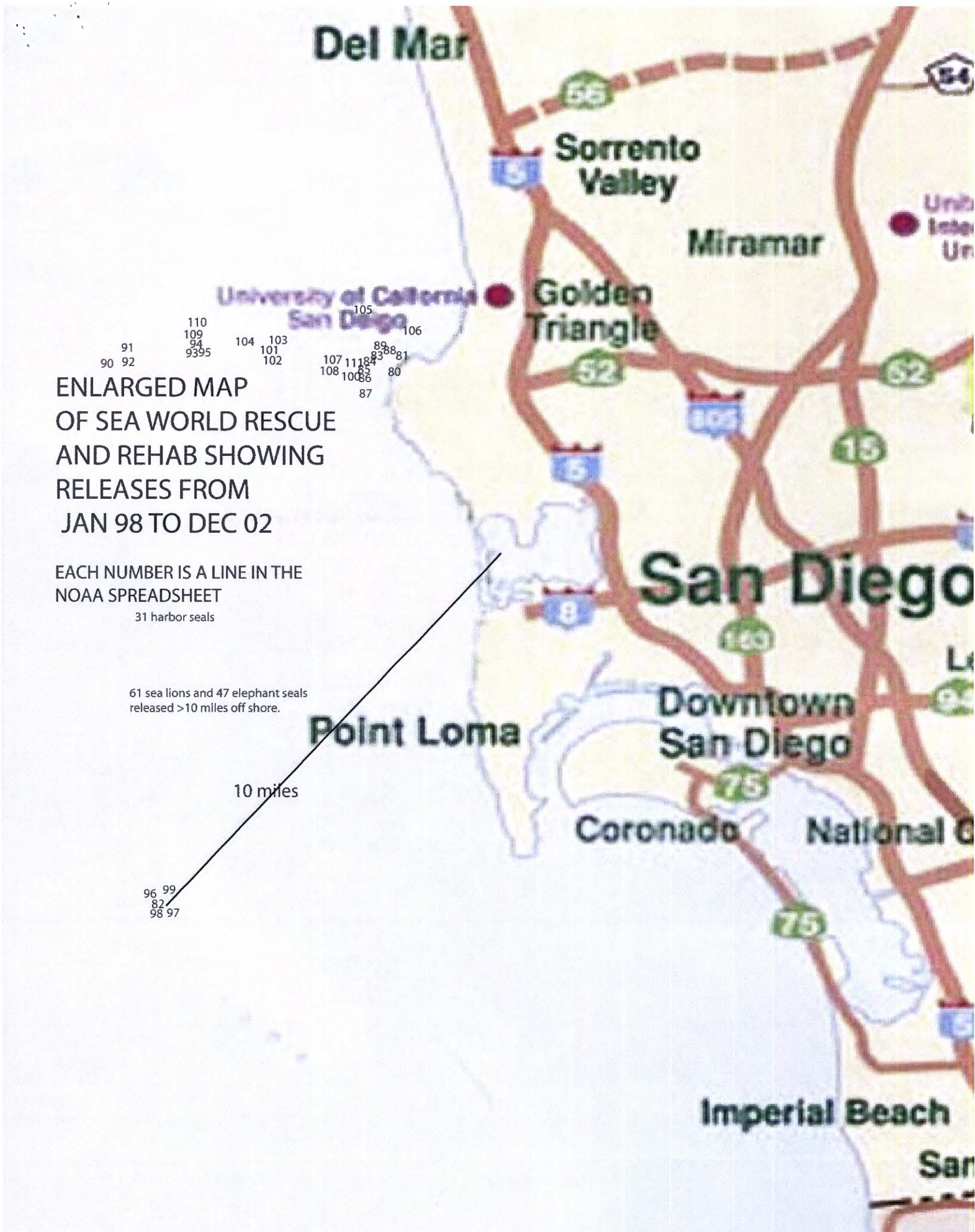
EACH NUMBER IS A LINE IN THE
NOAA SPREADSHEET

31 harbor seals

61 sea lions and 47 elephant seals
released >10 miles off shore.

10 miles

96 99
82
98 97



ENLARGED MAP
OF SEA WORLD RESCUE
AND REHAB SHOWING
RELEASES FROM
JAN 03 TO OCT 06
EACH NUMBER IS A LINE IN THE
NOAA SPREADSHEET

20 harbor seals

324 sea lions and 54 elephant seals
all released >10 miles off shore

10 miles

115
112
116
113
114

Del Mar

130

Sorrento
Valley

Miramar

University of California
San Diego

Golden
Triangle

123
122
124
126
121
117
125
118

San Diego

Downtown
San Diego

Point Loma

127

128

129

Coronado

National C

Imperial Beach

San

1 that a prudent person acting in a like capacity would use in the conduct of an
2 enterprise of like character and with like aims to accomplish the purposes of
3 the trust as determined from the trust instrument." (Cal Prob. Code § 16040.)

4 Plaintiff cites to the fact that since at least 1997, Hubbs-SeaWorld has
5 been engaged in a rescue, rehabilitation and release program under the aegis of
6 the National Oceanographic and Atmospheric Administration or its sub-agency,
7 NMFS. [Exh. 245.] That program consists of retrieving injured or diseased
8 animals, rehabilitating them at SeaWorld in San Diego, and, upon return to
9 health, and after tagging, releasing them in Pacific waters. The release of
10 harbor seals is accomplished generally in the kelp beds immediately outside
11 the Children's Pool. Tagged harbor seals are routinely observed hauling-out at
12 the Children's Pool. Once it was determined that the released seals were
13 impacting the use of the Children's Pool, the City took no steps to protect the
14 Pool from becoming a haul-out for such seals.

15 The number of seals at the Children's Pool was minimal, if any, at the
16 time of the creation of the breakwater and the Trust grant. Starting in the
17 early 1990's, seals came to reside in the general area of Children's Pool in
18 growing numbers. During that time frame, the City undertook the designation
19 of the ocean and reef immediately adjoining Seal Rock as a reserve in order to
20 accommodate the seals in that area. The Reserve is within a hundred yards or
21 less of the area granted as the Children's Pool. In such close proximity, the
22 seals, based on counts, seem to prefer the Children's Pool to Seal Rock as a
23 haul-out. Over time, the seal population at Children's Pool has grown to where
24 it now exceeds 200 during portions of the year. Photographs show seals on the
25 beach across the entire width of Children's Pool at the edge of the water.
[Exh. 399.]

26 During the 1990's, seal feces came to pollute the beach and adjoining
27 waters. The County of San Diego, Department of Environmental Health,
28 regularly tests the waters along the San Diego coastline. In 1997, the County

SUPREME
COURT 2005

BREACH OF FIDUCIARY DUTY

Plaintiff next contends that the City as trustee has knowingly and willfully violated its fiduciary obligations to its beneficiaries. As a basis for this claim, Plaintiff cites to the City closing the beach in 1997, which it claims it has never reopened. The lifeguards have not been kept current on the official status of the Children's Pool. The City knew of the release of harbor seals near the Children's Pool by Hubbs-SeaWorld and did nothing about the build-up of seals at the Pool. The City violated the right of the public to have access to the beach by roping off the beach to the public. The City kept the rope in place from 1999 until late 2004. [Exh. 321.] The City failed to prosecute violations of its own municipal codes, ordinances and regulations that would regulate the presence and activities of activists at the beach, including use and placement of signs, harassment of the public and other similar activities.

As further evidence of breach, Plaintiff contends that the City failed to place wordage required by San Diego County on signs it posted at Children's Pool. The City assured the County in 2003 it would incorporate the required wordage on the new signs posted at the Children's Pool. The County also left approximately 12 copies of the new required County sign with the City, with the understanding the signs would be installed at the Children's Pool. The signs were not installed as promised. Also, the sign created by the City did not contain the warning information required by the County. The County had to personally install the correct signs at Children's Pool. [Exh. 409.]

The City responds to Plaintiff's contentions by arguing that "[a]s trustee, the City is held to administer the Trust with reasonable care, skill, and caution under the circumstances then prevailing. The evidence has clearly shown that the City has and continues to draw from all the available resources in determining the best way in which to manage the trust property." [City's Written Argument at 10.] To the contrary, the evidence is that the City has taken no steps to manage the property so as to preserve the Children's Pool for

REMEDIES

As stated above, the court will not order the City to modify its law enforcement activities at the Children's Pool or remove the surveillance camera located at the Pool. The City argues this court does not have the authority to order it to take any action in regard to the Pool, because such actions would be discretionary. If the Children's Pool were a "natural" beach, as argued by the City, such a position might have merit. This court probably would not order the City to clean up a dirty or contaminated "natural" beach where the City was not the direct cause of the contamination.

However, the Children's Pool is not a "natural" condition. It is a man-made, artificial condition, which was entrusted to the City for specific uses and purposes. The City has knowingly declined to remove sand from the Pool, even though the sand has reached the point where the Pool in reality cannot be used for its intended purpose. Although the City has approved requests to study the removal of the sand, even as recently as September of 2004, it has consistently failed to remove the sand that has been building-up for the last 70 years.

The presence of unhealthy levels of bacteria from seal feces in the pool water has been consistently left un-addressed by the City. The substantial increase in the number of seals using the Children's Pool seems to have some relationship to the actions or inactions of the City. The creation of the Reserve in close proximity to the Children's Pool and the release by Sea World of rehabilitated harbor seals in the kelp beds off-shore of the Pool, seem to have contributed to an increasing number of seals using portions of the Children's Pool in the mid-1990's. The City's decision to separate the seals from humans and then closing off the Pool to humans, likewise appears to have encouraged the seals to occupy more and more of the beach with ever increasing numbers.

The occupation of the Children's Pool does not seem to be a "natural" phenomenon. According to the evidence at trial, Children's Pool is the only public beach in California that has been taken over by seals. The City was

REPORT OF DISPOSITION OF STRANDED MARINE MAMMALS
FOR USE BY REHABILITATION CENTERS

DMR #1642-008

ID # 9503158
(NMFS USE)

IMMUN NAME: Harbor Seal

GENUS: Phoca

SPECIES: vitulina

Male ☒ Female

Stranding or Field ID # SWGPFV 95398

REHABILITATION

FACILITY: Sea World, California

Address: 1720 South Shores Road

San Diego, CA 92109

Phone: (619) 222 - 6363

Signature: [Signature]

Disposition: a) TRANSFER
(Check) ☒ b) RELEASE/RERELEASE
c) DEATH (Died in Treatment)
DATE OF DEATH: _____

AGE: YEARLING
WEIGHT: 50 Kg/Lb
LENGTH(SL): 36 cm/in
STRANDING DATE: 5-21-95

a) TRANSFER TO:

1. Facility _____ DATE: YR _____ MO _____ DY _____

Comments on Care and Maintenance: _____

RELEASE LOCATION: County SAN DIEGO City LA JOLLA
DATE: YR 95 MO 9 DY 15

Locality Details: ON THE BEACH AT CHILDRENS POOL - THIS ANIMAL ALSO FLIPPER RADIO TAGGED

Animal Tagged for Release? ☒ Yes/No

Condition on release: ☒ Good/Fair/Poor

Comment: _____

Latitude: 0 'N

Longitude: 0 'W

(NMFS USE) ECM SWFC

LEFT RIGHT
Tag number(s): 11013

Color(s): ORANGE

Type: 2070

Placement: Front/Rear Front/☒ Rear

c) CAUSE OF DEATH: _____

SPECIMEN MATERIALS COLLECTED: _____

FINAL DISPOSITION: _____

Completed forms should be sent collectively by the 10th of each month to:
STRANDING COORDINATOR, National Marine Fisheries Service, SW Region,
501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213

HARBOR SEAL (*Phoca vitulina richardsi*): California Stock

STOCK DEFINITION AND GEOGRAPHIC RANGE

Harbor seals (*Phoca vitulina*) are widely distributed in the North Atlantic and North Pacific. Two subspecies exist in the Pacific: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardsi* in the eastern North Pacific. The latter subspecies inhabits near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. These seals do not make extensive pelagic migrations, but do travel 300-500 km on occasion to find food or suitable breeding areas (Herder 1986; D. Hanan unpublished data). In California, approximately 400-600 harbor seal haulout sites are widely distributed along the mainland and on offshore islands, including intertidal sandbars, rocky shores and beaches (Hanan 1996; Lowry et al. 2005).

Within the subspecies *P. v. richardsi*, abundant evidence of geographic structure comes from differences in mitochondrial DNA (Huber et al. 1994; Burg 1996; Lamont et al. 1996; Westlake and O'Corry-Crowe 2002; O'Corry-Crowe et al. 2003), mean pupping dates (Temte 1986), pollutant loads (Calambokidis et al. 1985), pelage coloration (Kelly 1981) and movement patterns (Jeffries 1985; Brown 1988). LaMont (1996) identified four discrete subpopulation differences in mtDNA between harbor seals from Washington (two locations), Oregon, and California. Another mtDNA study (Burg 1996) supported the existence of three separate groups of harbor seals between Vancouver Island and southeastern Alaska. Although we know that geographic structure exists along an almost continuous distribution of harbor seals from California to Alaska, stock boundaries are difficult to draw because any rigid line is (to a greater or lesser extent) arbitrary from a biological perspective. Nonetheless, failure to recognize geographic structure by defining management stocks can lead to depletion of local populations. Previous assessments of the status of harbor seals have recognized three stocks along the west coast of the continental U.S.: 1) California, 2) Oregon and Washington outer coast waters, and 3) inland waters of Washington. Although the need for stock boundaries for management is real and is supported by biological information, the exact placement of a boundary between California and Oregon was largely a political/jurisdictional convenience. An unknown number of harbor seals also occur along the west coast of Baja California, at least as far south as Isla Asuncion, which is about 100 miles south of Punta Eugenia. Animals along Baja California are not considered to be a part of the California stock because it is not known if there is any demographically significant movement of harbor seals between California and Mexico and there is no international agreement for joint management of harbor seals. Lacking any new information on which to base a revised boundary, the harbor seals of California will be again treated as a separate stock in this report (Fig. 1). Other Marine Mammal Protection Act (MMPA) stock assessment reports cover the five other stocks that are recognized along the U.S. west coast: Oregon/Washington outer coastal waters, Washington inland waters, and three stocks in Alaska coastal and inland waters.

POPULATION SIZE

A complete count of all harbor seals in California is impossible because some are always away from the haulout sites. A complete pup count (as is done for other pinnipeds in California) is also not possible because harbor seals are precocious, with pups entering the water almost immediately after birth.

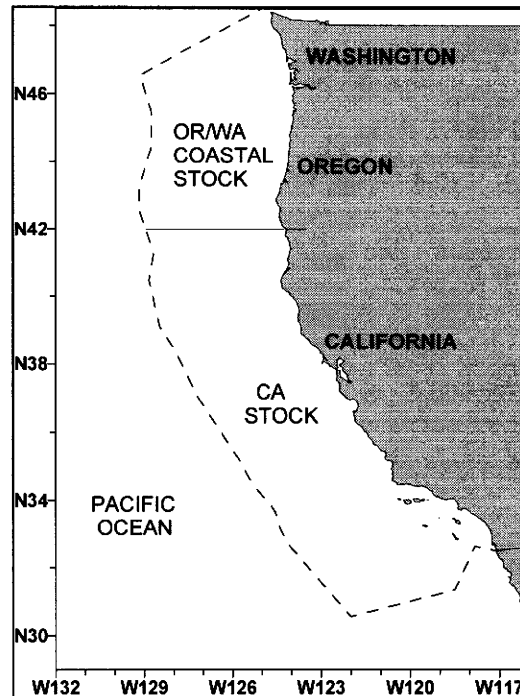


Figure 1. Stock boundaries for the California and Oregon/Washington coastal stocks of harbor seals. Dashed line represents the U.S. EEZ.

Population size is estimated by counting the number of seals ashore during the peak haul-out period (May to July) and by multiplying this count by the inverse of the estimated fraction of seals on land. Boveng (1988) reviewed studies estimating the proportion of seals hauled out to those in the water and suggested that a correction factor for harbor seals is likely to be between 1.4 and 2.0. Huber (1995) estimated a mean correction factor of 1.53 (CV=0.065) for harbor seals in Oregon and Washington during the peak pupping season. Hanan (1996) estimated that 83.3% (CV=0.17) of harbor seals haul out at some time during the day during the May/June molt, and he estimated a correction factor of 1.20 based on those data. Neither correction factor is directly applicable to an aerial photographic count in California: the 1.53 factor was measured at the wrong time of year (when fewer seals are hauled out) and in a different area and the 1.20 factor was based on the fraction of seals hauled out over an entire 24-hour day (correction factors for aerial counts should be based on the fraction of seals hauled out at the time of the survey). Hanan (pers. comm.) revised his haul-out correction factor to 1.3 by using only those seals hauled out between 0800 and 1700 hrs which better corresponds to the timing of his surveys. Based on the most recent harbor seal counts (26,333 in May-July 2004; Lowry et al. 2005) and Hanan's revised correction factor, the harbor seal population in California is estimated to number 34,233.

Minimum Population Estimate

Because of the way it was calculated (based on the fraction of seals hauled out at any time during a 24 hr day), Hanan's (1996) correction factor of 1.2 can be viewed as a minimum estimate of the fraction hauled out at a given instant. A population size estimated using this correction factor provides a reasonable assurance that the true population is greater than or equal to that number, and thus fulfills the requirement of a minimum population estimate. The minimum size of the California harbor seal population is therefore 31,600.

Current Population Trend

Counts of harbor seals in California showed a rapid increase from approximately 1972 (when the MMPA was first passed) to 1990 (Fig. 2). Net production rates appeared to be decreasing from 1982 to 1994 (Fig. 3). Although earlier analyses were equivocal (Hanan 1996) and there has been no formal determination that the California stock has reached OSP (Optimal Sustainable Population level as defined by the MMPA), the decrease in population growth rate has occurred at the same time as a decrease in human-caused mortality and may indicate that the population is approaching its environmental carrying capacity. Population growth has also slowed or stopped for the harbor seal stock on the outer coasts of Oregon and Washington (see separate Stock Assessment Report).

CURRENT AND MAXIMUM NET PRODUCTIVITY RATES

A realized rate of increase was calculated for the 1982-1995 period (when annual counts were available) by linear regression of the natural logarithm of total count versus year. The slope of this regression line was 0.035 (s.e.=0.007) which gives an annualized growth rate estimate of 3.5%. The current rate of net production is greater than this observed growth rate because fishery mortality takes a fraction of the net production. Annual gillnet mortality may have been as high as 5-10% of the California harbor seal population in the mid-1980s; a kill this large would have depressed population growth rates appreciably. Net productivity was therefore calculated for 1980-1994 as the realized rate of population growth (increase in seal counts from year i to year $i+1$, divided by the seal count in year i) plus the human-caused mortality rate (fishery mortality in year i divided by population size in year i). Between 1983 and

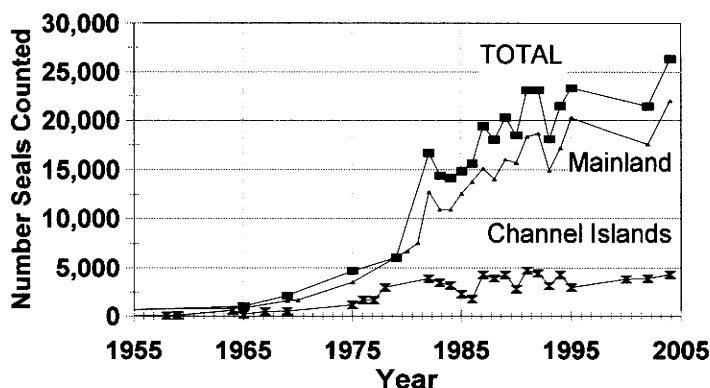


Figure 2. Harbor seal haulout counts in California during May/June (Hanan 1996; R. Read, CDFG unpubl. data; NMFS unpubl. data from 2002 and 2004 surveys).

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2 LESLIE A. FITZGERALD, Deputy (CSB No. 149373)
3 DEBORAH M. SMITH, Deputy (CSB No. 208960)
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5 1200 Third Avenue, Suite 1100
6 San Diego, California 92101-4100
7 Telephone: (619) 533-5800
8 Facsimile: (619) 533-5856

9 Attorneys for Defendants

10 CITY OF SAN DIEGO; RICHARD MURPHY, In his official capacity as Mayor of San Diego;
11 and COUNCILMEMBERS SCOTT PETERS, MICHAEL ZUCCHET, TONI ATKINS, TONY
12 YOUNG, BRIAN MAIENSCHIEIN, DONNA FRYE, JIM MADAFFER, AND RALPH
13 INZUNZA in their official capacity as members of the City Council of San Diego

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF SAN DIEGO, CENTRAL DIVISION

16 THE HUMANE SOCIETY OF THE UNITED)
17 STATES, JAMES HENRY NATT HUDNALL)
18 JR., REBECCA CARY, FLORENCE)
19 LAMBERT, and ANGELA ANDRE,)

20 Plaintiffs,

21 v.

22 CITY OF SAN DIEGO; RICHARD MURPHY,)
23 In his official capacity as Mayor of San Diego;)
24 and COUNCILMEMBERS SCOTT PETERS,)
25 MICHAEL ZUCCHET, TONI ATKINS, TONY)
26 YOUNG, BRIAN MAIENSCHIEIN, DONNA)
27 FRYE, JIM MADAFFER, and RALPH)
28 INZUNZA, in their official capacity as Members)
of the City Council of San Diego,

Defendants.

Case No. GIC 843343

**DECLARATION OF DOYLE A.
HANAN, PH.D. IN OPPOSITION TO
PLAINTIFFS' MOTION FOR A
TEMPORARY RESTRAINING
ORDER**

Date: May 4, 2005
Time: 10:00 a.m.
Dept.: 71
I/C Judge: Hon. Ronald S. Prager
Cmplt. Filed: 2/25/05
Trial: Not Set

21 ~~I, Doyle A. Hanan, Ph.D.,~~ declare that I am competent to testify about the following facts,
22 of which I have personal knowledge:

23 1. I have over 35 years of experience as a research biologist, project leader,
24 supervisor, and educator, specializing in marine mammals and harbor seals. Currently, I am self-
25 employed as a private consultant and Chief Scientist for Hanan & Associates, Inc. Prior to this
26 position, I worked for the California Department of Fish and Game from 1974 to 2000. In 1984, I
27 became the California Department of Fish and Game Associate Marine Biologist in charge of
28 marine mammals, and in 1993 I became the Senior Marine Biologist, Supervisor. As Senior

1 Marine Biologist, I was responsible for research and management of sport and commercial
2 fisheries and marine mammals.

3 2. I earned my Masters Degree in Marine Biology in 1976 from California State
4 University Long Beach and earned my Doctorate Degree in Biology in 1996 from the University
5 of California, Los Angeles.

6 3. I am a member of the Pacific Scientific Review Group, which advises the
7 National Marine Fisheries Service (NMFS) on marine mammals in the Pacific Ocean. In this
8 capacity, I review and make recommendations on NMFS' research and stock assessments on
9 marine mammals in the Pacific Ocean and make recommendations as to any needed
10 modifications to its reports. Additionally, I reviewed and contributed to the 1994 amendments to
11 the Marine Mammal Protection Act. I am also a member of the Society for Marine Mammology.
12 I have testified before Congress on issues related to marine mammals. I served on the task force
13 to evaluate the scientific information on the impacts of California sea lions and harbor seals on
14 salmonids and on the coastal ecosystems of Washington, Oregon, and California.

15 4. I have personally observed and studied harbor seals and other pinnipeds along the
16 West Coast of the United States since 1979. Included in this work, I completed fifteen years of
17 aerial survey of harbor seals along the West Coast. I have researched and drafted numerous
18 reports on the behavior of harbor seals, and have first-hand expertise in the behavior patterns of
19 harbor seals. My dissertation was entitled, "Dynamics of abundance and distribution in the
20 Pacific harbor seal, *Phoca vitulina richardsi*, on the coast of California," which included tagging
21 harbor seals and observing their behavior from 1982-1995.

22 5. From October 2003 to March 2004, I worked under contract for the City of San
23 Diego observing and recording harbor seal behavior and hauling patterns at the La Jolla
24 Children's Pool (also known as Casa Beach) as a part of the City of San Diego's preparation to
25 apply for an Incidental Harassment Permit from NMFS for construction to the lifeguard tower.

26 6. I maintain a neutral position on the presence of harbor seals at the Children's
27 Pool. The purpose of this declaration is to provide information regarding harbor seals at
28 Children's Pool that is within my professional and personal expertise.

1 7. A copy of my curriculum vitae is attached as Exhibit 1.

2 8. I have personally visited Children's Pool both before and after the advisory rope
3 was removed.

4 9. Since the 1920's, the population of harbor seals on the West Coast and Southern
5 California has steadily increased. Harbor seals are currently near their Optimum Sustainable
6 Population level (OSP) in California and are approaching carrying capacity. They are one of the
7 most commonly seen marine mammals along the West Coast of North America. In California,
8 there are at least 1000 hauling sites. My most recent research has shown that the number of
9 harbor seals in California has likely been under-estimated. Harbor seals have been documented
10 to be present at Children's Pool since at least 1979.

11 10. Harbor seals in California are not endangered or threatened under the Endangered
12 Species Act, nor a strategic population under the Marine Mammal Protection Act (MMPA).

13 11. Based upon my personal observation of numerous seal colonies along the West
14 Coast, I have observed that the harbor seals located at Children's Pool are unusually tolerant to
15 human contact. Generally, harbor seals are skittish and have the tendency to react or flush into
16 the water at the slightest movement or sound. In my personal observations of the harbor seals at
17 Children's Pool, I observed that the harbor seals there did not react to human behavior that
18 normally would disturb harbor seals (such as laughing, clapping, stomping, climbing, snorkeling,
19 swimming, and wading).

20 12. At Children's Pool, harbor seal pupping season is approximately from January
21 through April, with some births possibly occurring in December and May. The pupping season
22 likely peaks in February or March. When a pup is born on land, the birthing female usually
23 encourages the pup into the water within an hour of its birth.

24 13. It is normal for there to be some premature harbor seal pup births and pup
25 abandonment. There are many possible reasons for these occurrences. For example, a female
26 may reject a pup if something is biologically wrong with the pup. Based upon my experience
27 tagging seals, during pupping season, it is my professional opinion that interaction with humans
28 is not likely to be a significant cause of seal pup abandonment.

1 14. As the population of harbor-seals increases towards carrying capacity, it would be
2 expected that the harbor seal and pup mortality rate would increase. It would also be expected
3 that the number of pup abandonments would increase.

4 15. There are many rookery sites (where harbor seal pups are born) other than
5 Children's Pool in Southern California, and all along the West Coast. If the harbor seals were to
6 abandon the Children's Pool site, they would likely move to another site and continue to survive
7 and give birth to pups.

8 16. In my professional opinion, the continued use of Children's Pool by harbor seals
9 is not critical for the survival of the harbor seals present at Children's Pool or the harbor seal
10 ~~population as a whole.~~

11 17. In my professional opinion, the presence of the advisory rope is not critical to the
12 survival of the harbor seals present at Children's Pool or the harbor seal population as a whole.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct to my own personal knowledge.

15 Executed this 18th day of May, 2005, at San Diego, California.

DOYLE A. HANAN, Ph.D.

25 NMFS. 1997. Investigation of scientific information on the impacts of California sea lions and
harbor seals on salmonids and on the coastal ecosystems of Washington, Oregon, and California.
26 U.S. Department of Commerce. NOAA Tech. Memo. NMFS/NWFSC-28, 172 Pages.

May 30th 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Coastal Commission staff,

RECEIVED

JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because:

1. California Constitution ...and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.
2. § 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development... (Looking from behind a barrier is not recreation)
3. § 30214; (b) ...Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.
4. § 30212; (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...
(Nowhere else in California has the CCC allowed public access to be 3' wide where it does not have to be).
5. § 30210; In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and **recreational** opportunities shall be provided for all the people.
(Standing behind a rope looking at the water is not beach and park and playground recreation for which this area was set aside).
6. § 30211; Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization....
(The Children's Pool was acquired by a state landgrant in trust specifically requiring use as playground and park, ect. and with stipulated convenient access for fishing for the people of California)..
7. From § 5096.27; Parks under State control: "Such projects shall also be devoted to multiple recreation purposes, as opposed to restrictive, single interest usage".
(The proposed rope sets aside the vast majority of the beach for one purpose only, and is identified by the City as a "visual deterrent" to limit use by the public)

8. This permit is proposed without a sunset date, no later review, no studies, no conditions, no alternatives, no legal studies. Just "in perpetuity". Where else would the CCC use its jurisdiction to do such a thing?
9. San Diego has dug a hole for itself and is trying to hand off the responsibility for its bad decisions on the CCC. Send it back and demand a real Site Development Permit.
10. California Constitution: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose.

If you allow part B of the 1931 land grant trust to be violated then San Diego will be in the same situation it was in 2006. Courts ruled then that San Diego was obliged to disperse the seals because the City had allowed seals to make it impossible for the public to use the beach as stipulated in the Trust and State laws. The City was compelled to amend the trust at great expense and if you allow it to violate the trust again it is unclear San Diego will be able to avoid the same problem.

If this July hearing is staged it will be a collection of special favors and irregularities. It cannot produce a real permit. It cannot be justified as an economy of effort. It has so many flaws it only opens the CCC to criticism that should be reserved for the City of San Diego. The Coastal Commission is not obliged to take the heat for San Diego by endorsing a questionable action without San Diego doing its homework.

The good news is the City will be happy with any decision the CCC makes either way, because its most pressing need is to shed responsibility and liability.

John Leek 858-610-4724

3090 Admiral Ave
San Diego CA 92123
jleek001@san.rr.com



May 30th 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Coastal Commission staff,

RECEIVED
JUN 04 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

What about that Marine Mammal Protection Act?

The federal Marine Mammal Protection Act (MMPA), will be cited as if it trumps the obvious state laws that disallow a perpetual rope barrier. Not so. The MMPA is not a factor here.

It is true everybody has to obey the MMPA, however only a federal officer can interpret or enforce it. The Act specifically requires federal enforcement only. Note in **section 109(a) "No State may enforce, or attempt to enforce any State law relating to the taking of any species of Marine Mammal....."** The lawyer for the La Jolla Friends of the Seals has twice sued the City and National Oceanographic and Atmospheric Administration (NOAA) to force MMPA application at Children's Pool. Both cases were dismissed for lack of jurisdiction.

A state action such as is proposed in the granting of a permit to administer over marine mammals is in itself a violation of the MMPA. States may make laws to protect animals, which may happen to protect seals too but no non-federal law may deal with seals, or any other marine mammal in particular. It gets more complicated below.

The MMPA is a maritime law, not administered by State courts. Most legal offices have little understanding of maritime law, but the fact that under the MMPA, a federal agent can seize a foreign vessel at sea and arrest its crew (section 107(d)) should be proof enough for anybody. Note the only person ever convicted of an MMPA violation was tried civilly by the Coast Guard as must happen. I suggest you seek expert counsel.

As a maritime law, the MMPA has no standing on dry land except as it states, "*any vessel or other conveyance subject to the jurisdiction of the United States*" or "*lands under the jurisdiction of the United States*" (section 102(a)). But watch out. "Lands Under the Jurisdiction of the United States" means specially held federal holdings under a maritime law. Any maritime law recognizes the need to base itself and use federally controlled sections of ports and customs houses. That is all it means.

18 USC § 7 (3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or

otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

Children's Pool is not federally held or deeded land.

No offense, but this local office has no way to evaluate impact of the MMPA without consultation with federal authorities, but be specific. NOAA has at times expressed support for City efforts to close access to the shore at Children's Pool, but has carefully avoided stating it would be legal or that there is any imperative under the MMPA to do so. Indeed NOAA, the only agency that possibly could bring the MMPA to bear to restrict access to a public beach has never done so.

San Diego has an ordinance against disturbing animals in parkland. A ranger applied it once to seals and the citation was immediately rejected by the City Attorney and the ranger was transferred. I can put you in contact with the person who got the citation if you wish.

John Leek 858-610-4724

3090 Admiral Ave
San Diego CA 92123
jleek001@san.rr.com



Figure 2 Federal agent and ranger request people stand back 20'. The rope is so far up the beach it is not in the picture. No problem. Everything is fine without it.



Figure 1 Mother seals will sometimes take the pup away from the other seals to nurse. This one stopped in front of David Pierce. Seals know people don't eat seals. That is pretty much all they need to know.

NOAA PROPOSAL TO
BACK OFF ENFORCE-
MENT AT CHILDREN'S
POOL.

United States of America
Department of Commerce
National Oceanic and Atmospheric Administration

IN THE MATTER OF:)	
)	
LILLO MARIA CREIGHTON)	DOCKET NUMBER
)	SW030133
)	
)	NOAA Case No.
)	SW030133A
Respondent.)	
)	

AGENCY'S BRIEF IN RESPONSE TO ORDER OF ADMINISTRATOR

Pursuant to 15 C.F.R. § 904.273(h), the National Oceanic and Atmospheric Administration (NOAA) submits the following Brief in response to the NOAA Administrator's Order Granting Discretionary Review, In Part, and Denying Discretionary Review, In Part, dated March 7, 2006 (hereinafter "Administrator's Order").

Following a four day administrative hearing, Respondent was found liable by an Administrative Law Judge on April 20, 2005, for violating the Marine Mammal Protection Act's (MMPA) prohibition on take (Level B Harassment, 16 U.S.C. §1372(a)(2)(A)) by swimming into the Children's Pool Beach (CPB) area of La Jolla, CA, and thereby disrupting biologically important behaviors of approximately 35 harbor seals.¹ This matter now comes before the Administrator through a Petition for

¹ See In the Matter of Lilo Creighton, Initial Decision and Order, April 20, 2005 (hereinafter "I.D."), 2005 NOAA Lexis 2.

Administrative Review filed by the Respondent, which was followed by the Agency's Partial Answer in Support of, and Partial Answer in Opposition to, Respondent's Petition for Administrative Review filed on June 10, 2005.

In the Administrator's Order granting discretionary review, the Administrator requested briefing from the parties on two questions. NOAA's answers to each question, as well as responses to Respondent's Opening Brief on the same questions, are set forth below.

A. The Administrator has Authority to Adopt Guidance on Setting Enforcement Priorities for NOAA, and NOAA Proposes Specific Guidance on the Issue.

The first question raised by the Administrator is:

Whether the NOAA Administrator has the authority to interpret the law or adopt a policy to exclude from Level B Harassment (as defined in the Marine Mammal Protection Act) acts having the potential to disturb marine mammals that are part of a population that is in excess of Optimum Sustainable Population and growing. If so, how should such an interpretation or policy affect the decision in this case?

1. The NOAA Administrator Has the Authority to Adopt Guidance Relating to Enforcement of the MMPA.

There is no explicit authority in the MMPA that would allow the Administrator to interpret the statute to exclude from Level B Harassment those marine mammal populations in excess of

Optimum Sustainable Population (OSP). Level B Harassment is a form a "take" under the MMPA. 16 USC 1362(13) and (18)(C). The MMPA's take prohibition explicitly applies to "any marine mammal." 16 U.S.C. §1372(a)(2)(A) (emphasis added). While the MMPA provides exceptions to the take prohibition and recognizes the concept of OSP, there is neither an exception to the "take" prohibition related to the population status of a species nor to OSP in particular.²

While the MMPA cannot be interpreted to exclude certain populations from Level B Harassment, the MMPA does provide the NOAA Administrator the authority to exercise discretion in how Level B Harassment is enforced. When enacting the MMPA, Congress clearly established NOAA's authority to exercise enforcement discretion by providing that persons who violate the MMPA "may be assessed a civil penalty by the Secretary [of Commerce] of not more than \$10,000." 16 U.S.C. §1375(a)(1) (emphasis added). It is a "common sense principle of statutory construction" that "[t]he word 'may,' when used in a statute, usually implies some degree of discretion." *United States v. Rodgers*, 461 U.S. 677, 706 (1983) (finding exceptions to this principle only when there are indications of legislative

² *Id.*, at (d). See also 16 U.S.C. §1362 (Findings), §1373 (authorizing "necessary and appropriate" takes), and §1386 (stock assessments).

intent or other obvious inferences of mandatory action). In §1375(a)(1), Congress explicitly granted enforcement authority to the Secretary - delegated to the Administrator, and by using the term "may", provided the Secretary with the discretion to determine whether and when it is appropriate to issue a civil penalty.

As such, the Administrator has the authority to set enforcement policy for the Agency, or as will be recommended below, simply provide enforcement guidance to NOAA Fisheries.

Federal caselaw supports the finding that an agency's decision on whether, and how, to prosecute violations of a federal law for which it has authority is a decision generally committed to an agency's absolute discretion. See *Heckler v. Chaney*, 470 U.S. 821, 836 (1985) (Food and Drug Administration decision not to take enforcement actions held not subject to judicial review under the Administrative Procedures Act).³

NOAA's authority to set enforcement policy under the MMPA allows the Administrator to adopt guidance to exclude from Level B Harassment acts having the potential to disturb marine mammals

³ The Supreme Court in *Heckler*, in establishing a presumption of unreviewability of agency decisions on taking enforcement actions, found that judicial review of such decisions is inappropriate because, *inter alia*, they often involve a complicated balancing of factors solely within agency expertise and the agency is more knowledgeable on the ordering of its priorities. *Heckler*, at 831.

that are part of a population that is in excess of OSP and growing - or for any other factors deemed relevant.

2. NOAA Recommends the Administrator Adopt Enforcement Guidance for Level B Harassment of Certain Pinnipeds in Limited Circumstances.

In seeking this Administrative Review, NOAA stated that it had "both the expertise and the discretion to consider all of the information and implications" necessary for making policy determinations on the issue of human-marine mammal interactions in the wild. Agency's Partial Answer, p. 13. Since the filing of its Partial Answer, NOAA has brought together regional and headquarters personnel from its Office of Protected Resources, Office for Law Enforcement, and Office of General Counsel to consider these important issues. Based on those discussions, the Agency now recommends that the Administrator use his inherent discretion through the Administrative Review process to set guidance on how Level B Harassment matters should be prioritized by the Agency for certain populations of marine mammals in limited situations. Specifically, NMFS proposes guidance for prioritization of Level B Harassment enforcement for areas of human interaction with three specific populations of pinnipeds - California sea lions, Pacific harbor seals (California and Oregon/Washington stocks only) and northern

elephant seals. A proposed Order detailing this guidance is provided in Attachment "A" to this Brief.

In developing this proposed guidance, NOAA affirmed that incidents involving human-pinniped interactions which resulted in pinnipeds flushing from haulouts were acts of annoyance⁴ which had the potential to disturb marine mammals by causing significant disruption of biologically important behavioral patterns. Therefore, such incidents constitute take by Level B Harassment, and can be prosecuted by NOAA under the strict liability standard of the MMPA. See generally, Initial Decision.

Given the broad reach of the MMPA take prohibition, NMFS also recognized several other important factors: 1) NMFS has limited enforcement resources to investigate all potential MMPA violations from areas of human-pinniped interactions; 2) NMFS has other high priority missions critical to protecting important species - including marine mammals - for which enforcement resources must be focused; 3) Level B harassment investigations/prosecutions are resource intensive, and; 4) NOAA has discretion to determine which violations to pursue with penalty actions.

Further, in developing guidance, NMFS determined to focus

⁴ "Annoyance" is defined as "any human stimuli which bothers and/or irritates a marine mammal". I.D., p. 14.

on specific pinniped species in certain areas as described below. In particular, the relevant areas of human-pinniped interaction will only be those where the pinnipeds occupying the area are Pacific harbor seals, California sea lions, and northern elephant seals, and the area is either man-made or has historically been subject to frequent and extensive use by the public.

NMFS chose these three populations of pinnipeds because recent stock assessment studies show that the overall populations are increasing or stabilizing, and are either approaching or within OSP.⁵ Importantly, none of these species has been identified as depleted under the MMPA, or are listed as threatened or endangered under the Endangered Species Act. Quite simply, these three populations are doing well, and therefore NMFS believes that enforcement resources are better spent on other missions that may benefit more from protection through application of enforcement resources.

NMFS also determined that focusing on increasing and stabilizing pinniped populations was preferable to the "in excess of OSP standard" raised by both the Administrative Law

⁵ 2005 Stock Assessment Report population estimates: Pacific harbor seals (CA/OR/WA stocks) - 73,577; California sea lions - 237,000 to 244,000, and; northern elephant seals - 101,000.

Judge (I.D., p. 20) and the Administrator because the latter standard is overly restrictive to the rare situation where the population is above its carrying capacity - a situation that, in biological terms, cannot remain for long. OSP is a range of populations, with the upper limit being the maximum number supportable within an ecosystem, and a lower limit of the maximum net productivity level. See 50 C.F.R. 216.3.

Accordingly, a population may still be "healthy" even when the lower limit of OSP has yet to be reached. In addition, OSP determinations involve a specific finding under the MMPA, while identifying the pinniped populations for this proposed guidance allowed NMFS to use a more flexible assessment of population studies.

Lastly, NMFS determined that consideration should be given to the public's interest in accessing human-pinniped interaction areas for purposes other than disturbing pinnipeds. For purposes of this guidance, NMFS chose to focus on man-made areas, and areas that have historically been used frequently and extensively by the public. These specific human-pinniped interaction areas, hereinafter referred to as "HPI Areas," include Children's Pool Beach (La Jolla, CA), beaches with significant human traffic, and docks.

In light of these factors and population considerations,

NOAA proposes that the Administrator issue the following specific guidance directing NOAA to:

- a. Focus its limited resources, when available, on educational and outreach efforts at HPI areas to ensure that the general public is notified of viewing guidelines for pinnipeds.
- b. Assign a higher priority to incidents at HPI Areas where there appears to be intent to specifically interfere with or disrupt the pinnipeds, or where there are other aggravating factors related to the incident. Accordingly, alleged takes incidental to otherwise lawful use of HPI Areas will not likely be investigated/prosecuted, particularly where an individual clearly makes an effort to avoid the pinnipeds to the extent possible.
- c. Assign a higher priority to incidents that occur during pupping season, or other particularly sensitive times, for the pinnipeds involved.
- d. Assign a lower priority to incidents occurring at man-made HPI Areas.
- e. Assign a lower priority to enforcement actions for incidental harassment of pinnipeds at HPI Areas where a local government has determined that a taking is necessary under 16 USC § 109(h) for the protection/welfare of the pinnipeds, the protection of public health/welfare, or because the pinnipeds are a nuisance.

NMFS is confident that implementation of this enforcement guidance will improve the NOAA Office for Law Enforcement's response effectiveness for priority NOAA missions. NMFS believes that in most cases, education and outreach are effective tools in achieving compliance with environmental regulations. Further, education and outreach have proved to be

particularly well-suited to situations like HPI areas, where there is a large turnover of people on a daily basis - the majority of whom have a positive view of the need for protection of marine mammals but are not aware of the regulations protecting them. If ordered by the Administrator to implement this guidance, NMFS will monitor the implementation to ensure that the three marine mammal populations are not significantly adversely affected by incidents of annoyance that have the potential to disturb pinnipeds through significant disruption of important behavioral patterns.

3. The Outcome of the Initial Decision Should Not be Affected by the Implementation of Enforcement Guidance.

If the Administrator chooses to implement the enforcement guidance recommended in this brief, the question from the Administrator's Order remains as to how this new guidance should affect the outcome⁶ of this particular case. NOAA asserts that the guidance should have no effect on the outcome of the case.

The proposed guidance on Level B Harassment enforcement states that NOAA retains the authority to issue sanctions for any incident where the law has been violated. Further, the guidance provides that a higher enforcement priority will be placed on violations that occur during pupping season, or where

⁶ The Respondent was found liable for violating the take prohibition of the MMPA as charged by NOAA, and ordered to pay a civil penalty of \$1,000.00. See I.D., p. 30.

there are other aggravating factors. The facts of the case show that imposition of the civil penalty remains appropriate in this case.

First, Lilo Creighton's violation occurred on March 23, 2003, in the midst of pupping season.⁷ Indeed, the ALJ determined that Ms. Creighton had disrupted nursing behavior between mother and pup harbor seals. I.D., p. 15. Second, Respondent failed to make any effort to avoid the seals upon exiting the water, and participated in a group swim event whose purpose was to show that humans and harbor seals could share the CPB. I.D., p. 12 and 15. These aggravating factors alone are sufficient basis to determine that the outcome set forth in the Initial Decision should not be disturbed.⁸

The NOAA Administrator has the authority to issue guidance on the prioritization of enforcement resources applied to Level B Harassment. The guidance recommended by NMFS is a recognition that the populations of certain pinnipeds are at a point where a shift in NMFS's prioritization of enforcement resources is

⁷ Pupping season for harbor seals in Southern California occurs annually between January and mid-April. I.D., p. 10.

⁸ Similarly, Respondent argues in her brief that the outcome of the Initial Decision should be changed to have the Agency compromise the case and remit the fine. Respondent's Opening Brief, p. 3. For the same reasons stated above, such a change in the outcome is not warranted.

appropriate.

B. Neither the Land Grant Nor the Actions of the State/Local Governments Preclude Enforcement of the MMPA in this Case.

The second question raised by the Administrator is:

Whether the California Land Grant of Children's Pool Beach to the County and City of San Diego to maintain forever as a place for public swimming and recreation, and the City, County and State actions regarding Children's Pool Beach subsequent to that land grant, preclude the enforcement of the MMPA in this case.

NOAA believes that this question raises issues implicating the rights and powers of the federal and State governments under the U.S. Constitution. In that light, both the Commerce Clause and Supremacy Clause of the U.S. Constitution amply support NOAA's authority to enforce the MMPA at CPB.

The 1931 California Land Grant gave to the City of San Diego all rights in the CPB area in trust for use as, *inter alia*, a bathing pool for children and to "such other uses as may be incident to, or convenient for the full enjoyment of, such purposes." Respondent's Exh. T. Implementation of the terms of the Land Grant is a valid exercise of state sovereignty. However, to the extent those terms interfere with enforcement of the MMPA, the Land Grant cannot supersede federal law. Accordingly, neither the Land Grant itself nor the actions of the State or local governments that stem from the Grant preclude

the enforcement of the MMPA.

1. Enforcement of the MMPA is a Valid Exercise of Congress' Commerce Clause Power.

In enacting the MMPA, Congress made an express finding that marine mammals either move in interstate commerce or "affect the balance of marine ecosystems in a manner which is important to other animals and animal products which move in interstate commerce." 16 U.S.C. 1361(2)(5). The legislative history for this finding states that, "Congress has a legitimate interest in acting in this area since the animals are highly significant to interstate commerce." 1972 U.S.C.C.A.N. 4144, 4154.

The broad sweep of MMPA authority under the Commerce Clause of the U.S. Constitution (U.S. Const. Art. I, §8, cl. 3) has been recognized in NOAA caselaw:

The MMPA is a valid legislative exercise by virtue of Congress' constitutionally enumerated power to regulate commerce. The Constitution expressly states that "The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." It is clear that Congress has power to regulate commerce, e.g. marine mammals, . . . : *In the Matter of Stanley Ferris, Wilfred Ferris*, 2 O.R.W. 260, 266 (NOAA 1980).

There is also a series of federal cases finding take provisions in the Endangered Species Act and Bald Eagle Protection Act valid exercises of Commerce Clause power.⁹

Upon review of the statutory finding of Congress, the legislative history, and caselaw, there is no question that the regulation of takings under the MMPA, through enforcement of the statute, is a permissible exercise of federal regulation under the Commerce Clause of the U.S. Constitution.

2. The Supremacy Clause Mandates that A Valid Exercise of Commerce Clause Power Trumps State/Local Actions.

"The Supremacy Clause of the Constitution, Art. VI, cl.2, invalidates state laws that 'interfere with, or are contrary to,' federal law." *National Audubon Society, Inc. v. Davis*, 307 F.3d 835, 851 (9th Cir. 2002) (Endangered Species Act preempts state laws that interfere with federal agency mission), citing *Hillsborough County, Fla v. Automated Med. Labs., Inc.*, 471 U.S. 707 (1985). Through the MMPA, Congress has expressly preempted state law with respect to taking of marine mammals. *UFO Chuting v. Young*, 380 F. Supp. 2d. 1166, 1171 (D. HI 2005). Federal preemption with respect to the regulation of taking of marine mammals is explicit, direct evidence of Congressional intent to

⁹ See e.g., *United States v. Bramble*, 103 F.3d 1475, 1480-82 (9th Cir. 1996); *National Ass'n of Home Builders v. Babbitt*, 130 F.3d 1041 (D.C. Cir. 1997), cert. denied, 524 U.S. 937 (1998).

apply the prohibitions under the MMPA throughout the geographic United States.¹⁰ The Supremacy Clause of the U.S. Constitution makes clear that the MMPA would trump the statutory Land Grant by the State for use of the CPB solely for certain human activities.

The MMPA is the supreme law of the land, and the terms of the Land Grant cannot interfere with the enforcement of it.

3. Neither the Tenth nor Ninth Amendment Limit the Commerce Clause Power of Congress to Enforce the MMPA at CPB in this Case.

The Tenth Amendment states that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it

¹⁰ The U.S. Justice Department shared this interpretation at the time of the Act's inception:

This bill [H.R. 10420] would protect specified species of marine mammals by prohibiting their taking except as authorized under permit The prohibition would apply to all persons and vessels subject to the jurisdiction of the United States on the high seas and to anyone in waters under the jurisdiction of the United States or land appurtenant thereto.

Letter from Deputy Attorney General Richard G. Kleindienst to Hon. Edward A. Garmatz, Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, reprinted in 1972 U.S. Code Cong. & Admin. News 4176).

to the States, are reserved to the States respectively, or to the people." U.S. Const. amend. X. It is clear from a long line of federal caselaw that Congress has the authority under a valid exercise of the Commerce Clause to regulate areas which may infringe on state rights despite the reservation of rights of the Tenth Amendment. However, in the case at hand, the Tenth Amendment reservation of powers to the States is not implicated because, as stated previously, the MMPA is a valid exercise of Congress' Commerce Clause power. Therefore, the MMPA is a power delegated to the United States by the Constitution as referred to in the Tenth Amendment. "[I]f a power is delegated to Congress in the Constitution, the Tenth Amendment expressly disclaims any reservation of that power to the States" *New York v. United States*, 505 U.S. 144, 156 (1992); accord *Hodel v. Virginia Surface Mining and Recl. Assn.*, 452 U.S. 264, 291 (1981).

Because Congress' regulation of marine mammals is squarely within its Commerce Clause power, it does not violate the Tenth Amendment.

Concerning the Ninth Amendment as a potential source of conflict in this case,¹¹ federal courts have noted that the Ninth

¹¹ "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people". U.S. Const. amend. IX. Ninth Amendment arguments

Amendment "has not been interpreted as independently securing any constitutional rights for purposes of making out a constitutional violation." *Schowengerdt v. United States*, 944 F.2d 483, 490 (9th Cir. 1991) (rejecting Navy civilian engineer's Ninth Amendment claim arising out of allegedly improper investigation and discharge), cert. denied, 503 U.S. 951 (1992). See also *San Diego County Gun Rights Committee, et al., v. Janet Reno*, 98 F.3d 1121 (9th Cir. 1996).¹²

As such, the Ninth Amendment does not create a reviewable right. Further, as stated above, any Tenth Amendment support for how the Land Grant or the state/local government actions affect enforcement of the MMPA in this case are trumped by the Commerce Clause.

There is nothing in the Land Grant or the actions by the State and local governments that preclude NOAA from enforcing the MMPA at CPB.

were raised by both the ALJ and Respondent's counsel. See I.D., p. 16; Respondent's Opening Brief in Response to Administrator Order, p. 3.

¹² "It is a common error, but an error nonetheless, to talk of 'ninth amendment rights.' The ninth amendment is not a source of rights as such; it is simply a rule about how to read the Constitution." *Id.*, citing Laurence H. Tribe, *American Constitutional Law*, 776 n. 14 (2ed. 1988).

B. Respondent's Remaining Arguments Are Not Responsive to the Administrator's Order.

In addition to answering several of Respondent's arguments in the above Sections, Respondent has raised several other arguments in her Opening Brief (hereinafter "ROB") which require a response here.

NOAA agrees with Respondent that a factual finding can be made that the pinnipeds at CPB are part of the Southern California population of harbor seals. ROB, p. 3. However, NOAA disagrees with Respondent's argument that a legal finding can be made that the Southern California harbor seal population is in excess of OSP. See ROB, p. 3. There is simply nothing in the record that supports such a finding.

Respondent raises three additional arguments which the Agency asserts are not germane to the specific requests of the Administrator's Order: 1) Enforcement of the MMPA interfered with her First Amendment right to access the CPB as free speech; 2) She is entitled to a MMPA exception to the take prohibition to deter marine mammals endangering public safety, and; 3) The Agency should withdraw a request to the City for placement of a rope barrier. ROB, p. 3-4. Because these arguments are not responsive to the two questions raised by the Administrator, NOAA will not respond to them in this brief. To the extent that

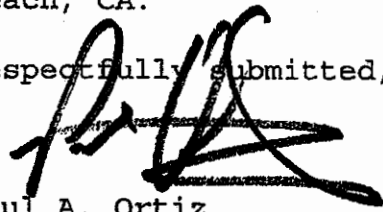
the Administrator is interested in responses to these arguments, NOAA requests the opportunity for additional briefing on these issues.

D. CONCLUSION

The Administrator should affirm the findings of the Initial Decision and direct NMFS to implement the proposed guidance on enforcement prioritization of Level B Harassment for certain pinnipeds in limited HPI Areas.

Dated: June 16, 2006, Long Beach, CA.

Respectfully submitted,



Paul A. Ortiz
Senior Enforcement Attorney
National Oceanic and
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Long Beach, CA 90802
562/980-4069
562/980-4084 (fax)

CERTIFICATE OF COMPLIANCE
WITH WORD LIMIT

In accordance with the NOAA Administrator's Order Granting Discretionary Review, In Part, and Denying Discretionary Review, In Part, dated March 7, 2006, undersigned counsel hereby certifies that this brief contains 3,920 words, including footnotes, as measured by "Microsoft Word 2002," the computer program used to prepare the brief.

A handwritten signature in black ink, appearing to read 'Paul A. Ortiz', is written over a horizontal line.

Paul A. Ortiz
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CERTIFICATE OF SERVICE

I hereby certify that I have sent the attached documents by first class mail and/or electronic mail to the following persons:

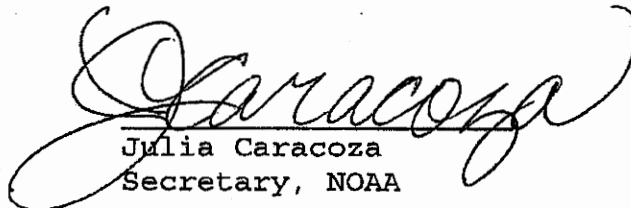
By first class mail:

Administrator
National Oceanic and Atmospheric Administration
Department of Commerce
Room 5128
14th Street and Constitution Avenue NW
Washington, DC 20230.

By first class mail and electronic mail:

Thomas L. Sauer, Esq.
6023 Vista de la Mesa
La Jolla, CA 92037

Dated: June 16, 2006



Julia Caracoza
Secretary, NOAA

**NOAA
ATTACHMENT
“A”**

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
WASHINGTON, D.C. 20230

IN THE MATTER OF:)	
)	
LILLO MARIA CREIGHTON)	DOCKET NUMBER
)	SW030133
)	
)	
Respondent.)	
)	

[PROPOSED] ORDER ON PETITION FOR ADMINISTRATIVE REVIEW

The appropriate NOAA official(s) is directed to finalize and implement, consistent with this Decision by the undersigned, the proposed guidance as set forth below. This guidance will take effect immediately.

SUBJECT: Guidance on Level B Harassment Enforcement for Areas of Human Interaction with Certain Pinniped Populations

In setting forth guidance on enforcement of Marine Mammal Protection Act (MMPA) Level B harassment, the National Marine Fisheries Service (NMFS) must consider a complicated balance of factors relevant to its mission to protect both individual pinnipeds and pinniped populations. NMFS recognizes the following important factors: 1) The most recent stock assessment studies show that populations of California sea lions, Pacific harbor seals (CA and OR/WA stocks only), and northern elephant seals, are increasing and appear to be approaching or within Optimum Sustainable Population levels; 2) NMFS Office for Law Enforcement (OLE) has limited resources to respond to the many requests it receives for investigation of potential Level B harassment violations from human-pinniped interaction areas such as Children's Pool Beach (La Jolla, CA); 3) OLE has other missions - including other missions involving the protection of marine mammals - for which enforcement resources must be prioritized, and which are likely to provide greater advancements in NMFS's overall priorities; 4) Level B harassment investigations/prosecutions are resource intensive, and; 5) the MMPA provides the

Secretary, through OLE and NOAA Office of General Counsel for Enforcement and Litigation (GCEL), with discretion in pursuing penalty actions for violations.

In light of this balancing of factors, NMFS sets forth the following guidance on the exercise of enforcement of the Level B Harassment prohibition of the MMPA at certain human-pinniped interaction areas described below.

- 1) NMFS is aware that there are a wide variety of human pinniped interaction areas throughout the United States. This guidance shall be applied only at human-pinniped interaction areas with the following characteristics, which are referred to below as "HPI Areas":
 - a. The affected pinnipeds are California sea lions, Pacific harbor seals, or northern elephant seals; and,
 - b. The HPI Area has been created - at least in part - for use by the public, or has historically been used frequently and extensively by the public. Exclusion of the public from utilizing areas used by humans in favor of a limited number of pinnipeds in a population presents a concern over the public's interest in accessing such areas.
- 2) The prohibition of "take" by Level B Harassment under the MMPA is a strict liability offense; therefore, NOAA need not prove the intent of a respondent in an enforcement action. OLE/GCEL can proceed with investigation and prosecution of any incident where NOAA believes that the MMPA has been violated. NOAA believes when a person conducts an act of annoyance, as defined in *In the Matter of Lilo Creighton*, 2005 NOAA Lexis 2, which has the potential to disturb a marine mammal by causing significant disruption of a biologically important behavioral pattern, that person has taken a marine mammal by Level B harassment.
- 3) The populations of California sea lions, Pacific harbor seals (CA and OR/WA stocks only), and northern elephant seals, are such that lower prioritization of certain Level B harassment incidents will not have a significant adverse effect on the status of those populations.

4) The majority of potential Level B harassment incidents at individual HPI Areas is likely to have negligible impact on individual, or colonies of, California sea lions, Pacific harbor seals, and northern elephant seals, and thus, is not expected to have a negative effect on NMFS's stewardship responsibilities under the MMPA. As such, NMFS will:

- a. Focus its limited resources, when available, on educational and outreach efforts at HPI Areas to ensure that the general public is notified of viewing guidelines for pinnipeds.
- b. Assign a higher priority to incidents at HPI Areas where there appears to be intent to interfere with or disrupt the pinnipeds, or where there are other aggravating factors related to the incident. Accordingly, alleged takes incidental to otherwise lawful use of HPI Areas will not likely be investigated/prosecuted, particularly where an individual clearly makes an effort to avoid the pinnipeds to the extent possible.
- c. Assign a higher priority to incidents that occur during pupping season, or other particularly sensitive times, for the pinnipeds involved.
- d. Assign a lower priority to incidents that occur at man-made HPI Areas.
- e. Assign a lower priority to enforcement actions for incidental harassment of pinnipeds at HPI Areas where a local government has determined that a taking is necessary under 16 USC § 109(h) for the protection/welfare of the pinnipeds, the protection of public health/welfare, or because the pinnipeds are a nuisance.

Nothing in this guidance should be construed as limiting OLE/GCEL's full investigative and prosecutorial discretion, or as enforcement guidance on marine mammal species/populations other than California sea lions, Pacific harbor seals, and northern elephant seals. NMFS

will review the implementation of this enforcement guideline on a regular basis to ensure that the Agency's mission is being fulfilled.

Conrad C. Lautenbacher, Jr.
Vice Admiral, U.S. Navy (Ret.)
Under Secretary of Commerce for
Oceans and Atmosphere

to exclude from Level B harassment acts affecting marine mammals that are part of a population that is in excess of OSP and growing. In support of this position, the Enforcement Official relies on the statutory language of the MMPA which affords no different level of protection to marine mammal populations that are at OSP from those that are below OSP. The take prohibitions of 16 U.S.C. § 1372(a)(2)(A) explicitly apply to "any marine mammal" (emphasis added).

Nonetheless, the Enforcement Official notes the Administrator does have the discretion to use NOAA's limited enforcement resources to most effectively and efficiently carry out its responsibilities under the MMPA. The Enforcement Official relies on the statutory language itself, which states that persons who violate the MMPA "may be assessed a civil penalty..." 16 U.S.C. § 1375(a)(1) (emphasis added), and notes "it is a common sense principle of statutory construction that '[t]he word "may," when used in a statute, usually implies some degree of discretion.'" United States v. Rodgers, 461 U.S. 677, 706 (1983). Thus, the Enforcement Official asserts, the Administrator has statutory authority to set enforcement policy under the MMPA that would not include enforcement of Level B Harassment acts having the potential to disturb marine mammals that are part of a population that is in excess of OSP and growing.⁴ However, the Enforcement Official believes that any future policy should not affect the outcome of this case. The Enforcement Official believes the facts of this case, particularly that Respondent made no attempt to avoid the seals and that her violation occurred during pupping season, would warrant prosecution under any enforcement policy.

Decision On Issue #1

Having considered the parties' arguments, citations to the administrative record, and legal authorities, I conclude the Administrator does not have authority to interpret the MMPA to exclude all marine mammal stocks at or above OSP from the Level B "take" prohibitions of the statute. The statutory protection of the MMPA against a taking applies to "any marine mammal." 16 U.S.C. § 1372(a)(emphasis added). Had Congress intended categorically to eliminate protection of marine mammals from Level B harassment based upon their conservation status, it could have so provided. It did not.

However, the Administrator has the discretion to set the enforcement priorities for NOAA, including priorities regarding which marine mammal species and populations, and which human activities, warrant expenditure of the Agency's limited management and enforcement resources. Section 1375(a)(1) of the MMPA provides that "any person who violates any provision of this subchapter . . . may be assessed a civil penalty by the Secretary" and "any such civil penalty may be remitted or mitigated by the Secretary for good cause shown." In contrast, with respect to

4/ The Enforcement Official submitted a draft of guidance for prioritization of enforcement of Level B Harassment violations for certain West Coast pinniped species. I decline to adopt such guidance in the context of this administrative review. Through various delegations of authority since NOAA was established in 1970 by Reorganization Plan No. 4, the Administrator has delegated all authority for administering the MMPA to the Assistant Administrator for Fisheries. Such guidance, if it is to be adopted, should be issued by NMFS through its normal procedures.

NOTA APPROVE
TO REMOVE ALL THE
SAND-AUS
SEALS

Management Plan (FMP) until 4:00 p.m., and to hear the Demersal Committee Report from 4:00–5:00 p.m. On Thursday, March 11th, Council convenes at 9:00 a.m. and is scheduled to adjourn at 1:00 p.m.

Agenda items for this meeting include: industry funded data collection and research; bycatch of scup in the squid fishery; gear conflict problems; 1999 Council work plan; discuss Amendment 13 and 14 to the Summer Flounder, Scup, and Black Sea Bass FMP; possible framework management measures under Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass FMP; possible modifications to the summer flounder mortality rate reduction schedule; New England Council management measures for winter flounder; address possibility of interim measures for dogfish; and other fishery management matters.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see ADDRESSES) at least 5 days prior to the meeting date.

Dated: February 17, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 99-4293 Filed 2-19-99; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011999A]

Small Takes of Marine Mammals Incidental to Specified Activities; La Jolla Children's Pool Beach Management and Water Quality Project

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the City of San Diego's Parks and Recreation Department for authorization to take small numbers of Pacific harbor seals by harassment incidental to excavating and removing beach sand at the La Jolla Children's Pool, La Jolla, CA. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize the City of San Diego to incidentally take, by harassment, small numbers of seals in the above-mentioned area.

DATES: Comments and information must be received on or before March 24, 1999.

ADDRESSES: Comments on the application should be addressed to the Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. A copy of the application and a list of references used in this document may be obtained by writing to this address or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301-713-2055, or Joe Cordaro, Southwest Regional Office at 562-980-4017.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not

reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Subsection 101(a)(5)(D) of the Marine Mammal Protection Act established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA now defines "harassment" as:

...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On December 28, 1998, NMFS received a request from the City of San Diego for authorization to take small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly 1 to 2 California sea lions (*Zalophus californianus*) and northern elephant seals (*Mirounga angustirostris*) by harassment incidental to excavating and removing 3,000 yd³ (2,295 m³) of beach sand at the La Jolla Children's Pool.

The La Jolla Children's Pool was constructed in 1931 to provide a sheltered swimming area for children in La Jolla. Over time, the beach behind the breakwater has gradually widened as sand has accumulated in the sheltered pool. By 1998, the shoreline had advanced to near the end of the breakwater, at the mouth of the pool, leaving very little area for recreational swimming. The lack of a protected swimming area and the proximity to dangerous rip current conditions near the breakwater opening have created significant safety concerns.

In addition to the restricted use and associated dangers due to sand accretion, recreational use has been further compromised by a population of harbor seals that regularly use the Children's Pool area as a haul-out area. Seal feces from the concentrated harbor seal population have resulted in fecal coliform bacteria counts that significantly exceed State water quality standards for bathing beaches and body

contact areas. DNA testing has confirmed the harbor seal population as the source of the bacterial contamination. As a result, the Children's Pool has been determined unsafe for human contact and has been closed to the public for all water contact since September 4, 1997. Moreover, the presence of the large seal population attracts large numbers of non-bathing observers to the beach area. This interaction has raised additional safety concerns for both humans and the seals.

The La Jolla Children's Pool Beach Management and Water Quality Project proposes to restore a safe swimming area and acceptable water quality to the pool by reducing the beach width.

Out of 4,200 yd³ (3,213 m³) of sand in the pool area, approximately 3,000 yd³ (2,295 m³) will be excavated and removed to narrow the beach. Approximately 20 truckloads, or 100 yd³ (76.5 m³) per day, will be excavated from the Pool and transported to the disposal site. As a result, it is expected that the sand excavation activity will take up to 30 working days to complete. With a proposed completion date of May 27, 1999, should the timeline require fewer days for completion, the Project proposes using larger trucks to complete the project. After sand removal, the beach profile will be slowly adjusted such that the pool will be deeper and wider at the outer side, and shallower and narrower at the landward side, providing children with a safe area to swim. The City of San Diego expects that the excavation will enlarge the area available for recreational swimming and provide a safe region for the public away from the dangerous rip currents, and, by reducing the area available for harbor seals, water quality levels are expected to return to former levels that were acceptable and safe for human contact.

Description of Marine Mammals Affected by the Activity

General information on harbor seals and other marine mammal species found in Southern California waters can be found in Barlow *et al.* (1995, 1997). Please refer to those documents for information on these species.

Based on the most recent harbor seal counts (23,302 in May/June 1995; Hanan, 1996) and on Hanan's revised correction factor (1.3), the harbor seal population in California is estimated to number 30,293 (Barlow *et al.*, 1997). In California, there are approximately 400 to 500 harbor seal haul-out sites, widely distributed along the mainland and at offshore islands, including intertidal sandbars, rocky shores, and beaches.

In the Children's Pool area, researchers found that the monthly peak counts of harbor seals (based upon ground counts) present during the 2-year survey ranged from 11 to 142 (Yochem and Stewart, 1996). The range of other marine mammals present included 1 to 2 California sea lions and 1 northern elephant seal. While no seal births were observed in the Pool area during the study period, a few nursing pups were observed from April through June, with peak pup counts taking place in June.

Potential Effects on Marine Mammals

The marine mammal most likely to be impacted by the sand removal project is the harbor seal. However, one or two California sea lions and/or northern elephant seals might also be affected. The type of taking anticipated will be incidental harassment caused by the noise of excavation equipment and truck traffic. It is anticipated that the seals may be disturbed and will be flushed from the beach upon initiation of activities on a daily basis, unless they become acclimated to the activity. The number of seals disturbed will vary depending, in part, on the tidal elevation at the nearby haul-out site at Seal Rock at the time of initiation of the activity. Because the project will work only during daylight hours, seals may haul out upon conclusion of the day's activities. Alternatively, due to the activity of heavy machinery required to move the sand off the beach, the harbor seals may avoid the site for the duration of the project and haulout on the nearby Seal Rock Marine Mammal Reserve or at alternate sites. Once the project has been completed, there will be a reduced area for hauling out and increased competition with recreational users which will likely reduce the number of harbor seals returning to the Children's Pool area to haul-out. These seals are expected to utilize Seal Rock or other haulouts in the area. No seals are expected to be seriously injured or killed by this activity.

Monitoring and Reporting

One or more marine mammal biologists will conduct observations on harbor seal behavior before, during, and after the beach excavation project. Impacts will be observed and recorded as the sand removal begins and ends each work day. Upon completion of the project, data will be collected on the harbor seal population at Children's Pool daily for 2 weeks. Data collection format will follow that required for the 1994 to 1996 study conducted on the populations of harbor seals at Seal Rock Marine Mammal Reserve and Children's

Pool by Hubbs-Sea World Research Institute. To assess any seasonal impact on the harbor seal population, quarterly observations will be recorded for a period of 1 year following completion of the project (July and October 1999, and January and April, 2000). A draft report will be submitted to NMFS within 90 days of completion of the 2-week post-project monitoring, and an interim report will be submitted within 90 days after the April 2000 observations. Both the draft and final reports will be subject to review and comment by NMFS. Any recommendations made by NMFS will need to be addressed in a final report prior to acceptance by NMFS.

Conclusions

NMFS has preliminarily determined that the short-term impact of excavating and removing beach sand at the La Jolla Children's Pool will result, at worst, in a temporary modification in behavior by harbor seals and possibly one or two California sea lions and northern elephant seals. While these behavioral modifications, including the permanent vacating the haulout at Children's Pool, may be made by these species to avoid the resultant excavation noise and smaller beach area, this action is expected to have no more than a negligible impact on the species or stocks of these animals. In addition, no take by injury and/or death is anticipated or authorized.

Proposed Authorization

NMFS proposes to issue an incidental harassment authorization to the City of San Diego for possible harassment of small numbers of Pacific harbor seals, California sea lions, and northern elephant seals incidental to excavating and removing beach sand at the La Jolla Children's Pool, La Jolla, CA. NMFS has preliminarily determined that the proposed activities would result in the harassment of only small numbers of each of these species of marine mammals and would have no more than a negligible impact on these marine mammal stocks.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see ADDRESSES).

Dated: February 17, 1999.

P. Michael Payne,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99-4292 Filed 2-19-99; 8:45 am]

BILLING CODE 3510-22-F

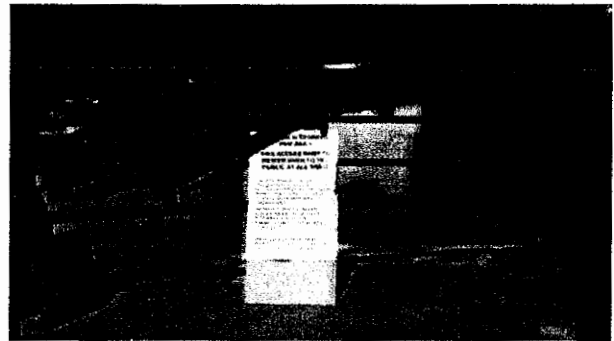
May 31, 2012

Sherilyn Sarb, Deputy Director
San Diego Coast District Office
California Coastal Commission
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

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JUN 04 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

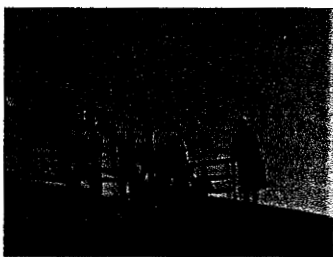
Subject: A long standing violation by the City of San Diego, and defiance of the Coastal Commission.

You may know the City of San Diego has closed and locked a historic access route to a public trusted beach at Children's Pool in La Jolla for over a decade. I am the President of Friends of the Children's Pool, an organization devoted to maintaining access rights to the Children's Pool. I am also a member of La Jolla Parks and Beaches Inc. where the officers and members have fielded complaints from residents



about the locked gate. We tried to work with Lee McEachern of the San Diego CCC office to get some resolution to this matter. Lee has had to tell us the Coastal Commission has no jurisdiction to act on a violation by the holder of a Local Coastal Plan. It was sad to learn the Commission is helpless in the special case of betrayal of the public trust by the entity (San Diego) deputized to safeguard coastal access.

We offer to help take this matter before the State Lands Commission (SLC). The SLC does have the power to take action through the Children's Pool State Tidelands Trust and the principals of the Public Trust Doctrine. The iron gate at the 10' wide beach access ramp at Children's Pool was recently re-



locked for good, with a shroud welded over the lock. It was open on and off last year and used when the City wanted to allow tourists to the sea wall during temporary construction.

Unfortunately, several times emergency personnel have been unable to open the locked gate



because the key was not available and the victim of a near drowning was shoved under the locked gate on a backboard. A second instance of blocked access to emergency personnel occurred in 2011 when Sea World staff rescued an injured seal and had to slide the animal under the locked gate because the key was unavailable.

This is a documented historic coastal access route that is clearly shown in the Local Coastal Plan and was routinely used by beach goers for many years. Permanently closing the ramp encroaches on

required vertical access and violates the principals and intent of the Coastal Act. The Coastal Commission has a policy to maintain 10' wide access for vertical shore access where ever possible.

At the very least a Letter of Concern from the Commission is needed to direct the City to adhere to its own LCP and review how it can regain compliance. The SLC can act, and will have our full support. The San Diego Director of Parks and Recreation, Stacey LoMedico, has recently vowed to continue to use the gate to bar public access after the road is repaved to allow emergency vehicle traffic only. The lack of action by the Coastal Commission was cited by LoMedico as proof the City was allowed to do so, not mentioning the Commission's hands are tied. If this violation of the Coastal Act is allowed to stand, there will never be ADA access there, or a means to take strollers to a beach built and commissioned for children, just so the City can save some money. San Diego has coastal land holdings it intends to optimize for its own purposes contrary to the Children's Pool Tidelands Trust, Public Trust Doctrine and State Law.



Plans to completely close the beach seasonally to

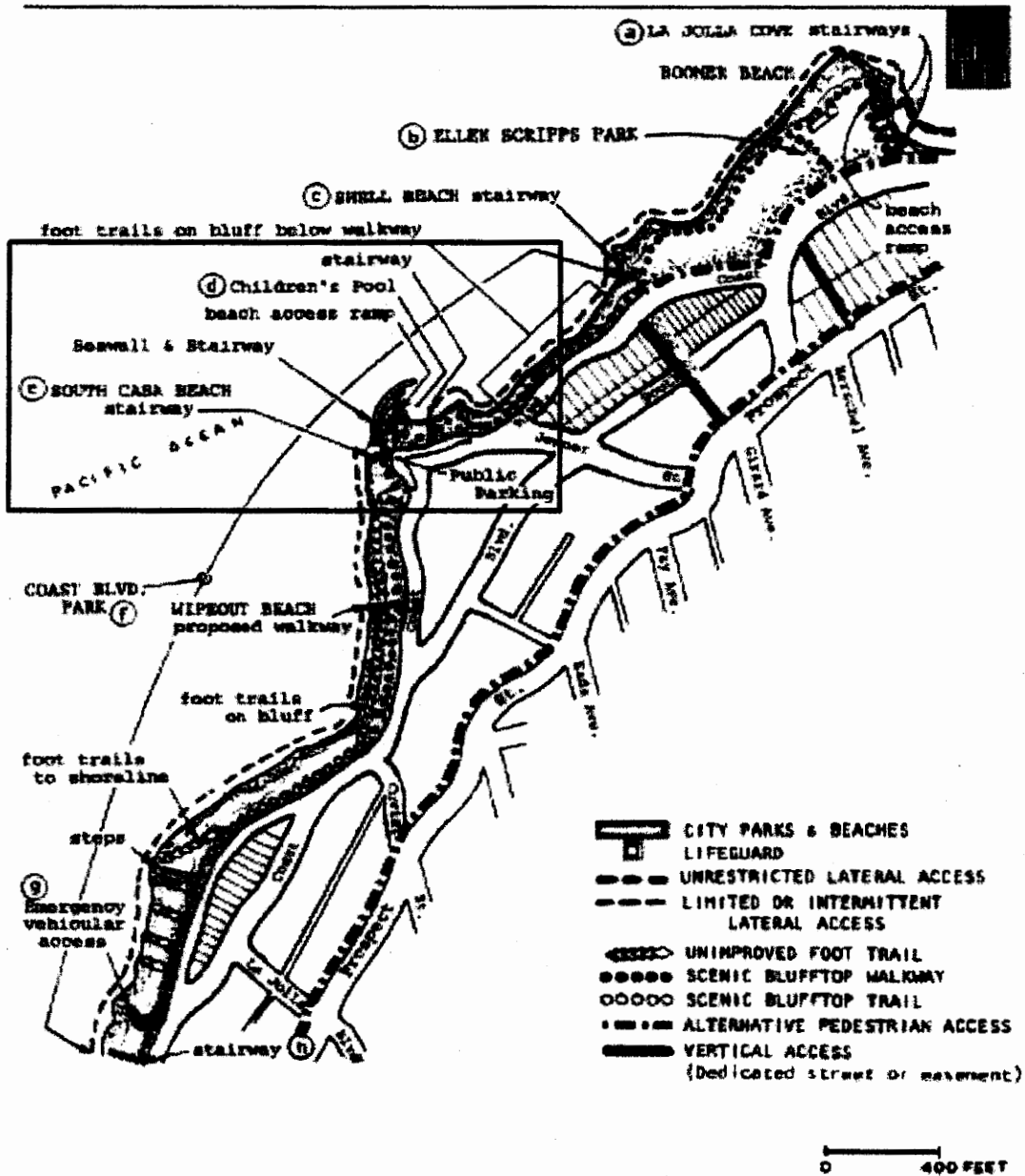
please a special interest group in are in the wings. This violation is a test case to see if the City can confine public access to one narrow stairway it plans to barricade in the near future. We need to appeal to the State Lands Commission to take action. According to our understanding from working with the local CCC office there is no other entity capable of enforcing the Coastal Act against betrayal by a holder of a Local Coastal Plan.



Sincerely,

Handwritten signature of Kenneth L. Hunrichs.

Kenneth L. Hunrichs
President, Friends of the Children's Pool
6530 Springfield St.
San Diego, California 92114-1524 (619) 787-3372



Subarea E: Coast Boulevard - Physical Access



La Jolla Community Plan
 City of San Diego - Planning Department

Figure E

CALIFORNIA COASTAL COMMISSION

45 FREMONT ST., SUITE 2000
SAN FRANCISCO, CA 94105-2210
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



August 29, 2011

John Leek
3090 Admiral Ave
San Diego, CA 92123

RE: Your Public Records Act Request dated August 21, 2011

Dear Mr. Leek:

Your above-referenced Public Records Act request dated August 21, 2011, and received by the California Coastal Commission ("Coastal Commission") on August 22, 2011, has been referred to me for response. You have requested records of a coastal development "permit to close and lock the gate for the ramp at the west side of the lifeguard tower at Children's Pool."

Pursuant to the Public Records Act, Government Code section 6250, et seq., a search was conducted for the records you seek, but we were unable to locate any records responsive to your request.

Please contact me at (415) 904-5284 if you have any questions.

Sincerely,


Jessica Reed
Senior Legal Analyst

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JUN 04 2012

June 1, 2011

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioners:

I implore you to protect Californians from the greed, lawlessness and violence which has become the norm at the historic Children's Pool of La Jolla.

Please don't allow the CCC to be the vehicle by which extremists set the precedent to close a California beach for their own purposes and profit... forever. Don't let this be the first step in a string of beach closures. Don't let them change the face of beach use in California for coming generations.

Surely, no one is unaware that the rope, described by the City as "an effective visual deterrence", is meant to restrict, and if possible, deny access. The City uses terms such as "visual DETERRENCE" and "abiding by the rope at the direction of the Ranger". So, in order to use the beach, I will be forced to anticipate defying the Ranger in order to pass through the 3 foot opening that is provided by law.

Your commission has a proud history of preventing greedy corporations and wealthy individuals from preventing public access for their convenience. San Diego is just such a corporation. Protect us by following the Coastal Act.

It's worth noting that, for influential big business interests in the City, transforming the Children's Pool area of La Jolla from a coastal, residential neighborhood into a gaudy tourist attraction is very profitable for major downtown hotels and restaurants. It's widely advertised internationally as a destination with downtown hotels recommended for visitors. Is this a motive that the CCC would care to support by granting this extraordinary permit? Is this compatible with the mission of the CCC?

Don't ignore the Constitution based upon the erroneous perception of protecting seals from abuse, when these animals have been living and prospering quite comfortably alongside humans since they were intentionally imported to the Children's Pool in the 90's.

There is no emergency!!! The seals are in no danger; they are not being endangered or abused. Their numbers are approaching peak levels all along the coast. There is endless video and anecdotal evidence to demonstrate that shared use is the best solution for the seals and for people.

There is no sunset date proposed for this permit. No later review, no conditions, or studies of the effect or consequences. Why would the CCC lend it's weight and it's reputation to denying the people access to a California beach - IN PERPETUITY - with no thought to evaluation or consideration.

Preserve the all important public access to our beaches that was so valued by drafters of the California Constitution. The CCC is meant to protect access to the coastline for the people. It was never intended to protect the coastline from access by the people of California.

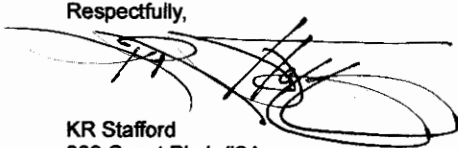
Our Constitution states that no individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose.

...and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State, shall always be attainable for the people thereof.

"Freedom of Speech" seems to be the excuse our City uses for it's abject failure to hold beach closure activists to the laws which apply to the rest of us. At no time in the history of this nation has the protection of freedom of speech excused illegal behavior. There has never been a protection for free speech that means "any way, any time any place". So long as the City protects the lawless behavior of some citizens, they jeopardize the safety of law abiding citizens.

Again, on May 31, extremists abused the 911 emergency call service by requesting Fire Department and Police presence, attention that might have been needed for a real emergency. When will this constant abuse of the protection services of our community be penalized.

Respectfully,



KR Stafford
909 Coast Blvd. #24
La Jolla, Ca 92037

June 2, 2012

Attn: Kanani Brown
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Re: Coastal Commission File #6-11-078 (Children's Pool)

Dear Mrs. Brown: or...to whom it may concern at the California Coastal Commission, I'm writing this simple letter in response to the ongoing struggle at the "Children's pool" in La Jolla California. I am a native of San Diego...and have lived here all of my life. My father... Claude Bell was a Captain on the San Diego Fire Department...and an avid outdoorsman. He taught me to respect nature...and at the same time explore and enjoy it. I remember going to the "Cove", and the "Children's Pool" in La Jolla when I was a kid. Snorkeling around and seeing all of the wildlife under the sea was amazing...and still is. I'm 53 years old now...and have taught my children how to snorkel...explore and enjoy the sea as my father taught me. And this summer I hope to buy my granddaughter (Emilie...she's almost 4) a mask and fins...to carry on this wonderful hobby. The "Children's Pool" in La Jolla is a perfect place to do this...that is what it was designed for...to be a protected area for the public...and children...to explore and enjoy the wild ocean. The ocean is a wild place...with wild things in it...and cannot be sanitized or made entirely safe...nor should it be. Over the years...the controversy of the seals...has grown into something that should never have been. The "Children's pool" was built as a protected area for the public...and children. The seals...live in the ocean...that wild place...and some have begun to call the "Children's Pool" their home...can't prevent that. It would be insensible to put up a rope barrier to keep them out...but...just as insensible to rope off the public from enjoying and using the "Pool" that was made for that purpose. The "Children's Pool" in La Jolla has always been a "joint use" park...my hope...and plea is...that it remains that way. There is no evidence that people on the beach...or diving at the "Children's Pool" harm or drive away the seals that have made their home there. On the contrary...the seals seem to be thriving...and I must say even seem to enjoy the distraction of people playing at the "Pool". As a diver...the "Children's Pool" has become even more unique than its original plan...having these larger animals to observe in their natural element...and all their playfulness...but closer up. The kids like it too...to be able to get close to something large and wonderful...or small and so cute.

I urge you to put this controversy to rest...and let the "Children's Pool" in La Jolla California remain a joint use park. Why set this precedent...by roping off a beach...will La Jolla Shores...or The Cove be next? Please...use your common sense in this judgment. Sincerely, D. Bell

David Bell
7190 Melody Lane
La Mesa, CA 91942

dwbinsd@cox.net

Fax # 619-767-2384

ATTN: Kanani Brown

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JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission
File 6-11-078
Attn: Kanani Brown, Coastal Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

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JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I am a current beach user at the Children's Pool. I like to enter the water there where currents are mild and waves are destroyed by the wall. This is why this place was built in the first place. Parks and Rec's have been trying to close the beach for human use for years, and if you grant them a year round rope you will be aiding them in that endeavor. This particular park known as the Children's Pool is supposed to be protected for human use by a trust. They have tried modifying that trust to take this treasure away from those of us who love to use it.

As no doubt you have read many of the laws protecting this place, please note, that if you deny the rope, people will still be able to see many seals all around the area. They aren't only in the pool, but on all the nearby rocks and beaches. In a world where activists get so much, please protect this area for those of us who simply want to use it for what it built for.

The final thought I would like to leave you with is this: It was paid for by a citizen who worked out details to protect this park forever. It was a promise made to a philanthropist by our government. Our government has gone back on its word too much in recent history, and now you have the opportunity to KEEP a promise. Right now the word of our government isn't as strong as it should be, and breaking such a sacred promise as a trust could really damage the credibility of our government to future philanthropists. We need those gifts, and lying to them isn't a good way to get future ones.

Thank you for your time,

Daniel Byrnes 6/1/2012

Dan A. Byrnes

6-1-2012

Attention: Kanani Brown

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Coastal Commission staff,

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because:

- 1) There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat, it is cultivating an unnatural habitat.
- 2) There are no guarantees in place other beaches will not be set aside for new seal colonies.
- 3) The seal and sea lion population in California are documented to be growing. That growth was accomplished without setting aside public beaches for them.
- 4) The CCC is meant to protect access to the coastline FOR the people. It was not intended to protect the coastline FROM access by the people of California.
- 5) Children's Pool Land grant Trust, (b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.
- 6) No city should have a permit to cordon off public historic trusted tidelands.
- 7) The proposed barrier ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game.
- 8) It would be a violation of the Local Coastal Plan as unanimously ruled by San Diego's own Planning Commission. (Later bypassed)
- 9) California is bound by a trust which does not allow changing a playground, park and bathing pool into a restricted animal display concession.
- 10) Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.
- 11) This measure is solely to help an imported seal colony grow. Its survival is not in question. How can it be the business of the Coastal Commission to nurture an imported animal on an unnatural beach at the expense of public access to public land?
- 12) You may get stung by stingrays at La Jolla Shores. There is no rope across that beach. There are lots of sea lions at La Jolla Cove. There is no rope across that beach. That's good.

Respectfully,

Tracy Nelson

Tracy Nelson
1360 W. Muirlands Dr., La Jolla, CA 92037
858-459-1831
tracyn@san.fr.com

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JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

David Pierce
9344 Leticia Drive
Santee , Ca. 92071
5-22-12

Coastal Commission, c/o Melisa Ahrens,
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402

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JUN 01 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

File 6-11-078

Children's Pool rope barrier permit

To all commissioners,

This is a declaration from the leading marine biologist in San Diego, Ph.D., Doyle Hanan, hired by the City of San Diego to support the City to deny a rope barrier in a lawsuit against the City of San Diego at Children's Pool in 2005.

As you well all see in this Declaration by Dr. Doyle Hanan has the experience in Harbor seal at Children's Pool and are not based by emotions, but by science. These are hard facts that must be considered.

Item number 16 in Dr. Doyle Hanan's declaration, he states that, " in my professional opinion, the continued use of the Children's Pool by harbor seals is not critical to the survival of the harbor seals present at Children's Pool or the harbor seal Population as a whole.

Item number 17 in Dr. Doyle Hanan's declaration, he states that," in my professional opinion the presence of a advisory rope is not critical to the survival of the harbor seal present at Children's pool or the harbor seal population as a whole.

Please preserve human access at Children's Pool by denying the Cities request for a year round rope, the seals don't need lifeguards, the children do...

Sincerely,
David Pierce
Director,
San Diego Council of Divers



Coastal Commission file 6-11-078

7575 Metropolitan Drive Ste 103

San Diego, CA 92108-4402

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JUN 01 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission staff,

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because: No city should have a permit to cordon off public historic trusted tidelands. The proposed barrier encroachment ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game.

San Diego has not even initiated a Coastal Development Plan for this development project or been able to get it through its own local Land Use Procedures. Send it back for a proper CDP with a timely and legal notice for public input and comment. In every public hearing, local advisory groups to the City of San Diego such as the La Jolla Community Planning Association have consistently and unanimously denied support for roping off their public beach for any reason. It would be a violation of the Local Coastal Plan as unanimously ruled by San Diego's own Planning Commission. (This was later bypassed)

The City was required to produce a NEW permit to be under Coastal Commission jurisdiction. It has not done that. to date , nor has it fulfilled past conditional use

permits stipulated by the Coastal Commission as far as upright structures on the sand and total signage permitted at the site.

California is bound by CA Trust Law which does not allow changing a playground, park and bathing pool into a restrictive animal display concession. It will a set precedence subject to litigation for every beach in California where a town believes it can save money by discouraging ocean access to humans in favor of an animal display.

The rope is described by the City as a "Visual Deterrent", which it is. A visual deterrent to vertical access to the shore is inappropriate to a public beach under the jurisdiction of the CCC. This "buffer" rope created denies use of the entire beach because it sweeps completely across. Turn the rope the other way so both people and seals can have true vertical access.

The 3 foot opening the City wants in the barrier is not visible from the sidewalk which is deceptive to the public., making the rope barrier an effective tool for activists to intimidate the public and mislead people in to believing the beach is closed;.

This measure is solely to help an imported seal colony grow. Its survival is not in question. How can it be the business of the Coastal Commission to nurture an artificially introduced and enhanced animal population on an artificial beach ?

This will be a State issued permit under CCC jurisdiction. Under Federal law, "no state may enforce or attempt to enforce any law concerning the taking of marine mammals"

This includes sheltering, harboring or creating sanctuaries. Look it up. California has no justification to take actions based on enforcing protections reserved for the Secretary of Commerce through the MMPA. This permit is proposed without a sunset date, no later

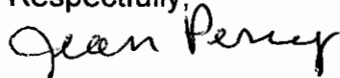
a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

§ 30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses. ... (Looking from behind a barrier is not recreation)

§ 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development...

The CCC is meant to protect access to the coastline FOR the people. It was not intended to protect the coastline FROM access by the people of California. Thank you for your time and consideration

Respectfully,

A handwritten signature in cursive script that reads "Jean Perry".

Jean Perry 7413 Fay Ave , La Jolla CA 92037 (858) 366 -2627

June 1, 2012

Attn: Kanani Brown
Fax No.: (619) 767-2384

This has to be the most ridiculous issue of Man vs. Nature...
or should it be more emphasized as **Children vs. Sea Lions?**
Where are our priorities...to our children **or** to sea lions?

Simply put...why dispute a person's wish to bequeath a designated
and **specifically** designed area for children to swim and frolic without
fear of being sucked off the shore by the strong Pacific current?

Why is this even an issue? Can we honestly say that our children have
the rest of the entire San Diego coastline and beyond, to swim with
ease and safety without this fear? **No...but the sea lions do!**

Please see things clearly, and with proper focus. Should we be
worrying more about the safety of sea lions, or our children?
We can co-exist! **No boundaries for the children, no boundaries
for the sea lions!**

Respectfully Submitted,

Debra L. David
San Diego

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JUN 01 2012

**CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**

Matthew Poole
14670 Via Fiesta 4
San Diego, CA 92127

June 1st, 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission staff,

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because:

The proposed barrier ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game. It would be a violation of the Local Coastal Plan as unanimously ruled by San Diego's own Planning Commission (Later bypassed). The rope is a tool for activists to intimidate the public and mislead people to believe the beach is closed; which is why they want it so bad. The Coastal Commission should not bow to special interest groups determined to convert historic tidelands solely to their desired use. We can share. They cannot.

California Constitution: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose. The CCC has a proud history of preventing greedy corporations with seaside holding from preventing public access for convenience. San Diego is just such a corporation. Protect us using the Coastal Act. Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.

Lastly, the seals are doing fine on that beach or they would have already left. They can swim.

Thank you for your consideration.

Sincerely,



Matthew Poole

Attention: Kanani Brown

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

RECEIVED
MAY 31 2012

Coastal Commission staff,

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because:

- 1) There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat, it is cultivating an unnatural habitat.
- 2) The proposed barrier ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game.
- 3) San Diego has dug a hole for itself and is trying to hand off the responsibility for its bad decisions on the CCC. Send it back and demand a real Site Development Permit.
- 4) California is bound by a trust which does not allow changing a playground, park and bathing pool into a restricted animal display concession.
- 5) The City lied saying the rope position was calculated from studies of seal activities. It was placed to be above the high tide line so the City could cut its own local permit. That was found to be outside its jurisdiction.
- 6) The rope is a line in the sand that causes more problems than it solves and creates contention and lawlessness. It makes people hate the seals. Shared use is a solution, not a problem.
- 7) This matter needs a studied legal opinion, not a one day flurry of personal opinions and anecdotal claims. There is no emergency. This permit would be forever.
- 8) Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.
- 9) § 30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses. ...(Looking from behind a barrier is not recreation)
§ 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development...(Looking from behind a barrier is not recreation)
- 10) No city should have a permit to cordon off public historic trusted tidelands.

My kids and I have a family tradition of visiting and swimming in the Children's Pool for many years, please do not prevent this family tradition from extending to our next generation.

Sincerely,

Krisann Shaler



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MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
C/O file 6-11-078
7575 Metropolitan Drive, #103
San Diego, Ca 92108-4402

May 26, 2012

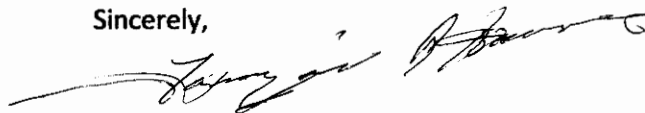
Dear Commission Members,

Please do the things necessary to have a Children's Pool for the children. There are many places up and down the coast that are hospitable for seals. La Jolla does not have much area appropriate for a children's beach. This was recognized years ago by the woman who made it possible.

It seems very disrespectful to her, and other future civic donors, to disregard her wishes. Why should they contribute something to the community if it is not going to be appreciated and preserved?

Save your money. No rope is needed. Hopefully the seals will find a better place but they will probably stay anyway.

Sincerely,

A handwritten signature in dark ink, appearing to be "L. J. Brown", written over a horizontal line.

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402



Dear Coastal Commission,

I am writing in regards to the permit for a perpetual rope barrier across the public Children's Pool Beach in La Jolla. There are so many reasons why this beach should remain open for human use. Some relate to historical value, some relate to science and the healthy population of harbor seals supporting why they do not require further protection and most importantly, the legal documents for how this beach is to be used state clearly that restricting human access is not allowed. Personally I am disappointed to see how opposing organizations created to maintain balance in our communities can have allowed a small group of supposed "seal activists" to continue their manipulation tactics on our citizens. I have faith that the Coastal Commission will see thru their non-sensical emotion based pleas and act in accordance with the law and what is best for our community. I hope it is also possible to have some legal measures taken that will make ANY sidewalk vendors illegal in this particular location. Let's allow this beach to be the gem it could be for La Jolla by getting rid of activists from both sides of the issue once and for all.

Also, please read these many many valid reasons why a year rope not only "should" not be granted but why it would be illegal to do so. Thank you...

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because:

No city should have a permit to cordon off public historic trusted tidelands.

San Diego has not even started a Coastal Development Plan for this or been able to get it through its own local Land Use Procedures. Send it back.

The proposed barrier ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game.

It would be a violation of the Local Coastal Plan as unanimously ruled by San Diego's own Planning Commission. (Later bypassed)
California is bound by a trust which does not allow changing a playground, park and bathing pool into a restricted animal display concession.

The rope is described by the City as a "Visual Deterrent", which it is. A visual deterrent to vertical access to the shore is inappropriate to a public beach under the jurisdiction of the CCC.

The 3 foot opening the City wants is not visible from the sidewalk which is the real reason it is more effective than a barrier with a proper sized opening. It deceives the public.

The rope is a tool for activists to intimidate the public and mislead people to believe the beach is closed; which is why they want it so bad. They will have one more tool at their disposal to now sit a-top the cliffs and yell down at law abiding community members and tourists.

The City lied saying the rope position was calculated from studies of seal activities. It was placed to be above the high tide line so the City could cut its own local permit. That was found to be outside its jurisdiction.

The City was required to produce a NEW permit to be under Coastal Commission jurisdiction. It has not done that.

The City wants a year round barrier because it does not cost anything and the City does not know how to solve its problems within the confines of the law. Send it back.

This will be a State issued permit under CCC jurisdiction. It will endanger every beach in California where a town can save money by discouraging ocean access in favor of an animal display.

Under federal law, "no state may enforce or attempt to enforce any law concerning the taking of marine mammals". Look it up. California has no justification to take actions based on enforcing protections reserved for the Secretary of Commerce through the MMPA.

San Diego has dug a hole for itself and is trying to hand off the responsibility for its bad decisions on the CCC. Send it back and demand a real Site Development Permit.

In every public hearing local advisory groups have denied support for roping off their public beach for any reason.

Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.

This measure is solely to help an imported seal colony grow. Its survival is not in question. How can it be the business of the Coastal Commission to nurture an imported animal on an unnatural beach at the expense of public access to public land?

The Coastal Commission should not bow to special interest groups determined to convert historic tidelands solely to their desired use. We have shared. They cannot and have shown no intent to do so.

A suit is now filed against the State and San Diego for violation of the 1931 Tidelands Trust. It will prevail easily and if the CCC acts in haste to encourage San Diego with a permit allowed by a twisting its own procedures, it stands to be reversed in the courts. This matter needs a special legal study, not a one day pile of opinions and special interest claims. There is no emergency.

This is only a stepping stone for a closure of the entire beach 5 months every year. Let San Diego show why it should have that first, then approve a summer rope.

This "buffer" rope created denies use of the entire beach because it sweeps completely across. Turn the rope the other way so people and seals can have true vertical access if one is decided to be needed at all.

This is called "an effective visual deterrence" by the City. That is all you need to know. It is more than

an encroachment. It is a means of denial of access.

The City states it has not completed any technical studies on the effectiveness of the rope. If it is effective, it is a denial of access. If it is not, then it is a perpetual mistake. Pick one.

The City states no records of human impacts on seals have been kept. CCC endorsement of a permanent "visual deterrent" will impact 100,000 humans for unsubstantiated reasons.

The City states instances of seal aggression towards humans on land have not been documented. It states no substantiated reports of malicious or violent behavior by a human towards a seal at the Children's Pool been filed or observed. It wants a permanent solution but alleges it has no problem.

You may get stung by stingrays at La Jolla Shores. There is no rope across that beach. There are lots of sea lions at La Jolla Cove. There is no rope across that beach. Why is a rope needed at this particular beach?

There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat, it is cultivating an unnatural habitat.

The CCC has a proud history of preventing greedy corporations with seaside holding from preventing public access for convenience. San Diego is just such a corporation. Protect us using the Coastal Act.

The same day the City voted to attempt this permit, it voted to affect a 5 month closure every year forever, but seeks this perpetual rope barrier as a first step. It also promised to make a decent program to make the ranger more effective. It has never done that. That decent program should be a required first alternative. Thereafter, we can evaluate a 12 month rope.

This permit is proposed without a sunset date, no later review, no studies, no conditions, no alternatives, no legal studies. Just "in perpetuity". Where else would the CCC use its jurisdiction to do such a thing?

The City complains "individuals place non-official signage on the beach to indicate the beach is open to for public use and that the rope is only a guideline, not a barrier". So? Isn't that the citizens doing the City's job? A year round rope will just bring more of the same.

The City claims the placement of the rope is based on observation of seal activity, yet it also states "neither federal or City law specifies a safe distance". So there is no known distance for rope placement. Nor do seals respond to the rope as a safety device. They will use the beach as they see fit and humans again will have no legal basis in which to use the beach within legal bounds... creating the next legal loop hole for seal activists to seek legal justice... and sue the city, again and again.

California Constitution: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose.

California Constitution: ..and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

From § 5096.27; Parks under State control: "Such projects shall also be devoted to multiple recreation purposes, as opposed to restrictive, single interest usage".

§ 30210; In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people

§ 30211; Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization....

§ 30212; (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects....

§ 30213; Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.

§ 30214; (b) ...Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

§ 30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses. ...(Looking from behind a barrier is not recreation)

§ 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development...(Looking from behind a barrier is not recreation)

The federal protection for marine mammals does not allow for enforcement on a state level. The Commission must obey the MMPA, but it may not attempt to enforce any aspect of it.

This year round rope is a new development because it replaces a permit awarded a structure under City rather than CCC jurisdiction. Vertical Access to the Shore, not to 80 feet back, must be provided. But its stated purpose is to serve as a visual deterrent to shore access.

The CCC is meant to protect access to the coastline FOR the people. It was not intended to protect the coastline FROM access by the people of California.

Children's Pool Land grant Trust, (b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.

Thank you for your time and consideration. Best regards,

Ryan Sweeney

1536 Glenwood Dr.

San Diego, CA 92103

RECEIVED

MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

*Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402
Coastal Commission staff,

California Constitution: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose. California Constitution: ..and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

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§ 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development...(Looking from behind a barrier is not recreation)> The City wants a year round barrier because it does not cost anything and the City does not know how to solve its problems within the confines of the law. Send it back.

This will be a State issued permit under CCC jurisdiction. It will endanger every beach in California where a town can save money by discouraging ocean access in favor of an animal display.

~~Under federal law, "no state may enforce or attempt to enforce any law concerning the taking of marine mammals".~~ Look it up. California has no justification to take actions based on enforcing protections reserved for the Secretary of Commerce through the MMPA.

David Pierce



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MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Coastal Commission staff,

From: Mr. Warren W. Beckwith, Jr. 7976 Roseland Dr. La Jolla, CA 92037

I am 86 years of age and as an adolescent in the 1930's & early 1940s lived in the 800 block of Prospect Ave, La Jolla with my family. I was appointed as SD City Lifeguard in the early 1940s. After serving in the US Army Air Corps (1943-1946) I was again reinstated as SD City Lifeguard and assigned to guard at the Casa Beach (Children's Pool) for several years. I then took a position with Scripps Institution of Oceanography (pelagic studies & physical oceanography).

Subsequently I married and we had three children and they all learned to swim at the Children's Pool. My son became a Lifeguard at the Cove in La Jolla.

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because:

The Calif. Coastal Commission should require the City of San Diego to restore the sea wall to its original design and purpose. There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat, it is cultivating an unnatural habitat.

No city should have a permit to cordon off public historic trusted tidelands.

The proposed barrier ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game.

It would be a violation of the Local Coastal Plan as unanimously ruled by San Diego's own Planning Commission. (Later bypassed)

California is bound by a trust which does not allow changing a playground, park and bathing pool into a restricted animal display concession.

San Diego has dug a hole for itself and is trying to hand off the responsibility for its bad decisions on the CCC. Send it back and demand a real Site Development Permit.

Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.

The Coastal Commission should not bow to special interest groups determined to convert historic tidelands solely to their desired use. We can share. They cannot.

A suit is now filed against the State and San Diego for violation of the 1931 Tidelands Trust. It will prevail easily and if the CCC acts in haste to encourage San Diego with a permit allowed by a twisting its own procedures, it stands to be reversed in the courts. This matter needs a special legal study, not a one day pile of opinions and special interest claims. There is no emergency.

From § 5096.27; Parks under State control: "Such projects shall also be devoted to multiple recreation purposes, as opposed to restrictive, single interest usage".

§ 30210; In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people

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The CCC is meant to protect access to the coastline FOR the people. It was not intended to protect the coastline FROM access by the people of California.

Children's Pool Land grant Trust, (b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.

The Coastal Commission acts to guarantee public access because once lost, it can never be regained. If the CCC colludes to limit access on trusted tidelands that will be reversal in purpose.

Sincerely, Warren Beckwith

A handwritten signature in black ink, appearing to read "Warren Beckwith", written in a cursive style.

RECEIVED

MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

MAY 29, 2012

Dear Coastal Commission Staff

I AM IN FAVOR OF OPENING UP THE
BEACH AT THE CHILDREN'S POOL IN LA JOLLA
TO PEOPLE.

DO PEOPLE NEED TO BE RESTRICTED FROM
GOING TO THE BEACH TO PROTECT SEALS? THERE
ARE LOTS OF BEACHES WHERE SEALS GO
WITHOUT PROBLEMS. THE CCC IS SUPPOSED TO
KEEP ACCESS TO THE COAST OPEN TO PEOPLE.
THE SEAL POPULATION IS GROWING - WITHOUT
PROTECTION AT OTHER LOCATIONS. THERE IS
NO NEED TO CLOSE THE BEACH TO PEOPLE.

THE ROPE BARRIER IS INTIMIDATION AGAINST
ACCESSING THE SAND. I WILL NOT SWIM THERE
NOW BECAUSE I DO NOT WANT TO DEAL
WITH THE VERBAL ASSAULTS THROWN BY THE
SEAL PROTECTORS. THE BEACH WAS CREATED BY
BUILDING THE SEA WALL, AND IT IS NOW CULTIVATING
AN UNNATURAL HABITAT.

Richard Lindgren

7397 HIGH AVE, LA JOLLA 92037

5-24-12

From:

BOB EWING
3570 MT. EVEREST BLVD.
SAN DIEGO, CA 92111

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MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 23, 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

My experience is THAT SHARED USE IS A VIABLE OPTION.
ACCESS TO THE WATER MUST ADHERED TO PER
THE ORIGINAL DEED OF TRUST AND CALIFORNIA'S
LAWS PERTAINING TO BEACH ACCESS. SEALS DO
RELOCATE TO THE ROCKS WITEN THE BEACH
IS IN USE.

I am very much against a year round rope at Children's Pool.

Best regards,

Bob Ewing

From:

RECEIVED

MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 23, 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

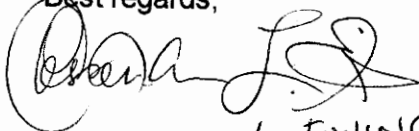
Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

My experience is

As a second generation native San Diegan, my family has enjoyed the Children's Pool for many, many years. My parents often took their four children there for picnics and swimming. My husband and I moved to Oregon in 1989. When we came to San Diego on vacation in about 1995, we were stunned to see ~~how~~ how the seals had taken over "our" beach. When we returned to San Diego in 2000 we found the area occupied by Seal activists who use intimidation and bullying to try to keep people off the beach that belongs to our children. I am very much against a year round rope at Children's Pool.

Best regards,



CASSANDRA L. EWING
3570 MT. EVEREST BLVD.
SAN DIEGO, CA 92111

RECEIVED

MAY 31 2012

File 6-11-078
California Coastal Commission

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: Preserve human access and enjoyment of the Children's Pool in La Jolla, CA

Greetings,

I just signed the following petition addressed to: California Coastal Commission and San Diego City Council. To Preserve human access and enjoyment of the Children's Pool in La Jolla, CA Eco-groups and "friends of the seals" have orchestrated a campaign of harassment and intimidation against divers, fishermen and the beach-going public for over a decade now. Actions such as throwing rocks, spitting, stealing, vandalizing, punching, shoving, yelling profanity and even assaults with a stun gun perpetrated by animal-extremists against beach-goers and tourists are commonplace and often ignored by the police and the City of San Diego. Additionally, despite court orders and in violation of state law, the City of San Diego has continuously ignored its obligations to the citizens of the State of California and residents of San Diego. These obligations are set-out in the so-called Children's Pool Trust and the State Constitution. Among these obligations is the guaranteed right of "convenient access" to the Children's Pool beach for fishermen. Despite this constitutional right to access, the City has, in the past, closed this beach and continues to post rope barriers and warnings across the beach. The City has even sought to outright close the beach and pool for part of the year in violation of State law and the Constitution.

Unfortunately, what was once recognized as a true San Diego treasure and originally built primarily for a Children's bathing pool and playground has been neglected and virtually destroyed. Hollywood once shot movies there. Detroit shot a car commercial at the Children's Pool. The first permanent San Diego Lifeguard Station was constructed there. National Geographic once wrote of the Children's Pool: "Even Alice, fresh from Wonderland, would have gaped at the landscape spread below me". However, we have a lifeguard station, which has been condemned. We have "port-a potties" on the sidewalk. The sea wall and stairs are literally crumbling. The cliff-side has collapsed onto the beach and undermined the sidewalk. Extremists populate the sidewalk shouting obscenities at anyone with the temerity to step foot on the beach. The City Police Department has a special "policy" not to enforce many City codes and ordinances at the Children's Pool. The sand is polluted with seal feces. This San Diego treasure has nearly been lost.

A proposal to either close the beach and/or further encroach on public access is before the Coastal Commission and San Diego City Council. We respectfully petition that the rights of the citizens of the State of California be recognized and the Children's Pool beach remains open and is quickly restored to its original condition. Please do not allow this treasure entrusted to us from previous generations to be destroyed and sold to environmental activists. Keep the Children's Pool open! Do not approve any proposal to close or limit access at the Children's Pool beach.

Sincerely,

Donald H. Pekar
7415 RAY AVE.
LA JOLLA, CA
92037

7

MAY 29, 2012

Coastal Commission file 6-11-078
2575 METROPOLITAN DRIVE Ste 103
SAN DIEGO, CA, 92108. 4402

RECEIVED

MAY 31 2012

DEAR SIRS,

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

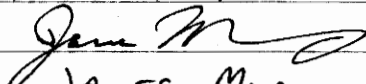
PLEASE DO NOT ALLOW A
ROPE TO BE PLACED ACROSS
CHILDRENS POOL IN LA JOLLA.

THIS IS A PUBLIC BEACH AND
WAS BUILT FOR CHILDREN NOT
SEALS. THE SEALS ARE CUTE,
BUT THEY ARE ALSO POLLUTING
THE BEACH. THIS IS THE
ONLY BEACH IN SAN DIEGO THAT
CONSISTENTLY HAS POOR WATER
QUALITY. THIS IS BECAUSE OF THE SEALS.

THE BEACH SHOULD BE OPEN
FOR HUMANS AND WILDLIFE.
MANY CHILDREN (INCLUDING MINE)
LEARNED TO SNORKEL AT THIS
WONDERFUL BEACH.

MANY OF THE BEAUTIFUL BEACHES
IN LA JOLLA HAVE DIFFICULT OR
DANGEROUS ACCESS. THIS BEACH WAS
CREATED TO ALLOW SAFE ACCESS
TO A UNIQUE AREA. HUMANS
SHOULD ALWAYS BE ALLOWED TO
USE THIS BEACH.

SINCERELY


JAMES MURRAY

16947 OLD ESPOLAR RD.

POWAY, CA 92064

619-508-1526

RECEIVED

MAY 30 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



To: Kanani Brown

Fax #: 767-2384

From Ken Hunrichs 619 263-8667 (shared line, call first)

Subject: California Coastal Commission, File 6-11-078

Please include this letter in the analysis for File 6-11-078 (Children's Pool rope barrier).

I am opposed to any further restrictions to access to the Children's Pool in La Jolla.



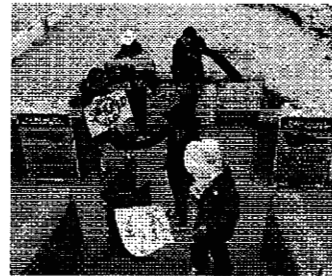
May 28, 2012

California Coastal Commission, File 6-11-078 (Children's Pool)
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402.

Overly restrictive measures based on emotion and not reality, should not overrule common sense and the proper application of State Law, the concept of the Public Trust Doctrine and the specific provisions of the Children's Pool Tidelands Trust. The City of San Diego has rejected the best interests of the people of the City, and the spirit of the Coastal Act, by constructing a physical and visual deterrence to access on the beach at Children's Pool. **Please reject the City of San Diego's application to place a year round rope barrier across the beach at Children's Pool.**

San Diego City leaders have surrendered authority to groups of vigilantes who take advantage of unsuspecting visitors and residents. Vigilantes have prevented their use of a public beach for years. The City allows this illegal activity to continue and the year round rope barrier will only perpetuate this activity. The proper role of the Coastal Commission is to protect coastal access for the Citizens of California and not from the Citizens of the State. Where the City of San Diego has failed, we depend on the wise oversight by the Commission to correct past mistakes. Bring Children's Pool back to its intended use for public enjoyment in compliance with the Coastal Act.

The "Seal's Only" activists have one agenda; close the Children's Pool Beach. They don't care if the City or Coastal Commission violates the Coastal Act doing so. For too many years, City officials have abdicated their responsibility and have allowed unlawful behavior to oppress the rights of citizens and visitors to Children's Pool. Extremists use the seasonal rope barrier to mislead and create conflict if their demands to clear off the beach are not met.



The rope barrier is a tool used to mislead. The barrier is frequently reinforced with other illegal barriers blocking public access. Caution tape, trash cans chained in place, seaweed lines and safety cones are all methods used to visually and physically block the only access way still available to the public to enter the Children's Pool beach. Physical confrontation and obstruction of public walkways is the backup strategy employed by "seals only" extremists bent on denying public access to Children's Pool. And the City turns a blind eye and thereby condones the activity. They allow vigilantes to be their defacto enforcement agents controlling use of this beach. Park management by vigilantes and bullies appears to be the shortcut management policy of the City of San Diego. The Coastal Commission must stop the malfeasance by the City and unlawful behavior by the extremists.

Deny further restrictions on the use of this beach. Bring the City back in compliance with their responsibility to lawfully manage this park. Please reject the rope barrier permit application.

This permit application comes before the Coastal Commission under most unusual circumstances and will disrupt future procedural processes under this new precedent setting action. The City tried to approve this rope barrier project through its own rules and authority under its Local Coastal Program. It resulted in the San Diego Planning Commission denying the rope barrier project in a unanimous vote of 7-0 in December 2010. The Planning Commission correctly cited the inconsistency with the Coastal Act and the approved LCP. That should have ended the matter but an unusual interpretation of a recently re-discovered high tide boundary has provided yet another opportunity to the City to apply for this unpopular project.

The Coastal Commission must stop this project until the City can demonstrate that all other available options have been thoroughly considered. They have not. Many effective alternatives to a rope barrier were presented to the City during public hearings but were never considered. I believe there can be the desired seal protections without denying public access to the ocean. Using barrier ropes parallel to the shoreline denies access to the beach. You need only to reject this current permit application to see those alternatives the City knows of and has suppressed. The Commission should require a complete and thorough application by the City which is now lacking. If this permit is approved, those alternative options will continue to be ignored. **Do not approve this permit.**

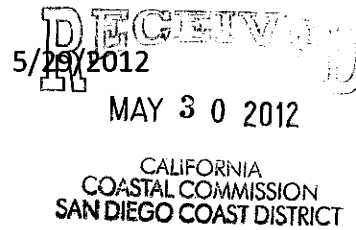
This rope barrier proposal needs to be rejected and sent back to the City with the mandate to not overweight the desired seal protection component at the expense of required coastal access for the people of California. The poorly defined justification used by the City to apply a seasonal condition (pupping season, January to April) to restrict access year round cannot be allowed to stand. Other options and have been consistently rejected by City Officials wanting to force preservation of insignificant, artificial seal habitat in a man-made park designed for and entrusted for use by children.

People who use the ocean depend on the consistent and correct application of the protections of the Coastal Act in the face of ever increasing restrictions on human activity at the coast. **Reject the rope barrier application and uphold the spirit and intent of the Coastal Act.**



Kenneth L. Hunrichs
San Diego, California

Coastal Commission
File 6-11-078
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402



There is not yet scheduled a hearing in July to consider a permanent structure on a public trusted beach that is designed to change land use there. It is still not clear what can be accomplished by a hearing on a permit request with no final form or written CDP. It seems it is to consider a permit concept, to pre-approve by a special procedure which was once called a waiver and now is not. This is an embarrassment.

In November the CCC staff requested specific types of information beyond the single paragraph the City first submitted. It was stated the application was "incomplete pending receipt of additional information necessary for a thorough analysis by Commission staff". One requirement was "analysis of possible alternatives to the proposed year round rope barrier, specifically addressing alternate configurations of and locations for the rope barrier". According to that letter, the application would be scheduled AFTER "all required information is received".

Rather than comply, Parks and Recreation replied "no alternatives had been considered". That is almost reasonable, as Parks and Recreation had no part in the decision process, which is why it could only supply documentation of one City Council meeting. This left the CCC staff to find answers on its own for its questions. Since this is to be a Coastal Commission jurisdiction permit, it seems the answer given is for the staff to find the alternatives and bring them to the floor in a staff generated permit.

That 5/17/10 City Council meeting agenda was a single issue, so no alternatives could be considered, but there were 2 built in.

1. The Ranger was approved to explain and educate the public where the rope was silent.
2. There was to be a City docent program put in place.

Our latest and best ranger has not been on the job for a whole year but has done very well during his 30 hours/week allotted. He does NOT enforce the rope – it is not enforceable. He cannot enforce the Local Coastal Plan. He cannot stop people from confronting visitors on the stairs and turning them away from the beach. He can only give information and serve as an informed observer who can issue citations under severe circumstances.

He was to have been augmented by the docents but Parks and Recreation never started the program, and never told the City Council so, or why not. It is not known why one term of he City resolution was required and another not.

Besides the above, several plans were submitted in Natural Resources and Culture committee before one was selected by the chair by her personal decision and all others discarded. That was one written and lobbied for earlier by her friend Bryan Pease. Many people have observed the rope is turned the wrong way, and attached is a plan submitted by the Council of Divers. Just give divers and swimmers a corridor to the water, per state law. The seals will figure it out and use the rest of the beach if they don't want to share. It can be handled federally by an Incidental Harassment Authorization Permit.

We realize Parks and Recreation has lately submitted an addendum to clarify its position, but it posed more questions than it answered. It is unfair to a new analyst to be trying in a month to analyze a problem that has defied solution in the courts or City Council Chambers for years. Considering the lawsuits past and future which this issue has spawned, the matter needs to be first studied by CCC legal staff. There is no emergency. The City and courts have repeatedly stated that.

We notified this office of need to consult with State Lands Commission and DFG as was done in 2001 over a very similar matter, and of the need to deliberate the jurisdiction of the 1931 Children's Pool Land grant Trust. We have seen nothing to indicate you have had opportunity to do that.

Please consider the gravity of a Coastal Commission jurisdiction decision to allow a City to cordon off a public beach in order to cultivate and foster an undepleted but entertaining species lately introduced in a man-made unnatural habitat. The public trust doctrine does not support that. It could affect every beach in California.

John Leek
3090 Admiral Ave
San Diego, CA 92123

Jleek001@san.rr.com

A handwritten signature in black ink, appearing to read "John Leek", written in a cursive style.



CITY OF SAN DIEGO
COUNCILMEMBER SHERRI S. LIGHTNER
DISTRICT ONE

M E M O R A N D U M

DATE: May 26, 2009
TO: Honorable Mayor Jerry Sanders
Honorable City Attorney Jan Goldsmith
FROM: Councilmember Sherri Lightner, District 1
SUBJECT: Children's Pool

A handwritten signature in black ink, appearing to read "Sherri S. Lightner".

The Children's Pool is a gift granted to the City, in trust, to be used exclusively for a public park and children's pool. Since a growing number of seals continue to overtake Children's Pool it has led to lawsuits, litigation costs to taxpayers and a risk that the City will not keep the public's trust of maintaining the tidelands as a public park and children's pool.

In an effort to diminish litigation while keeping the public's trust, I suggest the City consider allowing dogs on the beach at the Children's Pool. Allowing dogs will keep the seals away from the Children's Pool and allow the area to once again be used by San Diego families.

Allowing dogs at Children's Pool will not eliminate the seal quandary as the seals may move to other nearby beaches. However, the key difference between other beaches in the area and Children's Pool is that Children's Pool was given to the City to be used as a public park and children's pool.

I am requesting that city staff and the City Attorney's office provide a report in the next 30 days that includes a response to the following questions:

- Are there additional costs beyond regular beach maintenance associated with allowing dogs at Children's Pool?
- What are the costs of the City's current plan to amplify the sound of barking dogs and use water spraying from 6 a.m. to sunset every day compared with allowing dogs at Children's Pool?
- What are the maintenance costs for the dog beach located in Ocean Beach compared to similarly sized beaches?
- What are the maintenance costs for the dog beach located in Coronado compared to similarly sized beaches?

- How do other cities (i.e. San Francisco, Monterey, Santa Barbara) manage seal population? What solutions have they found? What are the costs associated with their solutions?

If you have any questions regarding this request, please feel free to contact myself or my chief of staff John Rivera at 619-236-6611.

SL:jr

cc: Honorable Members of the City Council
Andrea Tevlin, Independent Budget Analyst

SUBMITTED to THE
CITY 2/10/2010

Proposal 2 - Management of Children's Pool - Effective Planning

Representatives of the dive clubs in San Diego share a concern over the future of Children's Pool. Divers are happy to have the seal colony there, but see unintended consequences without judicious steps taken. We would propose the City craft a long range plan to administer that public park to preclude new liability, contention or expense.

Our proposal requests a total City plan validated by a panel of scientists appointed by Scripps Institute of Oceanography, with California Department of Fish and Game Commission, NOAA GCSW law office, La Jolla Community Planning Association and the California Coastal Commission.

That panel can formulate ways to protect San Diego beaches for all its citizens and stay within all the terms of the amended trust and the Coastal Act and the State Constitution. Violating any one could start more protracted loss of City resources. We just got free of 5 years of litigation.

We further propose the City enforce its Public Right of Way codes (§127.0304(b)(1), §129.0802, §142.1206, §33.1406, §54.0105) pertaining to vendors' tables and signs drawing crowds in the public's right of way and creating an attractive nuisance, even obstructing public, emergency and handicapped access. The City has done an outstanding job of providing clear signage in the area. Other signs by special interest groups create confusion, cause contention and should be removed per City Codes. We urge the City to enforce its signage codes (Art 2, div 12 and Art 9, div 8; §121.0504; §121.0505) to eliminate private party or special interest group signs.

The San Diego Dive Community agrees with the City of San Diego's Joint Use policy at Children's Pool, as was formulated by a Children's Pool Technical Advisory Committee on July 29, 2003. This policy was cited repeatedly to defend the City against the O'Sullivan suit. (Superior Court, Aug 2006) It makes more sense than ever.

Derived by consensus of Dive Club delegates from all over San Diego,
1/28/2010, and 2/09/2010.

7. Didn't NOAA require beach closure at one time?

One NOAA officer sent 3 letters to the City "strongly recommending" the City close the beach in the winter. The letter had no backing from an administrator. That officer had recommended the City violate the trust, and the Coastal Act for him, but the City stood its ground with an advisory rope and continued Joint Use.

8. What of Law and Order?

Police and Fire have been called to Children's excessively to intimidate citizens to believe anti-access activists have the law on their side. The City could request a tally of police action and its costs at CP and who is involved.

The circus on the sidewalk should end with enforcement of existing City ordinances on signs, selling and solicitation. The City has no funds to hire security guards for the sidewalk as in past years. Without anti-access incitement, the City could again show the world a tranquil vacation spot.

9. Do seals bite?

We can find no documented case of a harbor seal being aggressive at Children's Pool, or anywhere. They are prey animals with a flock culture. Given any choice, they flee confrontation to come back later. A legless animal does not pick a fight on land. Anyway, the City only needs signs saying - "The City of San Diego assumes no responsibility for anyone close enough to a seal to be bitten".

10. Will people on the beach cause seals to abandon their pups?

No animal reacts to annoyance by abandoning its young.

Mother seals must leave small pups somewhere while they forage, or they both will starve. Our seals trust people so much they will leave pups on Children's Pool beach instead of stashing them like they do in the wild. Seals are not born afraid of people, they learn it in the wild from elders. Our pups are born into a people tolerant culture.

11. What if seals come onto other beaches?

The City has been advised by NOAA more than once it can run seals (and sea lions) off public land without even asking permission, and it can use blunt arrows, firecrackers, hoses, all manner of non injurious methods of deterrence. But it has to protect itself with an acceptable plan in place ahead of time to be able to do anything. "To fail to plan, is to plan to fail".

Shared Use Proposal

Children's Pool
La Jolla, California

By: San Diego Council of Divers



The goal of this proposal is to retain the Harbor Seals and Scuba Divers use of Children's Pool in a mutually beneficial "Shared Use". The history of the Children's Pool in La Jolla, California started in 1930's and has continued to today with swimmers, children, scuba divers and seals using this small beach area. We are presenting this proposal to maintain this long history of shared use.

The public currently observes these wild Harbor Seals from the safety of the upper areas of the sea wall and sidewalks above the beach. This provides for adequate distance to be maintained from the seals to conform to the Marine Mammal Protection Act (MMPA). Our proposal is presented to allow for continued observation of these creatures from the ocean environment by scuba divers also conforming to the provisions of the MMPA. This provides for a unique condition where these Seals can be observed from both land and ocean. There are many benefits of this:

- Continued use of the Children's Pool by the Seals:
 - An attraction for additional Tourism in the area
 - Safe area for the Seals to haul out away from potential predators
 - Allows the City to maintain it's shared use policy while living up to the terms of the Trust
- Shared Use for non-conflictive additional activities:
 - Scuba diving – Viewing the seals in their natural environment.
 - Swimming/Snorkeling – Viewing the seals in their natural environment.
- Provides for a unique win-win solution for the public, economy, and wild animals.

In order to enact this proposal there will need to be several "rules" or procedures enacted to maintain safe access to the water, most of which are already in place. Based upon the layout of the Children's Pool and the historical use of the beach by the Seals, we propose a "corridor" along the east side of the beach guaranteeing water access for divers, swimmers, and snorkelers. The City of San Diego has provided a rope "advisory" in the past to assist in defining space at the beach between the seals and the public. We would propose to also use this proven technique to define the necessary corridor. This rope advisory would be placed as noted in the "Attachment A"

The City of San Diego has a opportunity here to create a Unique Win-Win solution for the people of San Diego. We believe that our proposal is best for the Children's Pool Harbor Seals, Tourists and People using the Ocean Environment. We hope that we can be instrumental in the creation of this and further the City's Shared Use policy of Children's Pool into the future.

We are available to discuss this proposal and discuss and make modifications as deemed necessary.

Scott Anderson (president@sddivers.com)
President San Diego Council of Divers

Attachment A

Map of Children's Pool

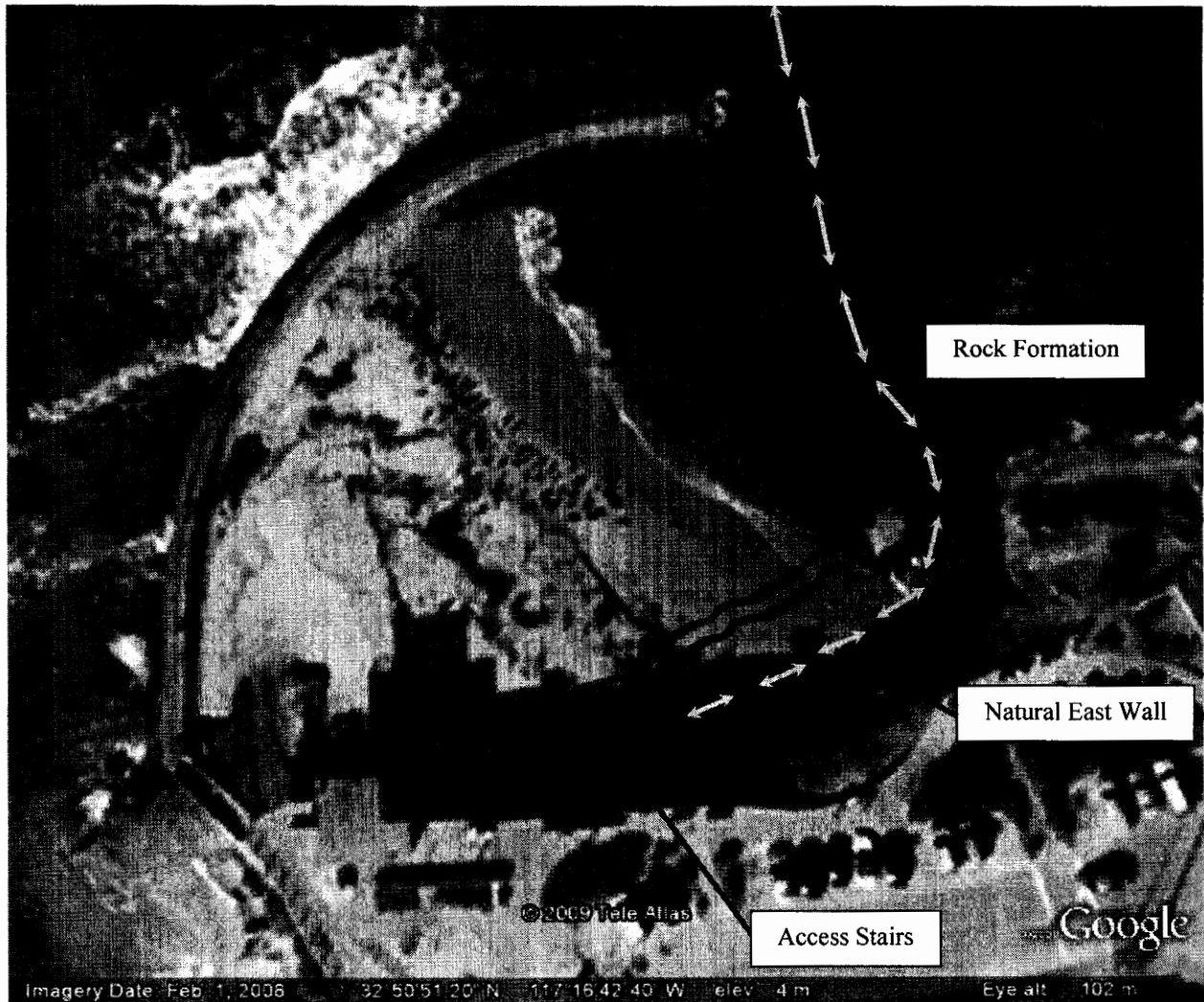




Photo Courtesy of Google Earth

-  Approximate location of the rope advisory marker. The rope will be placed in the sand from the base of the stairs.
-  Approximate path of travel for water users (*Scuba Divers and Snorkelers*). This path will conform to the City's shared use policy and the New Terms of the Trust.

**UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

In the Matter of:

LILLO MARIA CREIGHTON,

Respondent

Docket No: SW030133

INITIAL DECISION AND ORDER

Issued: April 20, 2005

Issued by:

Hon. Parlen L. McKenna
Administrative Law Judge
Alameda, California

FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Paul Ortiz, Esq.
Enforcement Attorney, NOAA
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Long Beach, CA 90802
Telephone (562) 980-4069
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FOR THE RESPONDENT

Tom Sauer, Esq.
Attorney for Lilo Maria Creighton
6023 Vista de la Mesa
La Jolla, CA 92037
Telephone (858) 454-8720

Cover sheet for 94
page decision, page
41 attached

ATTACHMENT C

The Marine Mammal Protection Act and its implementing regulations provide a mechanism for allowing, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region (See 16 U.S.C. § 1371 (a)(5)(A) and 50 C.F.R. § 216.104(a)). In order to obtain such an authorization by NMFS, the requesting party must submit a written request to the Assistant Administrator detailing, among other things:

- (1) A detailed description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals;
- (2) The dates(s) and duration of such activity and the specific geographical region where it will occur;
- (3) The species and numbers of marine mammals likely to be found within the activity area;
- (4) A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks of marine mammals likely to be affected by such activities;
- (5) The type of incidental taking authorization that is being requested (i.e., takes by harassment only; takes by harassment, injury and/or death) and the method of incidental taking;
- (6) By age, sex, and reproductive condition (if possible), the number of marine mammals (by species) that may be taken by each type of taking identified in paragraph (a)(5) of this section, and the number of times such takings by each type of taking are likely to occur;
- (7) The anticipated impact of the activity upon the species or stock of marine mammal.

Once the Assistant Administrator receives a written request, the regulations (50 C.F.R. § 216.104(b)(2)) require that notice be given in the Federal Register, newspapers of general circulation, and appropriate electronic media in the coastal areas that may be affected by such activity. If, after completion of the regulatory process, NMFS determines that the requested "incidental taking" should be authorized, regulations will be promulgated under 50 C.F.R. § 216.105 and a Letter of Authorization issued under 50 C.F.R. § 216.106.

Presumably, the filing of this application could be made by the City/County of San Diego in a parens patriae role as the trustee under the Grant Deed from the State of California. The application could also be filed by the impacted swimmers. Interestingly, the record does not indicate whether or not this approach was explored or utilized.



Children's Pool Compliance Plan

Upon the order of Superior Court Judge Yuri Hofmann, the City of San Diego is prepared to implement the following Children's Pool Compliance Plan. This plan provides an operational framework for dispersing the population of approximately 200 Pacific harbor seals that make their home on Children's Pool Beach in La Jolla while a) preserving public safety, b) protecting the harbor seals and c) complying with all applicable laws, including the U.S. Marine Mammal Protection Act and Judge Hofmann's order.

The plan has three elements:

- I. Seal dispersal
- II. Public safety
- III. Public outreach on seal aggression

I. Seal dispersal

Judge Hofmann's order to disperse as many as 200 Pacific harbor seals from their home on Children's Pool Beach in La Jolla presents numerous legal and logistical challenges to the City separate from those that will be posed by outside parties. Pacific harbor seals are protected by the National Oceanographic and Atmospheric Administration under the Marine Mammal Protection Act, and any individuals engaged in activity that harms or kills a harbor seal is subject to felony prosecution under the Act. Accordingly, the City must exercise extreme care in the dispersal activities it undertakes. In addition, harbor seals are intelligent creatures that will eventually adapt to whatever tactics the City employs. Through research and interviews with marine mammal experts, the City has determined that any successful dispersal program that meets federal guidelines will be labor intensive, require periodic adjustments in tactics and be ongoing until such time as the conditions that make the habitat attractive are eliminated. The population of Pacific harbor seals along the coast of North America has exploded in the decade since Children's Pool was dedicated. Even if those seals who now make Children's Pool Beach their home were persuaded to desert its comforts for another locale, they almost certainly will be replaced by other seals.

a) Upon Judge Hofmann's order's taking effect, a City employee or contractor will begin dispersing seals from Children's Pool Beach with a sound amplification system. The use of bioacoustics, in this case the sound of barking dogs, has been successful in relocating seals in other jurisdictions, and is an appropriate dispersal method under NOAA guidelines. In addition, this method was described by the plaintiff attorney Paul Kennerson in his Sept. 12, 2008, Memorandum of Points and Authority as an acceptable "means of deterring seals from the Children's Pool."

b. Employees or contractors engaged in dispersing seals will be instructed to remain a safe distance from seals at all times to ensure their physical safety. Members of the public will be informed through signage that, under federal guidelines, only City employees or contractors are allowed to engage in seal dispersal activities and that others observed disturbing or harassing seals are subject to arrest.

c. Seals will be dispersed seven days a week, from 6 a.m. to sunset. Over the course of a 12-month period, this will comprise approximately 4,350 hours of dispersal activity. Because of the potential for harassment or assault by a member of the public, any employee or contractor designated to disperse seals will be provided continuous safety coverage by the San Diego Police Department. The costs of seal dispersal and safety coverage for the dispersal employee or contractor, based on the proposed fiscal year 2010 salaries and benefits and not including overtime or holiday pay or non-personnel expenses for City staff, is estimated at \$688,934.

d. The number of seals on the beach will be counted and recorded at regular intervals to measure the success of the program as well as to determine if there is a need to change the tactics.

e. The City will conduct weekly membrane-filtration testing of bacteriological levels at Children's Pool Beach, measuring levels of coliform and enterococcus. The City Stormwater Department conducted a baseline test at three locations, designated Children's Pool Wall, Children's Pool Bluff-side and Children's Pool Ocean, on October 20, 2008.

f. At such time that the seals are no longer susceptible to dispersal by bioacoustics alone, the City will begin employing additional and complementary methods of dispersal. These will include varying the sounds amplified onto the beach, having the City employee or contractor walk up and down the beach while carrying the sound system and/or spraying water. It is anticipated that the intermittent use of several dispersal tactics will have greater long-term success than the continuous use of any single tactic.

g. All dispersal activities will be conducted in a manner that allows the continued public use of Children's Pool Beach.

II. Public protection

The dispersal of Pacific harbor seals from the Children's Pool Beach in La Jolla has a high potential to create an environment requiring a police response. In the past, lesser controversies surrounding the use of this beach have resulted in protests, verbal arguments, assaultive behavior and violations of the public right-of-way. The City must anticipate that these behaviors will recur, and perhaps escalate. In addition, the dispersal of the seals is almost certain to become a national media event, drawing to San Diego crowds of sightseers, news helicopters and animal-rights advocates who may arrive by land or sea to protest the seal dispersal. Compounding the challenges for law enforcement, the area of the Children's Pool, located in the 800-900 block of Coast Boulevard, is highly susceptible to gridlock from vehicular congestion. The San Diego Police Department has developed plans for dealing with public safety issues as they develop and escalate and is coordinating its actions with the San Diego Lifeguard Service, the California Highway Patrol, the San Diego Police Harbor Unit and the Parks and Recreation Department. Consistent with Police Department policy, the staffing levels and costs of these operations are not being disclosed to the public.

a. Upon Judge Hofmann's order's taking effect, the San Diego Police Department will begin to implement its Contingency Plan for Children's Pool. The department will facilitate the smooth flow of

traffic, monitor any demonstrations, keep the peace and respond to calls for service. In the absence of unlawful activity, officers shall maintain a low enforcement profile during a demonstration.

b. It is anticipated that animal-rights activists and organizations from outside the region will participate in protests once the seal-dispersal activity gains public exposure. As the plaintiff attorney Paul Kennerson noted in the Sept. 12, 2008, Memorandum of Points and Authority, "there is no exaggeration in saying a wider world watches" what goes on at the Children's Pool. This plan guards the constitutional rights of all parties, including their rights to exercise free speech and peaceably assemble.

c. In the event the situation escalates or violations of the law occur, the department's role would shift toward enforcement of applicable laws and maintaining order. A uniform presence will be displayed and the officers and supervisors assigned to the Children's Pool will immediately respond to any incident. Officers assigned to the Children's Pool will not tolerate any destruction of property or acts of violence and will take swift and appropriate action to arrest violators.

III. Public outreach on seal aggression

The dispersal of Pacific harbor seals from Children's Pool Beach will inevitably lead to the relocation of those seals on other San Diego beaches, even if that relocation is only temporary. Seals already congregate on the adjacent South Casa Beach and are known to haul out on the beach at La Jolla Cove. While it is possible that some seals may relocate on the rocks near Children's Pool Beach, marine mammal experts say the comparative comforts of sand are not lost on these creature and that sand beaches will be their first choice for relocation. Accordingly, it is reasonable to assume that displaced seals may haul out on the beaches at Pacific Beach, Mission Beach, Ocean Beach and La Jolla Shores, and other City beaches. The arrival of a seal on a public beach is a noteworthy event for most beachgoers and a source of excitement and curiosity, particularly for children. The arrival of dozens of displaced and perhaps anxious seals on a public beach could be a source of alarm. The San Diego Lifeguard Service, whose mission is to protect the public safety on beaches, will take steps to preserve the safety of both the public and the seals.

a. Upon Judge Hofmann's order's taking effect, the San Diego Lifeguard Service will take immediate steps to ensure public safety and protect seals on City beaches by alerting the public to the possibility that the seals who live on Children's Pool Beach may haul out on adjacent beaches, monitoring the activities of displaced seals, and warning the public of the potential danger of interaction.

b. When a seal or seals are observed hauling out on a City beach, lifeguards may find the need to post signs nearby reading: "Caution. Do not approach seals. Seals can bite. Agitated seals may attack. Harassing seals is against the law. In an emergency, contact 9-1-1." The signs, prepared as part of the Children's Pool Compliance Plan, include a drawing of a human hand reaching toward a seal with red circle and slash through it.

c. Lifeguards are prepared to take measures to protect the health and safety of seals that find themselves on unfamiliar beaches, including detaining and arresting individuals who persist in harassing the seals in violation of applicable laws.

Future Management Plan for Children's Pool Presented by the San Diego Council of Divers to NR&C Committee 3/17/2010

The City went through 5 years of litigation to defeat a suit that would have cost it a prominent tourist attraction and a considerable sum in restoration costs. Senate bill SB428 achieved that goal, and now the City needs to protect its victory.

Any management plan must:

1. Avoid any risk of litigation – uphold the trust

- a. Take input from an advisory panel of scientists and members of regulatory bodies
- b. Get the permits and permissions and rulings in place first.
- c. Do not attempt to duplicate any federal laws.
- d. Accept no guidelines or verbal quotes from other agencies, only rulings.
- e. Preserve the City policy of Joint Use
- f. Mitigate any restrictions of public access with guaranteed access other times.
- g. Clean the beach during times of public access.
- h. Ensure the rights of the people who go lawfully on that public beach.

2. Take control of Children's Pool

- a. Establish a City souvenir sales, donations and information stand on the sidewalk to pay for maintenance.
- b. Use the proceeds to pay for uniformed City docents trained in City protocol. They must be the only people to interact with the public there.
- c. Use the proceeds for a park ranger on the sand to educate the public about seals and answer questions during shared use times.
- d. Move all non-city signs to a free speech area away from the stairs.
- e. Persons wishing to accost other persons shall stay in the free speech area.

3. Establish safeguards to protect other beaches.

- a. Establish a clear policy that more beaches will not be lost to the public.
- b. Create a corps of volunteer citizens to legally deter stray pinnipeds as is done in Pacific Grove.
- c. Enforce legal protections for person going on any beach if accosted or impeded.



OFFICE OF THE MAYOR

MAR 26 2010

Mayor
Jay
Kris
Darren
Kevin
Ed
Jerry
file

**CITY OF SAN DIEGO
COUNCILMEMBER SHERRI S. LIGHTNER
DISTRICT ONE**

MEMORANDUM

DATE: March 25, 2010

DTID: SL1003-004

TO: Councilmember Donna Frye
Councilmember Carl DeMaio
Councilmember Marti Emerald

FROM: Councilmember Sherri S. Lightner

SUBJECT: De-escalating Children's Pool

As the elected representative for District 1, and an 18-year resident of La Jolla, I have studied the Children's Pool issue carefully and met countless times with members of the affected community to understand their feelings and concerns about the future management of the Children's Pool.

The direction now being suggested by some Natural Resources and Culture Committee members—temporarily closing Children's Pool to the public to appease one faction in this long-standing community debate—is certain to lead to litigation and unnecessary costs to our City.

I am proposing a solution that I believe will resolve the basic issues, will do no harm to our City, and which I believe, as the representative of District 1, will have the best chance of gaining widespread support among the residents in the community most affected by this issue.

First let me spell out some basic facts about the Children's Pool that are not in dispute:

- In 2004, the City Council adopted a policy of "joint use" of the Children's Pool to allow the seals to continue to haul out on this beach and to also maintain public access to the beach.
- The City spent considerable time in court and in Sacramento to ensure that the City Council policy of "joint use" of the Children's Pool could continue. As the result of legislation carried by State Senator Christine Kehoe and Assemblymember Nathan Fletcher allowing the seals to remain at Children's Pool, which took effect on January 1, 2010, as well as a subsequent Superior Court decision on November 13, 2009 that the City need not remove the seals, the status quo of "joint use" was maintained.
- As a result of that 2009 court ruling, no action is required of the City Council. Nor has the City Attorney recommended that we take any action.

- Since 2006, the City has had a Coastal Development Permit from the California Coastal Commission which allows the City to place a guideline rope barrier at the Children's Pool during pupping season from December 15 to May 15.
- There is no evidence that any seal has ever been harmed at Children's Pool by citizens using the area under the "joint use" policy. Nor is there any evidence that any group intends to harm the seals.
- There is no evidence that any citizen seeking access to the water at Children's Pool has ever been denied access by a seal, or by the seasonal rope barrier that designates a seal pupping area.
- The adopted City Council policy of "joint use" protects the seals, ensures public access to the water, and does not cost the City any money.

As these facts make clear, the problem the City has at Children's Pool is not a seal problem. It is a people problem. Years of litigation and Police calls for service to the Children's Pool have cost taxpayers millions of dollars. We are finally at a point where the City is no longer in litigation, and the state law allowing the seals to remain on the beach has helped to calm tensions between seal activists and beachgoers.

To anyone who would propose taking the costly and inflammatory step of closing a public beach to public use, I would ask this question: "What problem are we attempting to solve, and is it possible we may be creating a problem where none exists currently?" This question has never been answered to my satisfaction.

The "people problem" at Children's Pool is twofold:

1. Citizens who want to use the pool in a lawful and respectful manner feel they are being wrongly harassed by people who are there to protect the seals.
2. Citizens who are there to protect the seals feel that, without their vigilance, bad things might happen to the seals.

I propose to address these problems in the following fashion:

1. Seek private funding for a park ranger or lifeguard position whose primary duty would be to patrol Children's Pool. This individual would be responsible for ensuring that the existing City Council policy of "joint use" is followed by all visitors to Children's Pool. This individual would also develop protocol in consultation with the Police Department and Lifeguard Service.
2. Authorize the Park and Recreation Department or Lifeguard Service to create a volunteer docent program, led by this park ranger or lifeguard, that would enlist civic-minded citizens to inform and instruct the public on the City's "joint use" policy at Children's Pool.

I believe the presence of a City ranger or lifeguard, coupled with the volunteer docent program, involving citizens who are trained and screened by the City, will alleviate the two "people problems" at Children's Pool. The people who want to protect the seals will be relieved of the need to constantly monitor Children's Pool to personally ensure the seals' safety. The people who access the water at Children's Pool will have verification of their lawful behavior, and correction or enforcement if their actions violate any of the laws protecting the seals. In addition, newcomers to the Children's Pool will have an impartial and informed person to advise them on their activities.

I propose that the Natural Resources and Culture Committee suspend any further action on the Children's Pool for 90 days so my office can explore this approach to the Children's Pool issue with community members and City staff. As the representative of District 1, I will engage the community in dialogue concerning this issue, which has a profound effect on La Jolla.

Thank you for your consideration.

cc: Mayor Jerry Sanders
Honorable Councilmembers
City Attorney Jan Goldsmith
Jay Goldstone, Chief Operating Officer
Stacey LoMedico, Director of Park and Recreation
Chief William Lansdowne, San Diego Police Department
Chief Javier Mainar, San Diego Fire-Rescue

May 30th 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

RECEIVED
MAY 30 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission staff,

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because:

1. California Constitution: ..and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.
2. § 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development...(Looking from behind a barrier is not recreation)
3. § 30214; (b) ...Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.
4. § 30212; (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...
Nowhere else in California has the CCC allowed public access to be 3/ wide where it does not have to be.
5. § 30210; In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and **recreational** opportunities shall be provided for all the people.
Standing behind a rope looking at the water is not beach and park and playground recreation for which this area was set aside.
6. § 30211; Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization....
The Children's Pool was acquired by a state landgrant in trust specifically requiring use as playground and park, ect and with stipulated convenient access for fishing for the people of Califfornia..
7. From § 5096.27; Parks under State control: "Such projects shall also be devoted to multiple recreation purposes, as opposed to restrictive, single interest usage".
The proposed rope sets aside the vast majority of the beach for one purpose only, and uses a "visual deterrent" to limit use by the public.

8. California Constitution: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose.

If you allow part B of the 1931 land grant trust to be violated then San Diego will be in the same situation it was in 2006. Courts ruled then that San Diego was obliged to disperse the seals there because the City had allowed them to make it impossible for the public to use the beach as stipulated in the Trust and State laws. The City was compelled to amend the trust at great expense and if you allow it to violate the trust again it is unclear San Diego will be able to avoid the same problem because you made a decision without benefit of fully apprised legal counsel. Why should that be on your head?

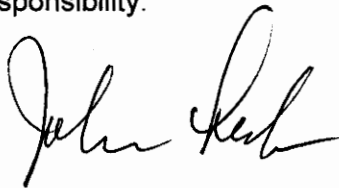
9. This permit is proposed without a sunset date, no later review, no studies, no conditions, no alternatives, no legal studies. Just "in perpetuity". Where else would the CCC use its jurisdiction to do such a thing?
10. San Diego has dug a hole for itself and is trying to hand off the responsibility for its bad decisions on the CCC. Send it back and demand a real Site Development Permit.

This whole hearing if staged will be a collection of special favors and irregularities. It cannot produce a real permit. It cannot be justified as an economy of effort. It has so many flaws it only opens the CCC to criticism that should be reserved for the City of San Diego.

The good news is the City will be happy with any decision the CCC makes, because its most pressing need is to shed the responsibility.

John Leek 858-610-4724

3090 Admiral Ave
San Diego CA 92123
jleek001@san.rr.com



May 30th 2012

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

R

MAY 30 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Coastal Commission staff,

What about that Marine Mammal Protection Act?

Much is to be made of the MMPA, in order to get around the obvious state laws that disallow a perpetual rope barrier. The thrust of the argument is Federal Law trumps any state law. But the Coastal Commission staff has no capability to deal with this question and has not availed itself of the information it needs. No analysis considering aspects of the MMPA would be complete at this time.

It is true everybody has to obey the MMPA, however nobody but a federal officer can interpret or enforce it. The Act specifically requires federal enforcement only. Note in **section 109(a) "No State may enforce, or attempt to enforce any State law relating to the taking of any species of Marine Mammal** The lawyer for the La Jolla Friends of the Seals has twice sued the City and National Oceanographic and Atmospheric Administration to force application at Children's Pool. Both cases were dismissed for lack of jurisdiction.

So you see, a state action such as is proposed in the granting of a permit to act to administer over marine mammals is in itself a violation of the MMPA. For good reason. The MMPA is a maritime law, not administered by State courts. Most legal offices have little understanding of maritime law, but the fact that under the MMPA a federal agent can seize a foreign vessel and arrest its crew (section 107(d)) should be proof enough for anybody. But I suggest you seek expert counsel.

As a maritime law, the MMPA has no standing on dry land except as it states, "*any vessel or other conveyance subject to the jurisdiction of the United States*" or "lands under the jurisdiction of the United States" (section 102(a)). But watch out. "Lands Under the Jurisdiction of the United States" means specially held federal holdings under a maritime law. Any maritime law recognizes the need to base itself and use federal parts of ports and customs houses. That is all it means.

18 USC § 7 (3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

Children's Pool is not federally held or deeded land.

No offense, but this local office has no way to evaluate impact of the MMPA without consultation with federal authorities, but be specific. NOAA has at times expressed support for City efforts to close access to the shore at Children's Pool, but has carefully avoided stating it would be legal or that there is any imperative under the MMPA to do so. Indeed, the only agency that possibly could bring the MMPA to bear to restrict access to the public has never done so.

John Leek 858-610-4724

3090 Admiral Ave
San Diego CA 92123
jleek001@san.rr.com

A handwritten signature in black ink, appearing to read 'John Leek', is positioned to the right of the contact information.

Coastal Commission
Lee McEachern, CC Kanani Brown
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

RE 5/29/2012

MAY 30 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

There is not yet scheduled a hearing in July to consider a permanent structure on a public trusted beach that is designed to change land use there. It is still not clear what can be accomplished by a hearing on a permit request with no final form or written CDP. It seems it is to consider a permit concept, to pre-approve by a special procedure which was once called a waiver and now is not. This is an embarrassment.

In November the CCC staff requested specific types of information beyond the single paragraph the City first submitted. It was stated the application was "incomplete pending receipt of additional information necessary for a thorough analysis by Commission staff". One requirement was "analysis of possible alternatives to the proposed year round rope barrier, specifically addressing alternate configurations of and locations for the rope barrier". According to that letter, the application would be scheduled AFTER "all required information is received".

Rather than comply, Parks and Recreation replied "no alternatives had been considered". That is almost reasonable, as Parks and Recreation had no part in the decision process, which is why it could only supply documentation of one City Council meeting. This left the CCC staff to find answers on its own for its questions. Since this is to be a Coastal Commission jurisdiction permit, it seems the answer given is for the staff to find the alternatives and bring them to the floor in a staff generated permit.

That 5/17/10 City Council meeting agenda was a single issue, so no alternatives could be considered, but there were 2 built in.

1. The Ranger was approved to explain and educate the public where the rope was silent.
2. There was to be a City docent program put in place.

Our latest and best ranger has not been on the job for a whole year but has done very well during his 30 hours/week allotted. He does NOT enforce the rope – it is not enforceable. He cannot enforce the Local Coastal Plan. He cannot stop people from confronting visitors on the stairs and turning them away from the beach. He can only give information and serve as an informed observer who can issue citations under severe circumstances.

He was to have been augmented by the docents but Parks and Recreation never started the program, and never told the City Council so, or why not. It is not known why one term of the City resolution was required and another not.

Also, several plans were submitted in Natural Resources and Culture committee before one was selected by the chair by her personal decision and all others discarded. That was one written and lobbied for earlier by her friend Bryan Pease. Many people have observed the rope is turned the wrong way, and attached is a plan submitted by the Council of Divers. Just give divers and swimmers a corridor to the water, per state law. The seals will figure it out and use the rest of the beach if they don't want to share. It can be handled federally by an Incidental Harassment Authorization Permit.

We realize Parks and Recreation has lately submitted an addendum to clarify its position, but it posed more questions than it answered. It is unfair to a new analyst to be trying in a month to analyze a problem that has defied solution in the courts or City Council Chambers for years. Considering the lawsuits past and future which this issue has spawned, the matter needs to be first studied by CCC legal staff. There is no emergency. The City and courts have repeatedly stated that.

We notified this office of need to consult with State Lands Commission and DFG as was done in 2001 over a very similar matter, and of the need to deliberate the jurisdiction of the 1931 Children's Pool Land grant Trust. We have seen nothing to indicate you have had opportunity to do that.

Please consider the gravity of a Coastal Commission jurisdiction decision to allow a City to cordon off a public beach in order to cultivate and foster an undepleted but entertaining species lately introduced in a man-made unnatural habitat. The public trust doctrine does not support that. It could affect every beach in California.

John Leek
3090 Admiral Ave
San Diego, CA 92123

Jleek001@san.rr.com

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

From:

Name: Julia Supa
Address: 29 Valley Dr
La Mesa CA 91941

May 26, 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

I really enjoy bringing my kids to the beach.
When the rope is up it is much more difficult to
do this. Hence I am against a rope at all and
certainly not a year round rope.

In summary, I am very much against a year round rope at Children's Pool.

Best regards,



5-26-2012.

From: Name: Johnny & Kathleen Jump
Address: 427 Pine Tree Way
Riverside, CA 92506

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 26, 2012

FILE 6-11-078
California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach? It should not be difficult to access the beach. Our children really enjoy being able to see the seals & their activities in nature. We are so blessed to have this open and available to us and our children.

Thank you for allowing us to visit.

In summary, I am very much against a year round rope at Children's Pool.

Best regards,



& Always such a memorable experience.

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

From:

Name: Andrew Chan

Address:

3136 Mira Mesa Blvd
San Diego, CA

NO
ZIP

May 26, 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

Bringing my baby down to the beach & experiencing together
for the first time. Would hate for this to be restricted &
co-existence can occur.

In summary, I am very much against a year round rope at Children's Pool.

Best regards,



Andrew Chan

From:

Name: Jeska Ford
Address: 3726 Nepal
Irvine, CA

NO
rip

May 26, 2012

FILE 6-11-078
California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

I want there to be year-round access for people
and seals to hang out together!

In summary, I am very much against a year round rope at Children's Pool.

Best regards,

Jeska Ford

From: DAVID LEE. 18 Paseo Picasso
Name:
Address: IRVINE, CA 92603

May 26, 2012

FILE 6-11-078
California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

It should be kept open all time for kids.

In summary, I am very much against a year round rope at Children's Pool.

Best regards,

From:

Name: Chris McRae
Address: 4582 Salk Ave
92117

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 26, 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

My mom is 81
She learned to drive
here. So did I and so
did my kids!

In summary, I am very much against a year round rope at Children's Pool.

Best regards,

Chris McRae

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

From:

Name: Daniel McCray
Address: 4582 Sauk Ave
San Diego 92117

May 26, 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

I dive at children's pool. The rope is a nuisance. It gives the pro-seal people license to yell at people who use the beach. This beach is made for people. Get rid of the rope.

In summary, I am very much against a year round rope at Children's Pool.

Best regards,

Daniel McCray

From:

Name:

Address:

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 26, 2012

FILE 6-11-078

California Coastal Commission

7575 Metropolitan Dr. Ste 103

San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

I was not allowed on the
beach with my family. I was
frustrated, unable to enjoy the
beach because of closure due to seals.

In summary, I am very much against a year round rope at Children's Pool.

Best regards,

Gene Peterson

Fountain Valley CA

Flam St

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

From:

Name: Xenon Richards
Address: 5252 1/2 Wood St
San Jose, CA 94941

May 26, 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

When the rope is up it makes it alot harder to come down to beach. It is a springboard for people who want the rope to attack people who want to use the beach.

In summary, I am very much against a year round rope at Children's Pool.

Best regards,

Xenon Richards

From:

Name:
Address:

Richard Reed
36 Rodadero,
Astoria, OR 97103

*not
leavable*

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 26, 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Dear Coastal Commission Members,

I am against a year round rope at Children's Pool.

What was your experience trying to access the beach?

*Told it was closed. Please allow the area to remain open.
LEAVE AS IS, AS IT WAS SUPPOSED TO BE.*

In summary, I am very much against a year round rope at Children's Pool.

Best regards,

David B. Reed

Attention: Kanani Brown

Coastal Commission file 6-11-078
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Coastal Commission staff,

The Commission should not consider a permit for a perpetual rope barrier across a public beach at Children's Pool because:

- 1) There was no Children's Pool beach, or sea wall to make one before 1931. There were no seals on the resulting artificial beach until 1993. A barrier to the public is not preserving a natural habitat, it is cultivating an unnatural habitat.
- 2) The proposed barrier ignores a Coastal Commission's ruling in 2001 that a permanent structure or a marine reserve on a trusted public beach is not allowed, per the State Lands Commission and the Department of Fish and Game.
- 3) San Diego has dug a hole for itself and is trying to hand off the responsibility for its bad decisions on the CCC. Send it back and demand a real Site Development Permit.
- 4) California is bound by a trust which does not allow changing a playground, park and bathing pool into a restricted animal display concession.
- 5) The City lied saying the rope position was calculated from studies of seal activities. It was placed to be above the high tide line so the City could cut its own local permit. That was found to be outside its jurisdiction.
- 6) The rope is a line in the sand that causes more problems than it solves and creates contention and lawlessness. It makes people hate the seals. Shared use is a solution, not a problem.
- 7) This matter needs a studied legal opinion, not a one day flurry of personal opinions and anecdotal claims. There is no emergency. This permit would be forever.
- 8) Though the public trust doctrine can include protecting wildlife, the State is required to balance that against its overall goal of protecting the public good. Where a prolific species denies access to public land, the Coastal Commission especially has no business participating in denial of access to enhance an unnatural habitat.
- 9) § 30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses. ...(Looking from behind a barrier is not recreation)
§ 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development...(Looking from behind a barrier is not recreation)
- 10) No city should have a permit to cordon off public historic trusted tidelands.

My kids and I have a family tradition of visiting and swimming in the Children's Pool for many years, please do not prevent this family tradition from extending to our next generation.

Sincerely,

Krisann Shaler



RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

MAY 29, 2012

Coastal Commission file 6-11-078
2575 METROPOLITAN DRIVE Ste 103
SAN DIEGO, CA, 92108. 4402

DEAR SIR,

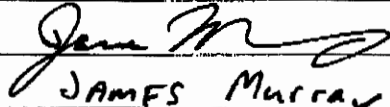
PLEASE DO NOT ALLOW A
ROPE TO BE PLACED ACROSS
CHILDRENS POOL IN LA JOLLA.

THIS IS A PUBLIC BEACH AND
WAS BUILT FOR CHILDREN NOT
SEALS. THE SEALS ARE CUTE,
BUT THEY ARE ALSO POLLUTING
THE BEACH. THIS IS THE
ONLY BEACH IN SAN DIEGO THAT
CONSISTENTLY HAS POOR WATER
QUALITY. THIS IS BECAUSE OF THE SEALS.

THE BEACH SHOULD BE OPEN
FOR HUMANS AND WILDLIFE.
MANY CHILDREN (INCLUDING MINE)
LEARNED TO SNORKEL AT THIS
WONDERFUL BEACH.

MANY OF THE BEAUTIFUL BEACHES
IN LA JOLLA HAVE DIFFICULT OR
DANGEROUS ACCESS. THIS BEACH WAS
CREATED TO ALLOW SAFE ACCESS
TO A UNIQUE AREA. HUMANS
SHOULD ALWAYS BE ALLOWED TO
USE THIS BEACH.

SINCERELY


JAMES MURRAY

16947 OLD ESPOLAR RD.
POWAY CA 92064

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

From the desk of

JAMES POIRIER

Coastal Commission

I greatly oppose a
rope at the Children's
Pool! It restricts citizens
from using a public beach,
a beach which is ideal
for families -

Thank you,

James Poirier

RECEIVED

MAY 25 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



KB
Coastal Commission

5/25/2012

Attn: Lee McEachern

7575 Metropolitan Dr. Ste 103

San Diego, CA 92108-4402

Dear Lee,

I sent you a crazy scenario in which the City ignores the Local Coastal Plan and keeps a gate locked to a historic public access route shown in the LCP, the Ramp. The City does it, part of a new development, because the CCC has no authority or jurisdiction, and then it closes the stairs on a different pretext. I theorized it could be done with impunity on the basis of your repeated statements the CCC has no jurisdiction above the high tide line (now the bottom of the stairs) and I asked you to tell me what anybody could do about it. You recall a public records act request found no permit ever issued to close that access route.

You have not yet replied, but LoMedico did. That is clearly what she intends to do, and has notified everybody in town except your office. (Email attached)

Note her quote included from May 14

The gate is locked and will continue to be locked. As we move forward with our permit to the Coastal Commission for the seasonal beach closure during the pupping season we will show this gate as locked and used for emergency purposes only.

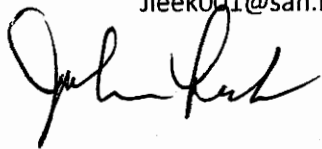
This changes this "new Coastal Permit under CCC jurisdiction request that does not exist" hearing in July into a referendum on the ability of any town in California to block access to a public beach for convenience because it owns an LCP outright. You may have wanted to contain the matter to some date changes on an established permit, but that was never possible. The City has announced its intention to use the year-round-rope as a stepping stone. The perfect definition of encroachment. You cannot take pride in presenting such a thing to the Commission.

There is no emergency. To protect itself, the staff should send the matter back to San Diego and have it submit one (1) new permit properly. San Diego has taken advantage of your patience and desire to work with local communities to escalate this past what any preview hearing should do.

Tell San Diego to come back with a real "start from scratch CCC jurisdiction CDP" as was required from the beginning and make it the final one. It needs to consult with the CCC, not play tricks. There is also nothing in the file from the City about how to deal with the lawsuit recently filed against San Diego and California to provide for section B of the Children's Pool Land Grant Trust.

John Leek
3090 Admiral Ave
San Diego, CA 92123

jleek001@san.rr.com



RECEIVED

MAY 25 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: Fw: Beach Access at C.P.

From: Melinda Merryweather <mbeherenow@sbcglobal.net>

Date: 5/23/2012 10:41 AM

To: John Leek <jleek001@san.rr.com>

CC: Ken Hunrichs <kenhunrichs@cox.net>, dave <diverdavid@cox.net>

----- Forwarded Message -----

From: "LoMedico, Stacey" <SLomedico@sandiego.gov>

To: Melinda Merryweather <mbeherenow@sbcglobal.net>; "Demorest, Erin" <EDemorest@sandiego.gov>

Cc: Ken Hunrichs <kenhunrichs@cox.net>; Patrick Ahern <aherngroup@gmail.com>; "Daneri, Daniel" <DDaneri@sandiego.gov>; "Belesky, Richard" <RBelesky@sandiego.gov>; "Wurts, Rick" <RWurts@sandiego.gov>; "Everhart, John" <JEverhart@sandiego.gov>; "Ahearn, Brian " <bahearn@pd.sandiego.gov>; "Rorrison, Paul " <prorrison@pd.sandiego.gov>; "Braun, Gerry" <GBraun@sandiego.gov>; "Thomas, Shannon" <SThomas@sandiego.gov>; "Hasenauer, Kathleen" <KHasenauer@sandiego.gov>; "Henegar, Lesley" <LHenegar@sandiego.gov>; "Wright, Mary" <MPWright@sandiego.gov>; "Malloy, Elizabeth A" <EMalloy@sandiego.gov>

Sent: Wed, May 23, 2012 8:16:27 AM

Subject: RE: Beach Access at C.P.

Hi Melinda,

This subject has come up numerous times over the past 6 years and the City's response has been consistent. As repeatedly stated I and others have found no document/supporting reports, etc.. to verify this was intended or used for public access. I am only going by what my staff and I have found in reviewing these requests. We have spoken to P&R and Lifeguard staff who worked at the site for many years, as well as the City's planning staff.

If you or the community wishes to discuss this further I suggest you work via the planning staff.

Thank you,

Stacey LoMedico

City of San Diego Park and Recreation Director

202 C Street - MS37C, San Diego CA 92101

619.236-6643/Fax 619.525.8220

From: Melinda Merryweather [mailto:mbeherenow@sbcglobal.net]

Sent: Tuesday, May 22, 2012 9:40 PM

To: LoMedico, Stacey; Demorest, Erin

Cc: Ken Hunrichs; Patrick Ahern

Subject: Fw: Beach Access at C.P.

Stacey, In response to your letter, I was one of the people that wrote our Community Plan, as you will see in the book, my part was beach access, and at no time did any of us, not believe the Baha road was not a access to the beach we all use it to take our children down to the beach

in a wagon, the city used it to clean the beach, and drive people off it, the divers used it, all of us will testify to the facts it is historic, you can not just wish away a access away, it exists, it is in our plan, the map is clear. In the state of California you can not close a existing beach access.

Melinda Merryweather

----- Forwarded Message -----

From: Patrick Ahern <aherngroup@gmail.com>

To: Melinda Merryweather <mbeherenow@sbcglobal.net>

Cc: Ken Hunrichs <kenhunrichs@cox.net>; Erin Demorest <EDemorest@sandiego.gov>

Sent: Mon, May 14, 2012 11:36:19 PM

Subject: Re: Beach Access at C.P.

Hello All,

Below is a response from the City regarding the ramp to Children's Pool.

Thanks,

Patrick

From: Erin Demorest <EDemorest@sandiego.gov>

Date: Monday, May 14, 2012 2:02 PM

To: Patrick Ahern <AhernGroup@gmail.com>

Here's the response from Park and Rec on the issue of the ramp and locked gate. I thought they had previously responded to Parks and Beaches on this, so if not, I apologize.

Thanks,

Erin

From: LoMedico, Stacey

Sent: Monday, May 14, 2012 12:58 PM

To: Demorest, Erin

Cc: Wurts, Rick; Everhart, John; Daneri, Daniel; Hasenauer, Kathleen; Thomas, Shannon; Braun, Gerry; Henegar, Lesley

Subject: RE: Children's Pool ramp to beach and locked gate

The access point is not within the Community Plan as a public access point. Yes, the map shows the ramp but the document is clear that the public access is via the stairway.

In addition, this issue has been raised by several members of the public to the Coastal Commission staff over the past several years, and CC staff have never determined the City is in violation by keeping the gate locked.

The gate is locked and will continue to be locked. As we move forward with our permit to the Coastal Commission for the seasonal beach closure during the pupping season we will show this gate as locked and used for emergency purposes only.

From: Melinda Merryweather <mbeherenow@sbcglobal.net>

Date: Monday, May 14, 2012 1:29 PM

To: Patrick Ahern <AhernGroup@gmail.com>

Cc: Ken Hunrichs <kenhunrichs@cox.net>, Erin Demorest <EDemorest@sandiego.gov>
Subject: Re: Beach Access at C.P.

Patrick, You would have been the person to receive a reply, I can't believe it takes 5 months to answer a letter. It is their job to maintain the beach, and beach access can not be closed according to the C.C. So you perhaps can ask for a answer in writing, and see if we get something before our meeting. Thanks Melinda

From: Patrick Ahern <aherngroup@gmail.com>
To: Melinda Merryweather <mbeherenow@sbcglobal.net>
Sent: Sun, May 13, 2012 11:24:46 AM
Subject: Re: Beach Access at C.P.

Hi Melin,
Attached is the letter sent in January.
Let me know if you get a reaction from any of these folks.
Patrick

From: Melinda Merryweather <mbeherenow@sbcglobal.net>
Date: Tuesday, May 8, 2012 3:33 PM
To: Patrick Ahern <AhernGroup@gmail.com>
Subject: Re: Beach Access at C.P.

Not about the access.

From: Patrick Ahern <aherngroup@gmail.com>
To: Melinda Merryweather <mbeherenow@sbcglobal.net>
Sent: Tue, May 8, 2012 1:39:25 PM
Subject: Re: Beach Access at C.P.

Did you talk to Stacy about that at the last meeting?

Patrick Ahern
AhernGroup@gmail.com
858.220.9001
Prudential California Realty
Sent from my iPad

On May 8, 2012, at 1:36 PM, Melinda Merryweather <mbeherenow@sbcglobal.net> wrote:

Patrick could you please put on for next meeting, to ask the city again about the access road at C.P. Have we ever gotten a reply

from them????? M

KAWAHI BROWN
FROM HEAD
LIFEGUARD
CHILDREN'S
FOOL

Subject: Children's Pool Rope

From: Dina Robinson <dinatalk@gmail.com>

Date: 5/22/2012 3:39 PM

To: focp@san.rr.com

FILE
6-11-078

The entire rope situation at the La Jolla Children's Pool is stupid and outrageous--because it is NOT needed.

(1) Seals don't like to rest on HOT sand, so they lay out during warm weather on the cool & shaded rocks along the breakwater built by Mrs. Scripps, as well as on what we call "Seal Rock" a bit north of CP along the coast, where they seem willing to share space with a growing colony of birds.

(2) During cool weather (winter & early spring), there are very few people on the CP beach anyway--what's more, while people mostly keep their distance from the seals, so as not to disturb them, it is the seals that scoot up to them, seemingly curious about our species.

(3) The most ludicrous excuse of all is the "pupping season," since seals give birth in the ocean and have never had trouble finding rocks and land for resting with their pups ALL ALONG OUR COASTLINE. In fact, they just began to use the Children's Pool beach about a decade ago, after a big storm swamped their rock.

(4) La Jolla is an essential recreation area for San Diego and our visitors, and its main attraction is access to beach and ocean. With the Cove waters overrun by sea lions and its postage-stamp-size beach becoming super-crowded, the Children's Pool is more necessary for human use than ever before. Especially since underwater rocks, undertow and other hazards, as well as lack of nearby restrooms, makes the La Jolla coast inaccessible to swimmers and other beach goers.

(5) The above provide ample proof that the rope barrier is NOT needed and should NOT be used AT ANY TIME DURING THE YEAR at the Children's Pool.

Dina

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MAY 25 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



FILE
6-11-08

Potential Deterrence Methods for Pacific Harbor Seals & California Sea Lions

January 2008

The following list of "potential methods" and "deterrents to avoid" is not an exhaustive list of non-lethal methods or techniques. If you have questions about protecting your property and/or fishing gear and catch from nuisance Pacific harbor seals and California seal lions, please contact our marine mammal specialists: Brent Norberg, 206-526-6733; Garth Griffin, 503-231-2005; Lynne Barre, 206-526-4745.

Note: Some of the methods listed (such as loud noise or pyrotechnics) may not be appropriate for use in some areas, or are subject to prohibition under federal, state or local ordinances. The presence of Endangered Species Act-listed species in some areas may advise against the use of certain methods. Please consult with appropriate authorities to determine if such prohibitions exist in your area, or if ESA-listed species may be encountered.

Potential methods for use by private property owners to deter Pacific harbor seals and California seal lions from damaging property (developed waterfront, decks, docks, floats, piers, bait receivers, vessels at anchor, etc.).

Barriers & Exclusion Devices:

- fencing (e.g., plastic construction/snow fence, chain link)
- closely spaced posts
- bull rails
- electric livestock fencing
- netting
- swim step protector

Visual Repellents:

- flags, pinwheels, or streamers
- flashing lights or strobes
- balloons
- human attendants/monitors

Noise Makers:

- horns, whistles, bells
- electronic acoustic devices (Acoustic Harassment Devices)
- clapping, banging on pots, pans, drums; empty aluminum cans on a string banging together
- music
- starter pistols
- pyrotechnics (e.g., bird screamers, bangers, firecrackers, propane canons)

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SAN DIEGO COAST DISTRICT

Physical Contact:

- high or low pressure water hoses
- sprinklers, sprayers
- crowder boards
- bull poles (blunt tip), brooms
- cattle prod (*these products produce only a mild electric shock designed for handling livestock and are in no way related to "stun guns" designed for self-defense*)
- toy water guns (e.g., "Super Soaker®")
- non-toxic and water soluble paint ball or air soft guns
- slingshot
- chemical irritants (e.g., non-toxic pepper spray, mace) used for animal control (*there are many municipal and state ordinances controlling the use and possession of these irritants*)

Note: Guard dogs are not included on the list of suggested measures because of risks to both dogs and marine mammals, including the potential risk of disease transmission between them.

Potential methods for use by fishers to deter Pacific harbor seals and California seal lions from damaging gear or catch (anglers must be actively fishing with gear deployed).

Visual Repellents/Noise Makers:

- boat hazing, circling
- pounding on hull
- pyrotechnics (e.g., bird screamers, bangers, underwater firecrackers, cracker shells)
- starter pistols
- horns, bells, whistles

Physical Contact:

- slingshots
- non-toxic and water soluble paint ball guns
- non-lethal ammunition (e.g., rubber bullets, sabot rounds, game stingers)

Methods to Avoid – *The following methods and techniques have an increased likelihood of causing injury or death and should be avoided.*

- No Firearms with "live" (lethal) ammunition
- No Devices with Injurious Projectiles (e.g., archery gear, crossbows, spear guns, bangsticks)
- No Sharp/Pointed Objects (e.g., harpoons, spears, gaffs, nail studded bats/poles/clubs)
- No Entangling Devices (e.g., loose webbing, snares, concertina wire)
- No Aggressive Tactile Methods (e.g., striking animals with bats, hammers etc., impact with vehicles or boats)
- No Tainted Baits or Poisons

Act Responsibly and Use Common Sense! - Regardless of method or intent, the property owner or fisher may be subject to prosecution should a marine mammal be seriously injured or killed as a result of deterrence efforts for the protection of property, gear or catch.

Remember Personal Safety! - Attempts by property owners and/or fishers to deter nuisance animals from engaging in unwanted behaviors using non-lethal means is a personal choice and not without risk (to the person doing the deterring and anyone around them). Sea lions and seals are wild animals that may react unpredictably to non-lethal deterrence measures, resulting in personal injury or additional damage to property. Sea lions are large and powerful animals that can move as quickly as a person on land.

Be Aware of People around You and be Courteous! - The safe use of some of the above-listed potential methods (e.g., cracker shells, non-lethal ammunition) requires considerable skill and experience. The use of some of these methods may precipitate undesirable social interactions. If you are in possession of a firearm, law enforcement officers approaching your property or vessel will assume that your firearm is loaded with lethal ammunition.

Individuals attempting to deter nuisance sea lions and seals, using the above-listed potential methods or similar techniques, do so at their own risk.

David Pierce
9344 Leticia Drive
Santee, Ca. 92071
5-22-12

Coastal Commission, c/o Melisa Ahrens,
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402



File 6-11-078

Children's Pool rope barrier permit

To all commissioners,

The State of California made an agreement in 1931 with Ellen Browning Scripps that if she would fund the construction of the breakwater in La Jolla California the State of California would place in trust this small beach in perpetuity as a PARK for primarily as a bathing pool for children as all the beaches in La Jolla have dangerous rip currents that has killed many people and children. That cost was \$70,000.00 in 1931

The State entrusted the City of San Diego with the conditions that it would accept and maintain this beach and that the city passed a resolution to rename this location from the Casa to Children's Pool in 1931 for this wonderful gift by Ellen Browning Scripps.

The State of California created this into a PARK within the City of San Diego, once designated a park it cannot be changed from that designation, Park are for people and reserves are for wildlife! If the California Coastal Commission adopts the City of San Diego's request for a year round rope across the beach of the children's Pool it would be setting a course of litigation against the City of San Diego and the State of California.

The Harbor Seal population in Southern California has exploded in the last decade. And the Harbor seal births at Children's Pool have increased every year to the point that Harbor seals have for the last 4 years has spilled over to the adjacent beach, South Casa Beach with a report of 8 Harbor Seal births this year alone.

This is clear that Children's Pool is not crucial for the survival of the Harbor Seal at this beach, what is clear is that seals don't need Lifeguard, people do! City regulation allow life jackets, water wings and other swimming safety devices for small children within the Children's Pool, these same devices are banned at other beaches like the La Jolla Cove.

There are 3 Lifeguard stations in La Jolla, one at La Jolla Shores, one at La Jolla Cove and one at Children's Pool. The Shores and the Cove are within the new State Marine Reserve that leaves Children's Pool Lifeguard Station outside of the reserve. That is now 70% of La Jolla's coast line closed for fishing and underwater hunting because of the new MLPA. The safest entry and exit of the ocean outside of the new reserves is at Children's Pool, it is also stated within the Children's Pool trust, the "absolute right to fish with convenient access"

When this application permit request comes before the Commission by the City of San Diego it should be denied and the Commission should instruct the City of San Diego to follow the terms of the trust and to maintain this park as they promised by excepting the deed of the trust by the State of California 81 years ago.

Yours very truly,
David Pierce

A handwritten signature in dark ink, appearing to read "David W. Pierce". The signature is fluid and cursive, with a large initial "D" and "P".

Clement Hoffman, MD
5503 Calumet Avenue
La Jolla, CA 92037

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MAY 22 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 19, 2012

File 6-11-078, California Coastal Commission, 7575 Metropolitan Drive, Ste 103, San Diego, CA 92108-4402.

Dear Coastal Commission,

I am writing to strongly oppose the City of San Diego's bid to restrict the public use of Children's Pool in any way.

I am a forty-year resident of La Jolla. I believe that the Children's Pool is a treasure for enjoyment by families, children, divers and visitors. I do not believe that reserving the use of this beach for seals has any justification.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Hoffman', followed by a small flourish.

Clement P. Hoffman, MD

James Peterson
5620 Calle Miramar
La Jolla, CA 92037

RE: File 6-11-078
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

May 15, 2012

Not

RE: File 6-11-078, ~~in~~ Favor of the Year-Round Rope at Children's Pool Beach

Dear Commissioners,

Not

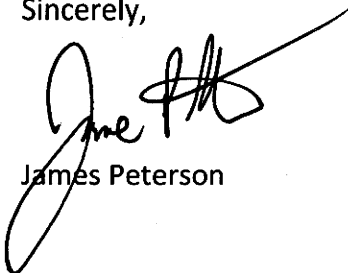
I urge you to ~~approve~~ the City of San Diego's permit application for the year-round rope at Children's Pool Beach in La Jolla.

The rope ~~works~~ isn't needed

It serves as a ~~guideline~~ ^{hindrance} to the public by ~~indicating the City's recommended safe viewing distance~~ from the seals.

Thank you for supporting the City of San Diego by ~~not~~ approving their permit application.

Sincerely,


James Peterson

Coastal Commission File 6-11-078
C/O Mellisa Ahrens
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

5/21/2012

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MAY 21 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Coastal Commission,

Parks and Recreation has requested a change to an application for a year round rope across our beach.

The first time a request for a new permit under Coastal Commission jurisdiction was requested in October 2011, it was found to be wanting in justification. You required additional information necessary for a thorough analysis by Commission staff. The answer was a pile of meeting minutes from the day the City Council said it wanted it. Now a request to shrink the access opening in the rope to 3' has been entered. Also with inadequate justification.

The reason given was to bring the permit into line with "original intent". Still the only documentation supplied is the minutes of the 5/17/2010 session. There is no mention of any opening in all of that, only to prolong the previous permit to last throughout the year. Once again Parks and Recreation has not supplied the facts. The justification is the City wanted it, but did it?

To know the original intent one would have to go back to the first version, SDP 410975 in 2006, but that had no mention of an opening of any size. The Council did not go into that much detail. What the City Council did is summarized in the minutes below.

Disregard the part about the emergency permit. That was found to be inconsistent with City coastal land use regulations. Shows the City Council members did not have adequate legal information to make their decisions. I strongly advise you to require Parks and Recreation to more fully justify a new California Coastal Commission permit for a development on a trusted public beach that would disregard CCC policy for adequate width of vertical access routes to the shore (water). Why should the applicant make it your job to justify such a thing?

John Rask

MOTION BY DONNA FRYE TO ADOPT THE RESOLUTION AS AMENDED TO: 1) DETERMINE THAT A COASTAL EMERGENCY EXISTS REQUIRING THE IMMEDIATE YEAR-ROUND PLACEMENT OF THE ROPE BARRIER; AND DIRECT THE MAYOR OR HIS DESIGNEE FROM THE APPROPRIATE CITY DEPARTMENT TO APPLY FOR AN EMERGENCY COASTAL DEVELOPMENT PERMIT WITHIN 10 DAYS OF THE EFFECTIVE DATE OF THIS RESOLUTION TO MAINTAIN THE ROPE BARRIER AT CHILDREN'S POOL YEAR-ROUND TO PROTECT THE PUBLIC HEALTH AND SAFETY AND TO MITIGATE THE LOSS OF OR DAMAGE TO LIFE, HEALTH, AND ESSENTIAL PUBLIC SERVICES BASED ON THE FINDINGS CONTAINED HEREIN AND ANY OTHER INFORMATION OR ACTIONS REQUIRED TO PROCESS AND OBTAIN AN EMERGENCY COASTAL DEVELOPMENT PERMIT. A CITY COUNCIL REPORT DATED MAY 17, 2010, FROM THE NATURAL RESOURCES AND CULTURE COMMITTEE CHAIR, ON THIS ITEM WAS PROVIDED TO ASSIST IN MAKING THE DETERMINATION FOR THE COASTAL EMERGENCY AND EMERGENCY COASTAL DEVELOPMENT PERMIT. IT IS RECOMMENDED THAT IT BE INCORPORATED AS PART OF THE COASTAL EMERGENCY DETERMINATION; 2) DIRECT THE MAYOR OR HIS DESIGNEE, AS A REQUIRED CONDITION OF THE EMERGENCY COASTAL DEVELOPMENT PERMIT, **TO AMEND COASTAL DEVELOPMENT PERMIT NUMBER 701673 AND SITE DEVELOPMENT PERMIT NUMBER 701765 TO KEEP THE ROPE BARRIER UP YEAR-ROUND AT THE CHILDREN'S POOL AND TO TIMELY SUBMIT THE PERMIT APPLICATIONS;** 3) DIRECT THE CITY ATTORNEY'S OFFICE TO DRAFT AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 63.0102 TO PROHIBIT ANY PERSON TO BE ON THE BEACH DURING PUPPING SEASON, DECEMBER 15 TO MAY 15, AND TO COME BACK TO THE NATURAL RESOURCES AND CULTURE COMMITTEE AS AN INFORMATIONAL ITEM, NO LATER THAN JUNE 30, 2010; 4) DETERMINE IF THE PROPOSED YEAR-ROUND ROPE BARRIER PLACEMENT AT CHILDREN'S POOL AND MUNICIPAL CODE AMENDMENTS SECTION 63.0102 ARE CONSISTENT WITH THE LOCAL COASTAL PROGRAM AND CALIFORNIA COASTAL ACT, AND ONLY IF REQUIRED, DIRECT THE MAYOR OR HIS DESIGNEE TO AMEND THE LOCAL COASTAL PROGRAM ACCORDINGLY; AND 5) DIRECT THE MAYOR OR HIS DESIGNEE TO PROPOSE APPROPRIATE SIGNAGE BASED ON THE COUNCIL ACTIONS AND PREPARE A WRITTEN REPORT TO PRESENT TO THE NATURAL RESOURCES AND CULTURE COMMITTEE WITHIN 45 DAYS. Second by Carl DeMaio.

John Leek

3090 Admiral Ave

San Diego, CA 92123

May 21, 2011

San Diego Council of Divers

File 6-11-078

c/o Melisa Ahrens

California Coastal Commission

7575 Metropolitan Drive, Ste 103

San Diego CA. 92108-4402

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MAY 21 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

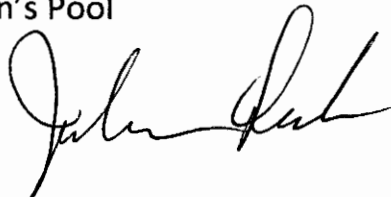
Cc Lee McEachern

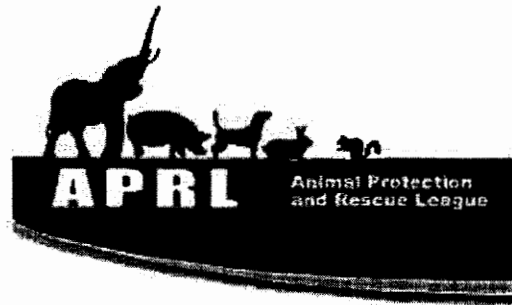
Please find attached, some of the real reasons Parks and Rec could not submit a justification for restriction of access to our public beach per your request made Nov 9. The terms of the permit request not only came from outside Parks and Rec, but from outside the City Council.

Attached is the correspondence between Bryan Pease, CEO of Animal Protection and Rescue league thanking Frye for docketing HIS plan. He refers to HIS plan in the attached press release of a year ago. Also attached is HIS lobbying that lead up to the City Council action taken. This is a classic case of a special interest group bullying a City Council into passing bad legislation to the Coastal Commission. And why the Coastal Commission has to operate with the capability to rise above local politics.

John Leek,

Friends of the Children's Pool





March 10, 2010

Chairwoman Donna Frye
Natural Resources & Culture Committee
San Diego City Council
202 C St.
San Diego, CA 92101

RE: PROPOSAL TO PROTECT LA JOLLA SEALS

Dear Chairwoman Frye:

Thank you for docketing protection of the La Jolla seals on the March 17 Natural Resources & Culture Committee agenda. It is particularly important during an economic recession to support preservation of a free natural and educational resource that attracts tourist dollars and increases support for local businesses. Our proposal involves three simple points:

- 1) **Close the rookery during pupping season as recommended by NMFS and as done in Carpinteria;**
- 2) **Keep a guideline rope up the rest of the year with no gap at the bottom of the stairs; and**
- 3) **Declare that Casa Beach is a marine mammal park, encouraging NMFS to fully enforce the Marine Mammal Protection Act**

Independent, scientific polling conducted by Zogby International as well as Competitive Edge in San Diego have found huge majorities of the public favoring use of this tiny 200 foot beach as a seal watching area, which is surrounded by over 70 miles of swimming beaches.


Attached please find two letters from NMFS requesting that the city close Casa Beach during pupping season, a Union Tribune editorial board endorsement of our proposal, and summaries of the above referenced polls.

Thank you again for taking on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Pease', is located below the word 'Sincerely,'.

Bryan Pease, Esq.
Pro bono attorney for
La Jolla Friends of the Seals and
Animal Protection and Rescue League

 [Click to Print](#)[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)**Union-Tribune Editorial**

Protect the seals

Saturday, January 16, 2010 at 12:04 a.m.

*TERRIFIED
SLEEPING SEALS*

Lawyer and pro-seals activist Bryan Pease took this photograph Christmas weekend. It shows a lone beach-goer who placed his lounge chair and umbrella across the rope intended to separate people from seals during pupping season at the Children's Pool beach in La Jolla.

SAN DIEGO — The four-year legal battle over seals vs. people at Children's Pool beach in La Jolla having been finally resolved last fall, the controversy now returns to the place where all local public policy issues are supposed to be decided — the City Council. We urge the council to act quickly to protect the seal colony and rookery once and for all.

Bryan Pease, a San Diego lawyer who represents the La Jolla Friends of the Seals and the Animal Protection and Rescue League, wrote a letter to Mayor Jerry Sanders and City Council members Dec. 30, asking that the city's current policy of "shared use" of the beach by seals and people be ended.

Pease asked that the council instead declare as official city policy that "seal watching is the legally preferred use for this beach." He also asked that the council order that a rope intended to keep people away from the seals during the pupping season be kept in place year round and that the council make it a crime to cross the rope during the pupping season. He enclosed several photographs he said he had taken a week earlier, including one showing a beach-goer in a lounge chair on what was supposed to be the seals' side of the rope.

"The federal agents who would ordinarily issue citations for disturbing the seals have been extremely reluctant to do so because they do not want to clash with the city's 'shared use' policy for this beach," Pease wrote.


Pease said in an interview that the council's Natural Resources and Culture Committee, chaired by Donna Frye, will likely consider his proposal in February or March.

We agree that in the long run the shared-use policy does not serve the best interests of people or the seals. We also believe that, as demonstrated by two scientific surveys, the large majority of San Diegans want the seal colony protected. And there is precedent: Carpinteria, a city south of Santa Barbara that has the only other such seal colony on a public beach in Southern California, has closed its beach to the public entirely from Dec. 1 to June 1.

San Diego should do no less.

Find this article at:

<http://www.signonsandiego.com/news/2010/jan/16/protect-seals>

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☐ Check the box to include the list of links referenced in the article.

Calendar Year

2010

CITY OF SAN DIEGO

ORGANIZATION LOBBYIST
REGISTRATION FORM

[Form EC-602]

For Official Use Only

CITY CLERK'S OFFICE

10 MAR 22 AM 10:36

SAN DIEGO, CALIF.

Type or Print in Ink. File Original with the City Clerk.

☐ Check Box if an Amendment (explain: _____)

Total Number of Pages: 3

Fees Due: \$ 400 paid
CITY 2305**Identify the organization.****Animal Protection and Rescue League**

Name of Organization

Telephone Number

San Diego

CA

92103

Business Address (Number & Street)

(City)

(State)

(Zip)

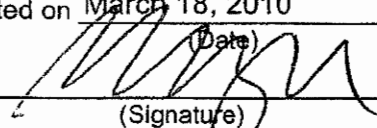
Schedule A: Organization Disclosure.**Part 1: Description of Organization.** Describe the nature and purpose of the organization.**Part 2: Lobbyist Disclosure.** Identify the individuals authorized to lobby on behalf of the organization.**Schedule B: Municipal Decisions.****Part 1: Number of Contacts.** Identify the number of lobbying contacts within the past 60 calendar days.**Part 2: Description of Decisions.** Describe each municipal decision the organization is currently seeking to influence or has lobbied on during the past 60 calendar days.**Schedule C: Activities Disclosure.** Complete this schedule if any "Yes" boxes are checked.

<input type="checkbox"/> Check box if the organization has information to report regarding the applicable activity. <input type="checkbox"/> Check box if the organization has <u>no</u> information to report regarding the applicable activity.		Check one box for each part of Schedule C.
YES	NO	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 1: Fundraising Activities. Owners, compensated officers, and lobbyists of the organization who fundraised \$1,000 or more for a current elected City Official within the last two years.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 2: Campaign Services. Owners, compensated officers, and lobbyists of the organization who provided compensated campaign services to an elected City Official within the last two years.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 3: Contract Services. Owners, compensated officers, and lobbyists of the organization who provided compensated services under a City contract within the last two years.

Schedule D: Deleting Lobbyists (Amendment Only). Complete this schedule if removing lobbyists from your registration (must check the amendment box above).**VERIFICATION**

I have been authorized by the Organization Lobbyist identified above to make this verification. I have reviewed and understand the requirements of the Lobbying Ordinance (San Diego Municipal Code §§ 27.4001-27.4055). I have exercised reasonable diligence in the course of reviewing this Registration Form for completeness and accuracy. I declare under penalty of perjury under the laws of the State of California that the contents of this Registration Form, including all attached schedules, are true, correct, and complete, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on March 18, 2010 at San Diego, CA

By:  Bryan Pease Director

Email address for a point of contact within the organization (optional): Bryan@APRL.org

Note: Registration Terminates Every January 5. Annual Re-Registration is Required.

SCHEDULE A: ORGANIZATION DISCLOSURE

Name of Organization Lobbyist: Animal Protection and Rescue League

PART 1 – DESCRIPTION OF ORGANIZATION

Describe the nature and purpose of the organization: Non-profit organization that advocates for the humane treatment of all animals.

PART 2 – LOBBYIST DISCLOSURE

Identify the Organization's Lobbyists. List the name of each owner, compensated officer, and employee of the organization who is authorized to lobby City Officials on behalf of the organization.

Name of Individual

Name of individual

✓ Bryan Pease

✓ Dorota Valli

✓ Sara Goldsmith

Comments: _____

☐ If more space is needed, check box and attach continuation sheet(s).

SCHEDULE B: MUNICIPAL DECISIONS

Name of Organization Lobbyist: Animal Protection and Rescue League

PART 1 – NUMBER OF LOBBYING CONTACTS (PRECEDING 60 DAYS)

Identify the total number of lobbying contacts that the owners, compensated officers, and employees of the organization have had with City Officials during the preceding 60 calendar days.

Number of Contacts: 30

PART 2 – DESCRIPTION OF MUNICIPAL DECISIONS (CURRENT & PRECEDING 60 DAYS)

Describe each municipal decision that the organization (a) is currently seeking to influence or (b) lobbied on during the preceding 60 days, and the outcome sought:

Description: Asking the San Diego City Council to accept our proposal to extend full
protection to the harbor seals that live on Casa Beach.

Outcome sought: We are seeking the beach be closed during pupping season, that the
guideline rope be up year round, and the beach deemed a marine mammal park.

Description: _____

Outcome sought: _____

Description: _____

Outcome sought: _____

Description: _____

Outcome sought: _____

Comments: _____

☐ If more space is needed, check box and attach continuation sheet(s).

May 21, 2012

John Leek
Friends of the Children 's Pool
3090 Admiral Ave
San Diego, CA 92123

California Coastal Commission
Melissa Ahrens, Coastal Analyst
7575 Metropolitan Ave, Ste 103
San Diego, CA 92108-4402

RECEIVED

MAY 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

cc. Lee McEachern

Dear Coastal Commission,

In October 2011, the City of San Diego submitted an incomplete application to amend an existing permit to cordon off Children's Pool Beach forever. In response to your request they provide enough information to complete an analysis of the request, Parks and Recreation submitted a letter and package on Dec 15 that was still woefully inadequate to the need.

As part of public input to aid the analysis process we offer the following information to explain the information the City has submitted. Let us address the 4 line items of the reply by Parks and Rec on Dec 15, 2011.

1. Submit information/ a technical analysis that supports the need for the year round rope barrier.

The submission of minutes of the May 17th City Council meeting.

The City had decided after getting permission to rope off that public trusted beach 5 months per year forever, to request an emergency permit to rope off the beach the rest of the year and close access to the public completely for 5 months every year "in perpetuity". There was no analysis at that meeting. Parks and Recreation was not part of the decision, it was just handed the job. So Parks and Beaches forwarded the minutes of the City Council meeting for you to find what you want. I hope you found it – I could not.

2. Provide information on how the rope barrier is to be enforced.

The hiring of the park ranger.

The park ranger is not allowed to enforce the rope barrier. He intervenes if harbor seals are disturbed by tourists and recommends a 20' distance from seals as suggested by our local federal officer. He has never issued a citation, as the rope is advisory as are all guidelines for distance from seals. He does a good job and does not enforce an unenforceable rope. He does what it was supposed to do.

3. Provide a mailing list of all known interested parties

Supposed to be attached. I have not seen them. They should number over 200. It is now very close to the end of public input and nobody has gotten anything in the mail. Please check.

4. Submit an analysis of possible alternatives

You asked for a submission of possible alternatives, whether there were any before. Nothing was provided, Alternatives were provided in public hearings before the Natural Resources and Culture Committee but no decision was made. The Chair called a special NR&C meeting and discarded all alternatives except her favorite and required an up/down vote on that alone. It was the only thing shown the City Council and that is why the City Council never considered any alternatives. It was never allowed to see any.

For some reason, you have accepted this set of partial answers. Perhaps you are still waiting.

Meanwhile Parks and Recreation has amended the permit request to extend the rope 18 feet to close down access to far below what would be acceptable as a public route for vertical access in a new development anywhere else in California. This is to be a new development under Commission jurisdiction and not supposed to be a marked up City permit which was made without the proper jurisdiction originally.

Please take care not to find yourself left high and dry by San Diego's reluctance to provide requested information. True, this new permit is supposed to be CCC originated, but that is no reason you should have to originate a real permit request out of a few hints.

A handwritten signature in black ink, appearing to read "John Rusk". The signature is fluid and cursive, with the first name "John" and last name "Rusk" clearly distinguishable.

K.B.
RECEIVED

MAY 21 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Jamie Lynn Young
909 Coast Blvd
La Jolla, CA 92037

May 16, 2012

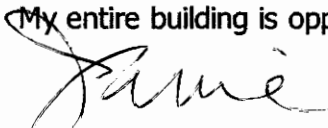
FILE 6-11-078
California Coastal Commission

Dear Coastal Commission Members,

I am SO HAPPY to see the year round rope come down at Childrens Pool. The rope is an insult to all who live here. The condition of the beach is disgusting as a result of the city getting off on the excuse of leaving the seals be on the beach and NOT MAINTAINING IT.

We expect the city to live up to the promise to keep the beach open for children and MAINTAINED as per Ellen Browning Scripps deed. Shame on the city for allowing the rope and for re-negging on that promise.

My entire building is opposed to the rope barrier at all and especially not year round.


Jamie Lynn Young
909 Coast Blvd
La Jolla, CA 92037

Preserve human access and enjoyment of the Children's Pool in La Jolla, CA

David Pierce

9344 Leticia Drive

Santee , Ca. 92071

4-29-12

Coastal Commission, c/o Melisa Ahrens,

7575 Metropolitan Drive, Ste 103,

San Diego, CA 92108-4402

RECEIVED
MAY 02 2012

**CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**

File 6-11-078,

Children's Pool rope barrier permit

Greetings,

I just signed the following petition addressed to: California Coastal Commission and San Diego City Council.

Preserve human access and enjoyment of the Children's Pool in La Jolla, CA

Eco-groups, the" Seal Watch San Diego/ Animal Protection and rescue League" and the "friends of the seals" have orchestrated a campaign of harassment and intimidation against divers, fishermen and the beach-going public for over a decade now. Actions such as throwing rocks, spitting, stealing, vandalizing, punching, shoving, yelling profanity and even assaults with a stun gun perpetrated by animal-extremists against beach-goers and tourists are commonplace and often ignored by the police and the City of San Diego. Additionally, despite court orders and in violation of state law, the City of San Diego has continuously ignored its obligations to the citizens of the State of California and residents of San Diego. These obligations are set-out in the so-called Children's Pool Trust and the State Constitution. Among these obligations is the guaranteed right of "convenient access" to the Children's Pool beach for fishermen. Despite this constitutional right to access, the City has, in the past, closed this beach and continues to post rope barriers and warnings across the beach. The City has even sought to outright close the beach and pool for part of the year in violation of State law and the Constitution.

Unfortunately, what was once recognized as a true San Diego treasure and originally built primarily for a Children's bathing pool and playground has been neglected and virtually destroyed. Hollywood once shot movies there. Detroit shot a car commercial at the Children's Pool. The first permanent San Diego Lifeguard Station was constructed there. National Geographic once wrote of the Children's Pool: "Even

Alice, fresh from Wonderland, would have gasped at the landscape spread below me". However, we have a lifeguard station which has been condemned. We have "port-a potties" on the sidewalk. The sea wall and stairs are literally crumbling. The cliff-side has collapsed onto the beach and undermined the sidewalk. Extremists populate the sidewalk shouting obscenities at anyone with the temerity to step foot on the beach. The City Police Department has a special "policy" not to enforce many City codes and ordinances at the Children's Pool. The sand is polluted with seal feces. This San Diego treasure has nearly been lost.

A proposal to either close the beach and/or further encroach on public access is before the Coastal Commission and San Diego City Council. We respectfully petition that the rights of the citizens of the State of California be recognized and the Children's Pool beach remain open and be quickly restored to its original condition. Please do not allow this treasure entrusted to us from previous generations to be destroyed and sold to environmental activists. Keep the Children's Pool open! Do not approve any proposal to close or limit access at the Children's Pool beach.

Sincerely,

David Pierce

A handwritten signature in black ink, appearing to read 'David Pierce', written in a cursive style.

2475 Hidden Valley Road
La Jolla, CA 92037-4021
March 31, 2012

Coastal Commission
FILE 6-11-078
7575 Metropolitan Drive, Ste 103
San Diego, CA 92108-4402

Subj: Seals at the Children's Pool

To the Coastal Commission:

Closing the trust-created Children's Pool sets two very dangerous precedents:

1. Why would any citizen want to donate something of value and in perpetuity knowing it may be overturned once the donor is dead? The sea-wall gift created a safe beach for children to play and swim. This gift was generously given. It was legally accepted in a trust not to be overturned or modified at the whims of others.

2. Once the Children's Pool is closed, what about La Jolla's Cove beach where sea lions swim? The "Save the seals" group will next become "Save the sea lions" group.

How can the Coastal Commission close the Children's Pool without closing the La Jolla Cove?

Where did seals congregate for giving birth before they happened to find the Children's Pool?

Seals, like sea lions, are not endangered. To close any beach based on the argument that the beach is needed as a rookery is just not true. The seals "happened" upon this location. They will "happen upon" another location just as they have in the past. They will continue to breed and give birth without the Children's Pool.

Are they cute? Yes. Endangered? No. Will the seals continue to give birth if the Children's Pool is open full time? Yes. Please do not let, "oh, they are so cute and we love the seal" arguments set two very dangerous precedents.

One more comment:

To argue children may swim at other San Diego beaches negates the fact that the waters associated with the Children's pool offer a safe swim and snorkeling location rich in an underwater environment of sea flora and fauna. There is no other protected beach in all of San Diego that provides this unique experience for children.

Respectfully,

Daira Paulson

Daira Paulson

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APR 04 2012

CALIF
COASTAL COM
SAN DIEGO COASTAL COM

RECEIVED

MAR 28 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: harassed at La Jolla Beach

From: "Janelle Dawn Miller Addington" <jaddington@sdale.org>

Date: 3/27/2012 9:11 PM

To: harassed@san.rr.com

This was my first trip to California. I was excited about visiting the beautiful beaches, especially the famous beach with seals. However, when I arrived on the beach at La Jolla after traveling almost 2000 miles, my experience was less than pleasant. There were three women on the beach making rude comments to me and following me around. I could not just enjoy the beauty because I constantly had someone telling me to step back, please you are hurting the seals. The seals did not in anyway seem upset by people. At one point a ranger came to talk to us and explained that these women did not have authority. However, the woman kept saying things and interrupting. We finally just left. It was uncomfortable and I felt harassed.

RECEIVED

MAR 28 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: Harassment on the Children's Pool at La Jolla Cove
From: Regina Stewman <rstewman@sdaile.org>
Date: 3/27/2012 9:13 PM
To: "harassed@san.rr.com" <harassed@san.rr.com>

While in San Diego at a conference, I went to La Jolla Cove to visit the seals. I have been here 15 years previously with my husband, and remember it as such a special experience. I wanted to share this with my friends. The second I set foot on the sand I was approached by a woman who told me that I could not go beyond a yellow rope; yet, when I questioned why other people were on the beach, I was told they did not care about the seals. After further questioning, the woman finally admitted that she was a private citizen trying to protect the seals.

As I ventured down the beach to where others were taking pictures, as well as scuba diving, I was approached by another woman. She reprimanded my friends and I for walking on the beach. Three times I asked her if she worked there or had authority. She would not answer. When a gentleman approached me and told me that the beach was open to all visitors, the young woman walked up behind me and began to argue vehemently and rudely with the man that my friends and I (and the other visitors) were scaring the seals and would cause them to leave. I was very uncomfortable.

I myself had visited over 15 years before, and here the seals were still coming to the beach with many human visitors in close vicinity.

As I tried to leave the beach, I was approached by a third woman who again reprimanded me for not "caring for the seal".

This was the worst part of my trip to San Diego, and I left the beach earlier than planned and with a heavy heart. I wish these ladies and others in their organization were not allowed to harass the tourists.

From an Arkansas Seal Lover,
Dr. Regina R. Stewman

Sent from my iPad

RECEIVED

MAR 28 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: Children Pool Horror

From: "Scott Waggoner" <AffordablePlumbing@Verizon.net>

Date: 3/26/2012 6:44 PM

To: <harassed@san.rr.com>

Below is a short true story about my families unfortunate trip to the children's pool. If you have any questions please feel free to call, thank you. – Scott Waggoner

My family and I recently decided to spend a relaxing day at the children's beach, where my twin 14-year-old boys could snorkel and my wife and I could relax. We were all looking forward to our day together, but upon arriving to the kids' beach I knew the day wasn't going to be picturesque. There has been a war brewing in La Jolla for some time now, snorkelers verses activists.

Now, before I go any further, let me stress to you that my family and I love the seals, and believe that they should be respected as well as protected. Yet I still do believe that the beach should remain a children's beach, as it was intended.

Now that I have given that brief point — back to my story: My family and I walked down the steps and onto the beach and began laying out our towels and ice chest, my boys began to suit up into their snorkeling gear. As the activists watched my boys get ready, they began screaming down to them awful things, things that you should never say to a child. My wife and I told the boys to remain respectful, but still to enjoy the beach. As the boys snorkeled and played on the beach, my wife and I were approached by several activists who proceeded to tell us that not only were we awful people, but horrible parents who are producing hateful, callous children who would one day be responsible for single-handedly destroying the planet by ridding it of seals.

My wife and I continued to ignore them, not saying anything at all, for these people were so upset I knew the slightest rebuttal could turn the situation from annoying into dangerous. The situation remained ridiculous but still manageable most of the morning. It was only when my wife and I were separated that the situation unraveled into something shocking.

We were headed up to our car, ready to go home, when we were overcome by a crowd of activists. Somehow, they managed to separate the four of us. I was surrounded by four people, each of them screaming and yelling, their voices overlapping each other. I continued to ignore them and began to look for my family. My wife was about 12 feet behind me, surrounded by people blaring obscenities. I looked forward toward my sons, who were being confronted. I pushed ahead toward my children, trying to break the circle that was surrounding them. I broke into the circle, to find a heated woman scolding my son. I got between her and my children, telling the boys to head for the car, and that I would be close behind them.

As the three of us began to get to the car, the woman reached out, grabbing me by the arm. I was shocked to say the least. We have always ignored the activists, hoping our silent approach would be like ice on their fire. I had never given thought to what would happen if one of them laid hands on me; I never thought that I would have to. I remained calm, taking in the situation. My wife behind me panic stricken, my children in front of me scared, not understanding what they did wrong, and I was in the middle, my arm in an activist's tight grip. It was then I said my first sentence to the activist: I told the woman calmly to release my arm or I would have to call the police. At his time, a lifeguard ran up the steps and to our rescue. He was able to get my family back together, and he stood watch while we loaded our car.

As we drove away, I took in the crowd that had gathered and felt an overwhelming sadness that this is what

the child's beach has come to. How are we supposed to give our children a love for the ocean, and a respect for the beach if this is what they associate the ocean with? I am sorry to say that after years of memories at the children's beach we haven't yet returned, and to be honest, don't know when we will. I hope one day the beach can return to the place that I remember as a child, a place where children can experience and grow to love the ocean. A place of peace and tranquility, it is truly a gift, a gift that we all should share.

442
RECEIVED

MAR 20 2012

**Peter B. Clark
7675 La Jolla Blvd., Apt. 203
La Jolla, California 92037**

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

15 March 2012

FILE 6-11-078

California Coastal Commission
7575 Metropolitan Drive, Suite, 103
San Diego, CA 92108-4402

Gentlemen:

I am Peter B. Clark, a La Jolla resident for the last 21 years and, before this recent period, a resident between 1945 and 1947, when I attended La Jolla High School. At all times since the 1920s, I have had some close relative (grandmother, father, aunt, etc.) living in La Jolla. I visited La Jolla every year before our return.

I write this to request, most sincerely, that the Coastal Commission do not allow a continuing rope barrier to be maintained at the La Jolla Children's Pool.

The swimming area was intended for human use, especially for children. The present mixed use of this excellent beach is a compromise that already substantially limits the Pool's use by children. A permanent rope barrier would presumably make human swimming use impossible.

Others have stated the several legal and practical arguments against a permanent barrier. I will not restate them here. But I believe they are legally very persuasive.

My credentials are as follows:

B.A., Pomona College, 1952; M.P.A., Syracuse University, 1953;
Ph.D., University of Chicago, 1959 (American Government).

I was an Instructor of Political Science at the University of Chicago and an Assistant Professor of Political Science at Yale University. I have also served as Regents' Professor at the UCLA Anderson School of Management.

In 1961, I joined the Evening News Association (The Detroit News and other media properties) as an executive. I ultimately served as CEO and Chairman of this multi-media corporation until 1986, when we sold the firm.

Ellen Browning Scripps, who helped to create the Pool, was my great aunt; the sister of my great-grandfather, the publisher James E. Scripps. Miss Scripps' intent, in helping to create this Pool, was quite clearly to provide for children and other humans. Her interest in animals was expressed in other ways. Similarly, San Diego has other ways

to express its interest in harbor seals.

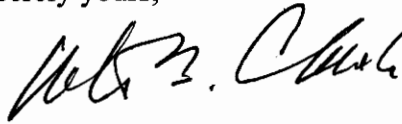
Mrs. Roger (Ellen) Revelle, my aunt; often stated her strong conviction that the Pool's use by humans – especially children -- should be protected.

As a personal matter, I often swam at the Scripps Pool as a boy. In the years, since I have returned to La Jolla, I have gone swimming there. My late wife and our children swam there during La Jolla vacations. My attachment to this delightful site is very genuine.

I strongly hope that the Coastal Commission will decide to prevent further restraints upon the use by human swimmers of the Scripps Childrens Pool.

Thank you for your attention to this issue and to my letter.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "M. N. Chisholm".

(858) 456-9363

Alternative street address: 464 Prospect, Apt. 203
La Jolla

RECEIVED

MAR 08 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

March 8, 2012

Bob Ewing
3570 Mt. Everest Blvd.
San Diego, CA 92111

California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: CCC File # 6-11-078

Dear Commissioners:

I am writing this letter to express my opposition to implementing a year round rope barrier. I also oppose any consideration for lengthening this rope barrier to further restrict access to the water at the Children's Pool in La Jolla.

In my view, this pending action is a violation of the Coastal Act. The attempts to block access and create a rookery at the Children's Pool violate the spirit of the Trust established between the Scripps family, the State of California and City of San Diego. The extremists are embarrassing in their zeal for their point of view. Shared use has worked and the seal colony seems to be growing in numbers.

Most visitors that I have spoken to had no idea a colony of seals were occupying the beach and it was not a destination point for them. Once there, many visitors enjoy seeing seals nearby but don't want people denied the use of this beach. These visitors are shocked with the use of a bullhorn by the activists and the derision directed at individuals on the beach and on the sea wall.

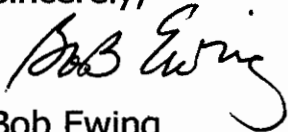
I am convinced that this beach must be maintained as a shared beach with colony of seals. Quite frankly, these animals are for the most part tame and do not appear to feel threatened when individuals are on the beach. I

have seen the seals move over to the adjoining Casa Beach and now the activists are intimidating and aggressively policing the behavior of visitors to that side of the Children's Pool. I would hope that both sides would be asked to vacate their tables as well as the T-Shirt vendors and let the Park Ranger/ Life Guards do their jobs. Shared use works.

I am a 64 year old native San Diegan. I began scuba diving from this beach in 1965. I have used this particular beach to introduce every one of my four children to the ocean. I have film reels of home movies of them enjoying many hours at the Children's Pool. All of them enjoy a healthy respect for the beauty of the ocean and are accomplished ocean swimmers because of their early training in the sheltered waters of the Children's Pool. Now when my children visit from out of state they are met with derision and harassment by extremists when visiting a memorable place of family memories.

I am asking that the Coastal Commission factor in the Scripps Family's intent in establishing the Trust that is known as the Children's Pool. I also implore that decisions are made that restore civility and order for shared use.

Sincerely,

A handwritten signature in black ink that reads "Bob Ewing". The signature is written in a cursive, flowing style with a large, sweeping "E" and a long, horizontal stroke at the end.

Bob Ewing

Subject: Children's Pool exploitation
From: Dina Robinson <dinatalk@gmail.com>
Date: 2/8/2012 8:52 PM
To: focp@san.rr.com

It is nothing short of criminal to allow the so called "animal rights advocates" confiscate a public beach and donated breakwater from the public--to whom California state law and the Scripps legacy have dedicated this sheltered beach.

If anyone doubts the duplicity and hypocrisy of the "animal rights" people, I suggest that the Coastal Commission FORBID them to collect money in any form--by 'donations,' purchases of goods, stuffing bills into the plexiglass collection box set up next to their false 'information' signs, etc.--under the pretext of protecting the seals. Keep this interdiction in place for 4-6 months, and watch the rabble-rousing, abusive and outright lying 'volunteers' tending the group's table at the Children's Pool abandon their post. Because, believe it or not, this is about money, not animal rights. Please give us back this beach and rid us of the foulmouthed, mean-spirited and often violence-provoking confrontations in what used to be a pleasant and friendly beauty-spot for locals and visitors. Please.
Sincerely,
Dina Robinson

RECEIVED
FEB 16 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: Children's Pool, La Jolla, CA
From: Kim woodworth <kcastater@yahoo.com>
Date: 2/14/2012 2:39 PM
To: "focp@san.rr.com" <focp@san.rr.com>

This note is to express my concerns over the rope barrier at the Children's Pool in La Jolla California.

I personally love to go to the beach and see the seals. I also adore using the beach for myself and my children.

I feel strongly that the seals have several places to beach themselves and do not need the Children's Pool as their personal playground.

The beaches are for PUBLIC use and there is no company, person or entity that can claim the beach for restricted access.

Placing a barrier on the beach is the same as a hotel roping off the beach for their the use of only their patrons.

I appreciate wanting to protect the environment and if there was absolutely no other place for these seals I may agree that a barrier is necessary. Until that time, I demand that the city abide by laws that grant access to all beaches.

Sincerely,

KimWoodworth
2031 Vermel Ave
Escondido, CA 92029

RECEIVED
FEB 16 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Steele Lipe, M. D. 4354 High Ridge Rd. Haymarket, VA 20169

(703)753-8529 Tel & Fax

email: steele@lipe.name

Sunday, Feb. 12, 2012

California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402

CCC File # 6-11-078

Dear Sirs:

Although I no longer live in La Jolla, I was born there and lived in La Jolla for 22 years and then again in the 1990-2000 year for another 8 years. Dr. Roger and Ellen Revelle (she was the descendent of the Scripps family in La Jolla) were members of the community when my parents (Dr. J T and Georgeanna Lipe) moved there in 1936. Their first residence was a small cottage across the alley from the emergency room at the original Scripps Memorial Hospital on Prospect Street. My mother would take me almost daily to the Children's Cove (pool) to swim and that is where I learned to swim.

It is virtually against all reason to not allow personal use of the "Cove" due to the activities of the animal rights activists. The construction of the Children's Pool by Mrs. Ellen Scripps was an effort to provide for the children of La Jolla along with other benevolent deeds. So much of La Jolla's heritage is due to that wonderful woman.

The thought of closing the Children's Pool is totally against her Trust and the interests of the long time residents of La Jolla. I urge you to consider the interests of the people of La Jolla and not just the animal rights community in your decision to keep the Children Pool open.

Sincerely,



Steele Lipe

RECEIVED

FEB 15 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



To: *Melissa Ahrens*

Fax #: 767-2384

From *Ken Hunrichs* 619 263-8667 (shared line, call first)

Subject: Petition

Greetings,

We just signed the following online petition addressed to the California Coastal Commission and the San Diego City Council.

<http://www.change.org/petitions/california-coastal-commission-and-san-diego-city-council-preserve-human-access-and-enjoyment-of-the-children-s-pool-in-la-jolla-ca>

**Ken Hunrichs & Marie Hunrichs
khunrich@cris.com**

RECEIVED
MAR 15 2012
**CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**



March 15, 2012

Petition to the California Coastal Commission and the San Diego City Council:

Preserve human access and enjoyment of the Children's Pool in La Jolla, CA

Eco-groups and "friends of the seals" have orchestrated a campaign of harassment and intimidation against divers, fishermen and the beach-going public for over a decade now. Actions such as throwing rocks, spitting, stealing, vandalizing, punching, shoving, yelling profanity and even assaults with a stun gun perpetrated by animal-extremists against beach-goers and tourists are commonplace and often ignored by the police and the City of San Diego. Additionally, despite court orders and in violation of state law, the City of San Diego has continuously ignored its obligations to the citizens of the State of California and residents of San Diego. These obligations are set-out in the so-called Children's Pool Trust and the State Constitution. Among these obligations is the guaranteed right of "convenient access" to the Children's Pool beach for fishermen. Despite this constitutional right to access, the City has, in the past, closed this beach and continues to post rope barriers and warnings across the beach. The City has even sought to outright close the beach and pool for part of the year in violation of State law and the Constitution.

Unfortunately, what was once recognized as a true San Diego treasure and originally built primarily for a Children's bathing pool and playground has been neglected and virtually destroyed. Hollywood once shot movies there. Detroit shot a car commercial at the Children's Pool. The first permanent San Diego Lifeguard Station was constructed there. National Geographic once wrote of the Children's Pool: "Even Alice, fresh from Wonderland, would have gasped at the landscape spread below me". However, we have a lifeguard station which has been condemned. We have "port-a potties" on the sidewalk. The sea wall and stairs are literally crumbling. The cliff-side has collapsed onto the beach and undermined the sidewalk. Extremists populate the sidewalk shouting obscenities at anyone with the temerity to step foot on the beach. The City Police Department has a special "policy" not to enforce many City codes and ordinances at the Children's Pool. The sand is polluted with seal feces. This San Diego treasure has nearly been lost.

A proposal to either close the beach and/or further encroach on public access is before the Coastal Commission and San Diego City Council. We respectfully petition that the rights of the citizens of the State of California be recognized and the Children's Pool beach remain open and be quickly restored to its original condition. Please do not allow this treasure entrusted to us from previous generations to be destroyed and sold to environmental activists. Keep the Children's Pool open! Do not approve any proposal to close or limit access at the Children's Pool beach.

Sincerely,

Ken Hunrichs & Marie Hunrichs
San Diego, CA

RECEIVED

MAR 15 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Tom Reid
Concerned Citizen
5252 Balboa Avenue, Suite 500
San Diego, CA 92117

RECEIVED

FEB 14 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

February 8, 2012

California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402.

CCC File # 6-11-078.

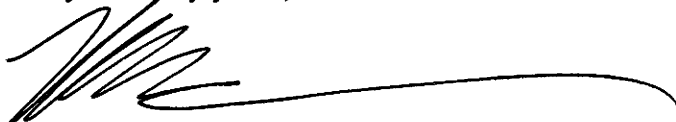
Dear Members of the CCC,

PLEASE do not let the animal rights activist ruin the beach at that Casa Cove Children's Pool by insisting that the rope barrier be placed up all year long. I am a native San Diegan, and I learned to snorkel at the Children's pool, and later in life I was a camp counselor for a Montessori School, and we brought countless children to the cove to interact with the sea and sand. I feel like I've lost access to my favorite beach.

I know you have heard the arguments many times already, but the seal population is creating a biohazard with their concentrated fecal matter that ruins the water for both the seals and humans. Please return the beach to human use as it was intended to be. I promise you, the seals will be just fine.

Thanks you for taking the time to read this letter.

Very sincerely yours,



Tom Reid

LA
Robert McCue and Dolores Robbins
7850 Torrey Lane
La Jolla, CA 92037

RECEIVED
FEB 14 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

February 9, 2012

California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402

Re: CCC File # 6-11-078

To Members of the Coastal Commission:

As residents of La Jolla, we are concerned about the fate of the Children's Pool.


The Children's Pool was constructed to encourage use by children and families, including adults. The area was not taken away from seals and should not be designated for seals only. It should be shared by humans and seals alike.


The San Diego Planning Commission has determined that a permanent, year round placement of a rope barrier at Children's Pool in La Jolla is a violation of the Coastal Act. Now, the City of San Diego has requested and been granted a very unusual waiver enabling the City to go forward with a permit request to the Coastal Commission allowing year round placement of the rope barrier. This is an irregular procedure - bypassing local review before the CCC makes a ruling.

The rope placement has done nothing to restore order and civility to the beach and has created an even more hostile environment for beach users and visitors. Indeed, at times, the rope has been misused by extremists to frighten visitors off the beach.

If we must have a rope, it should only be during pupping season. This barrier should not be allowed to be in place year round.

Respectfully,


Robert McCue


Dolores Robbins

Dear Deborah Lee,

There is no need for a year round rope around the seals in the Children's Pool in La Jolla, CA.

I have been a sports SCUBA diver in Californian since 1964 and have been swimming with the seals all that time and have never had a problem or caused the seals to be in fear. They will swim by me out of curiosity and have never been bothered.

Please do not block this beach from use by me.

J. Edmonds
6922 Fitch Ct.
San Diego, CA
92111-7509



RECEIVED

FEB 10 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Feb. 8, 2012

CCC

S.D. Coast DIST.

7575 Metro. Dr.

Suite 103

S.D. Cal. 92108

R.F. CLARK

733 Kline St. Unit 202

La Jolla, Cal. 92037

RECEIVED

FEB 10 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Hi -

I've lived in La Jolla since 1955. My 2
Boys loved to "Ocean Swim" at the C.P.

You know the History of the Sifted Seawall, etc.
This on going, costly controversy (aided by a
disgrace atty. - Pease) is ridiculous!

Enclosed is an E mail from FOCP - a
motivated, intelligent, civic-minded group.

No Rope Barrier - Ever!

Best Regards,
RFB Clark

Bob Clarke**RECEIVED**

FEB 10 2012

From: "Kenneth L. Hunrichs" <khunrich@cris.com>**Date:** Tuesday, February 07, 2012 11:00 PM**To:** "undisclosed-recipients:"**Subject:** Children's Pool Update: Reminder . . . Your comments to the Coastal Commission are needed ASAP.CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Just a reminder, your letters to the Coastal Commission opposing the year round rope barrier are needed. If this rope barrier is granted using the waiver of local review, it will open the door to further restriction on your ability to use this public beach. The final cut off date for public input has not yet been announced but will be soon. Have you let the CCC know your thoughts on this plan to rope off Children's Pool to appease a bunch of animal rights extremists?

Submit your written comments to the CCC File # 6-11-078.

California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402.

The City of San Diego's request for a very unusual waiver apparently has been granted allowing the City to go forward with a permit request to the Coastal Commission. As you may know, this very irregular procedure bypasses local review before the CCC makes a ruling. This appears to be a scheme to allow the City to once again get around the San Diego Planning Commission's determination that a permanent, year round placement of a rope barrier is a violation of the Coastal Act. It will do nothing to quell the endless lawsuits from a rogue attorney. This cannot be allowed to happen.

If you have been to CP lately, you see the way the rope is misused by the extremists to frighten visitors off the beach with their threatening behavior using the rope as a tool of harassment. The rope placement has done nothing to restore order and civility to the beach and has created an even more hostile environment for beach users and visitors. This barrier cannot be allowed to be in place during the summer beach season.

2/8/2012

California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402.

January 13, 2012

Re: File # 6-11-078.

To the Coastal Commission staff and commissioners:

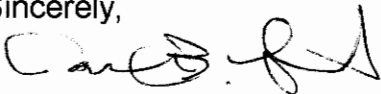
The proposed Children's Pool rope proposal is clearly in violation of the letter and spirit of the Coastal Act. Its purpose, and your responsibility, is to protect the public's right to coastal access.

Please **DENY** any request to extend the current dates (or physical length) of this unneeded beach obstacle.

La Jolla's central coastline is becoming a foul, stinking mess because of the excrement of uncontrolled pinnipeds and sea birds. Please do your job and don't cave-in to the animal-rights extremists!

A better solution: Get rid of the rope barrier entirely!

Sincerely,



Carl B. Lind
247 Gravilla Street
La Jolla, CA 92037

RECEIVED

JAN 17 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

6-11-078

Dec 26, 2011

San Diego Council of Divers

File 6-11-078
California Coastal Commission
7575 Metropolitan Drive, Ste 103
San Diego CA. 92108-4402

In papers submitted by Parks and Rec as part of their permit justification, the history shows the City only deliberated cordoning off Children's Pool as a yes/no proposition. That is true because the matter only came to the City Council through the Natural History and Culture Committee. That was chaired by Donna Frye who was adamant through all her term that the City needed to close the beach to the public.

The Natural Resources and Culture Committee actually heard several plans and testimonies but deadlocked 2:2. Frye as chair, scheduled a special meeting in which the agenda was only yes/no on a package containing the access restrictions sought by Animal Protection and Rescue League in the previous year and a consolation prize for Sherri Lightner of authorization to place a ranger there. She then staged a special City Council meeting on yes/no approval of the package. No other considerations or alternatives could be presented.

Please find attached just one of the plans submitted to the NR&C which the City Council never saw.

John Leek,



Secretary, San Diego Council of Divers

RECEIVED
JAN 14 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

February 22, 2010
San Diego Council of Divers
PO Box 84778
San Diego, CA 92138-4778

San Diego City Council
220 C Street,
San Diego, CA 920101

Dear Council members,

Since 1 January 2010, a Trust amendment has safeguarded the seal colony at Children's Pool. Our attached recommendations were driven by the deliberated wishes of the City Council on 2/17/09, written law, and minimal legal risk to San Diego resources.

We suggest the City safeguard its options and carefully consider its needs, and all other parties, based on its own investigations. What is "common knowledge" about the situation is often crafted by special interest groups, and we ask the City get expert analyses of its new role and responsibilities.

Divers have affection for, and special knowledge of seals and their unassuming friendly ways. We are also concerned about future miss-steps costing our City any more litigation or loss of citizen ocean access there and on other public beaches. The City has a trust in place that supports Joint Use.

The San Diego Council of Divers has represented divers in San Diego through their clubs for over 50 years. Through the dive clubs we hear from thousands of divers. We found divers overwhelmingly support the City Policy of Joint Use at Children's Pool.

Please see attached Beach Management Proposal, which was drafted with input from the various San Diego Dive Clubs.



San Diego Council of Divers
Scott Anderson, President

Proposal 1 - Management of La Jolla Beaches – Looking to the Future

San Diego divers wish to see safeguards against undesired loss of public beach in the future. We are concerned by past seal incursions into South Casa Beach, and about future marine mammal colonizations of beaches in La Jolla and all of San Diego. Our fondness for these animals notwithstanding, the City needs a policy and management plan to deal with future colonizations of more public beaches including how to get wayward seals back to Children's Pool.

We urge the City to preserve its shared use policy at Children's Pool, and take steps to assure public access to all beaches on the San Diego coastline. The City can declare seals and sea lions on public beaches other than Children's Pool to be subject to removal under MMPA 109(h) so that quick action can be taken when needed. This can be modeled after the volunteer plan made in Pacific Grove when seals threatened their most valuable tourist beach. (Exhibit I)

San Diego has a history of maintaining open beaches for its citizens and tourists to share and enjoy access to its oceans for swimming, surfing, diving, sunbathing, and fishing per the State Constitution and the Coastal Act. Maintaining that policy will allow enjoyment of the beaches by locals and tourists to continue and avoid confrontations by special interest groups or law suits. San Diego is a major world class dive destination, with beautiful beaches, sunken wrecks and a wide range of businesses serving the industry.

Divers have worked with the City of San Diego for 50 years. None advocate harm to seals, who are our dive buddies in the wild. We just want to be assured the public can respectfully and lawfully go on public land to access the ocean, per various laws.

Derived by consensus of Dive Club delegates from all over San Diego,
1/28/2010, and 2/09/2010.

Proposal 2 - Management of Children's Pool - Effective Planning

Representatives of the dive clubs in San Diego share a concern over the future of Children's Pool. Divers are happy to have the seal colony there, but see unintended consequences without judicious steps taken. We would propose the City craft a long range plan to administer that public park to preclude new liability, contention or expense.

Our proposal requests a total City plan validated by a panel of scientists appointed by Scripps Institute of Oceanography working with California Department of Fish and Game Commission, NOAA law office, La Jolla Community Planning Association and the California Coastal Commission.

That panel can formulate ways to protect San Diego beaches for all its citizens and stay within all the terms of the amended trust and the Coastal Act and the State Constitution. Violating any one could start more protracted loss of City resources. We just got free of 5 years of litigation.

We further propose the City enforce its Public Right of Way codes (§127.0304(b)(1), §129.0802, §142.1206, §33.1406, §54.0105) pertaining to vendors' tables and signs drawing crowds in the public's right of way and creating an attractive nuisance, even obstructing public, emergency and handicapped access. The City has done an outstanding job of providing clear signage in the area. Other signs by special interest groups create confusion, cause contention and should be removed per City Codes. We urge the City to enforce its signage codes (Art 2, div 12 and Art 9, div 8; §121.0504; §121.0505) to eliminate private party or special interest group signs.

The San Diego Dive Community agrees with the City of San Diego's Joint Use policy at Children's Pool, as was formulated by a Children's Pool Technical Advisory Committee on July 29, 2003. This policy was cited repeatedly to defend the City against the O'Sullivan suit. (Superior Court, Aug 2006) It makes more sense than ever.

Derived by consensus of Dive Club delegates from all over San Diego,
1/28/2010, and 2/09/2010.

Issues at hand

1. Divers and swimmers request very little.

We wish to go lawfully and respectfully on public land to reach the ocean. Sharing was never a problem. San Diego is a world famous diving destination. Activists have made Children's Pool so unpleasant to visit that almost all go elsewhere, despairing of City protection of their ability to go lawfully on a public beach. We request San Diego to actively manage its beaches, for the greater good, by rule of law.

2. Seals will eventually spread to other beaches.

They already have, choosing South Casa Beach in past years, and activists immediately acted to illegally close that beach. The seals left on their own, but the lesson should be clear.

3. The City has all the authority it needs to control its beaches

The City has been advised by NOAA more than once it can deter seals (and sea lions) off public land without asking permission and the City, or a designate, can use all manner of non-injurious methods of deterrence. But the City has to protect itself with an acceptable plan in place ahead of time. (Exhibit I)

4. Diving is a large part of reasons people come to San Diego

- a) San Diego is a famous diving destination. It was home to the first dive club in America. The Council of Divers has worked with the City for over 50 years.
- b) Dive shops and dive equipment manufacturers have thrived in San Diego. People come from all over to explore the reefs, wrecks and underwater canyons in San Diego. Diving brings a lot of commerce to San Diego.
- c) San Diego derives its shore diving appeal from relatively few access points. Of 11 beaches listed on the City lifeguard website, less than half access dive sites and only 3, La Jolla Shores, La Jolla Cove, and Children's Pool offer protection from direct swells and rip currents. Denial of access to Children's Pool is loss of 1 of 3 of the best dive access points in San Diego.
- d) Divers can provide insight as to the nature of seals and what can be expected of them. We like seals as much as anybody, and have a reputation for knowing how to get to the water without bothering them. They play with us in the water and find us amusing.
- e) San Diego Council of Divers is the only volunteer organization to sponsor beach cleanups at Children's Pool and South Casa Beach, for which it has been recognized by the Coastal Commission.

- f) The current rope barrier is being used as a tool to lend color of authority to zealots driving the public off the beach. There is no California Coastal Permit in place and pending appeals before the CCC point out conflicts between the Coastal Commission and San Diego's rope barrier.
- g) The Council of Divers saw no alternative but to join others in appealing this year's California Coastal Permit for a perpetual rope barrier as unnecessary, unwarranted, ill conceived, illegal, and anti-access. It was a regrettable last means to be heard.
- h) The Council of Divers and others would happily participate in improved carefully considered educational efforts to improve respect for seal right of way and safeguard Joint Use.

The City has at its disposal groups like the Council of Divers that would help the City form an advisory task force to craft a workable policy. The need is to manage the beach as a tourist friendly and seal friendly Joint Use public beach and steer clear of complications, legal problems and unforeseen consequences and expenses. We should be working together.

The City should meet with NOAA Habitat Conservation Division and its Southwest Regional Counsel office to evaluate commitment of federal resources, legal help, or grants to be available within San Diego's Joint Use plan.

- a) The fastest growth in the Children's Pool colony was during the years Joint Use was in full effect and no restrictions on public access were in place.
- b) We found no documented case of a harbor seal being aggressive at Children's Pool, or anywhere else. They are prey animals. They flee and come back later. A legless animal does not pick a fight on land. The City needs only signs saying *"The City of San Diego assumes no responsibility....."*
- c) When seals choose to give birth on a metropolitan public beach within yards of staring tourists, they have evaluated humans as non-predatory. They trust people here more than anywhere else on earth. Had they reason to fear us humans they would be elsewhere.

Questions, choices and imperatives

The City of San Diego has choices to make about Children's Pool that can affect all its beaches for decades to come. Over the last 5 years San Diego has struggled to maintain its options at Children's Pool, and should avoid any limiting moves. San Diego needs some answers from non-partisan experts and permitting agencies brought together for a study group before taking any actions.

The following are some issues we have researched. A panel such as we suggested could provide more authoritative answers.

1. Does San Diego have to declare Children's Pool to either be all people or all seals?

No. The trust does not say that. Nothing says that. There are no pending court actions. The seals are there to stay, with Joint Use still honored in the trust.

2. What does the Amended Trust say?

The Trust says the beach, stairs and sidewalk shall be devoted exclusively to a public park, a marine mammal park, a bathing pool for children, playground, recreational purposes, with convenient access to fish there. (Exhibit B) As trustee, San Diego is responsible for fulfilling all the Trust terms.

3. What does the City have to change to live up to the Trust?

Nothing. The seals are guaranteed their place. The City's Joint Use policy meets the other requirements. The Coastal Act guarantees public access. Suggestions the City abandon Joint Use or commit some other trust violation are not in the City's best interest.

4. What other laws would apply?

The Coastal Act and the Public Trust Doctrine primarily. Both require public access the ocean. The Marine Mammal Protection Act also could apply, were the City to cause unreasonable harm to seals. Various other agencies have say on trusted land.

5. Must the City enforce a federal 50' distance between people and seals?

There is no such limit, or any legal distance. (Exhibit G) Luckily, or the City would have to close half the sea wall. San Diego must obey the Marine Mammal Protection Act, but is forbidden to enforce it. (Exhibit E) A municipal entity seeing a likely MMPA violation is only able to report it to a federal officer. (Exhibit H)

6. What discretion was requested for public access and seals in the trust amendment?

The City Council requested complete discretion. What was requested in writing was replaced with an additional trust stipulation and no discretion. (Exhibit B)

7. Can the City again lose control of Children's Pool?

Not as long as the City does not violate the amended Trust or the Coastal Act.

8. Didn't NOAA require beach closure at one time?

One NOAA officer sent 3 letters to the City "strongly recommending" the City close the beach in the winter. The letter had no backing from an administrator. That officer had recommended the City violate the trust, and the Coastal Act for him, but the City stood its ground with an advisory rope and continued Joint Use.

9. What of Law and Order?

Police and Fire have been called to Children's excessively to intimidate citizens to believe anti-access activists have the law on their side. The City could request a tally of police action and its costs at CP and who is involved.

The circus on the sidewalk should end with enforcement of existing City ordinances on signs, selling and solicitation. The City has no funds to hire security guards for the sidewalk as in past years. Without anti-access incitement, the City could again show the world a tranquil vacation spot.

10. Do seals bite?

We can find no documented case of a harbor seal being aggressive at Children's Pool, or anywhere. They are prey animals with a flock culture. Given any choice, they flee confrontation to come back later. A legless animal does not pick a fight on land. Anyway, the City only needs signs saying - **"The City of San Diego assumes no responsibility for anyone too close to a seal"**.

11. Will people on the beach cause seals to abandon their pups?

No animal reacts to annoyance by abandoning its young.

Mother seals must leave small pups somewhere while they forage, or they both will starve. Our seals trust people so much they will leave pups waiting on Children's Pool beach instead of stashing them like they do in the wild. Seals are not born afraid of people, they learn it in the wild from elders. Our pups are born into a people tolerant culture.

12. Do seals get used to people?

They did in the 90's, they do today and will tomorrow. They are smart and don't spend time reacting to things that do not hurt them. At one time the City had posted a guideline of 20' because the seals had gotten used to that.

Harbor seals are doing well. From NOAA surveys of California stocks.

<http://www.nmfs.noaa.gov/pr/pdfs/sars/po2005sehr-ca.pdf>

Best population estimate in 2005 was 34,233. Factor in 3.5% population grow and the estimated population today would be about 40,000.

factor was based on the fraction of seals hauled out over an entire 24-hour day (correction factors for aerial counts should be based on the fraction of seals hauled out at the time of the survey). Hanan (pers. comm.) revised his haul-out correction factor to 1.3 by using only those seals hauled out between 0800 and 1700 hrs which better corresponds to the timing of his surveys. Based on the most recent harbor seal counts (26,333 in May-July 2004; Lowry et al. 2005) and Hanan's revised correction factor, the harbor seal population in California is estimated to number 34,233.

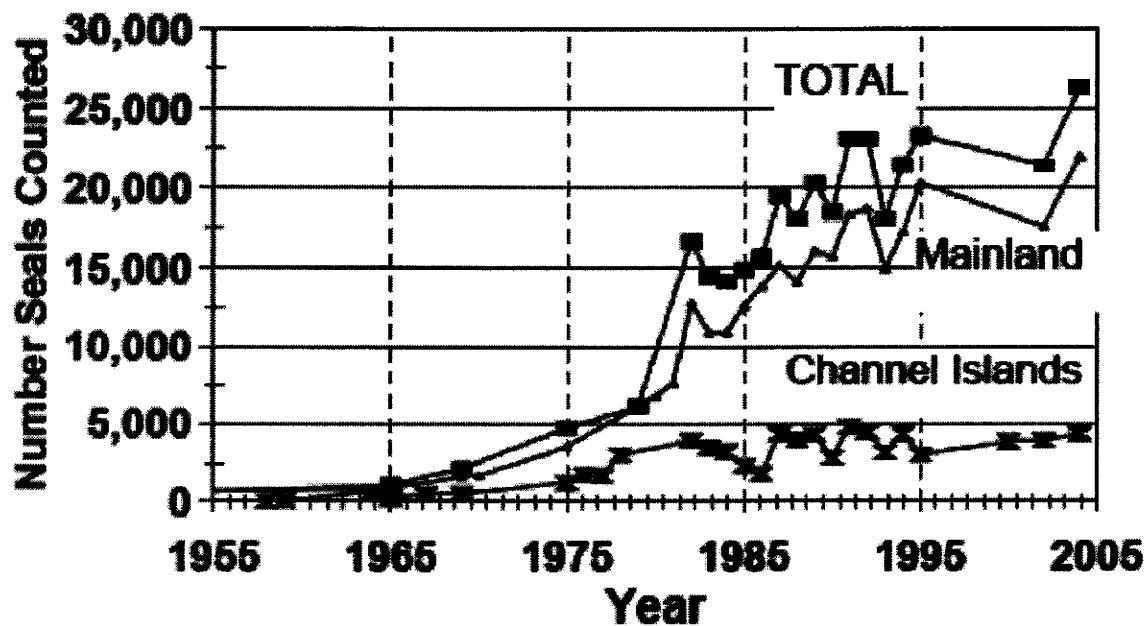


Figure 2. Harbor seal haulout counts in California during May/June (Hanan 1996; R. Read, CDFG unpubl. data; NMFS unpubl. data from 2002 and 2004 surveys).

CURRENT AND MAXIMUM NET PRODUCTIVITY RATES

A realized rate of increase was calculated for the 1982-1995 period (when annual counts were available) by linear regression of the natural logarithm of total count versus year. The slope of this regression line was 0.035 (s.e.=0.007) which gives an annualized growth rate estimate of 3.5%. The current rate of net production is greater than this observed growth rate because fishery mortality takes a fraction of the net production. Annual gillnet mortality may have been as high as 5-10% of the California harbor seal population in the mid-1980s; a kill this large would have depressed population growth rates

Is Children's Pool a Rookery?

In 2001, Children's was designated a rookery according to NOAA. That status was apparently later rescinded.

In May 2008, a seal caught in netting stayed on the beach for days but NOAA would not authorize a rescue in a rookery. If NOAA designates an area a rookery, it no longer will allow rescues of sick or abandoned animals, but is enjoined to "let nature take its course". Only if an animal needs rescue because of unnatural events (human misdeeds) can NOAA authorize a rescue.

Activists blasted NOAA officers on their website, and were notified they could cost Children's Pool its rookery status. (Exhibit A) Since then, NOAA did give permission to the City to disperse the seal colony and has initiated rescues at Children's Pool, so clearly Children's Pool did lose its rookery status, due to activist zealotry.

That seal was freed by two out of town citizens, triggering more targeted vitriol against NOAA policies. NOAA released a statement that the two could be prosecuted for that action. It was a San Diego diver who advised NOAA that it had overlooked section 109(d) of the Marine Mammal Protection act which specifically exempted them, and the matter vanished.

The City has neither responsibility nor authority concerning protection of any seals on State tideland, unless invoking MMPA section 109(h) to remove seals from a beach. Otherwise, as trustee of State land, San Diego is forbidden from enforcing any law concerning protection of seals by MMPA section 109(a)) (Exhibit E)

Exhibit A

10News.com

NOAA E-Mail To Pro-Seal Activist

The following is an e-mail from Joe Cordaro of the National Oceanic and Atmospheric Administration to local pro-seal activist Cindy Benner:

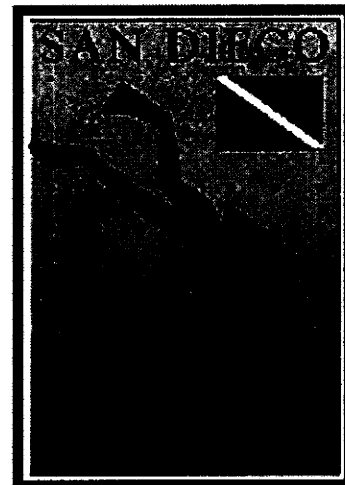
You might also want to point out to all the pro-seal people that I'm starting to get a little tired of their fixation on individual animals. If they cannot understand the concept of the good of the entire colony over the good of an individual animal, then they do not deserve having a seal colony in their midst. They can't have it both ways. If I continue to get negative comments from the pro-seal people regarding my management decisions at Children's Pool, I will soon make the following statement in the local media:

"The National Marine Fisheries Service (NMFS) has been managing Children's Pool as a harbor seal rookery since February 2001. Due to negative publicity regarding recent management decisions at Children's Pool, the NMFS has decided that the general public will no longer allow us to manage the site as a rookery. Therefore, we are discontinuing our current management policy at Children's Pool and will treat Children's Pool as just another mainland beach. This will allow SeaWorld to rescue any sick or injured marine mammals at Children's Pool, irregardless as to whether the cause is natural or human-caused. This also means that the City of San Diego can forcibly prevent healthy seals from hauling out at this site by designating them as a threat to the public welfare or as nuisance animals under Section 109(h) of the Marine Mammal Protection Act."

Obviously, this is not a road I want to go down. During the last incident, I received heat from the pro-seal folks, the general public, and from within my own agency. It's just not worth all the aggravation.

California Fish and Game
3883 Ruffin Road,
San Diego, CA 92123

*Copy for
6-11-07B*



RE: Plans to illegally cordon off Children's Pool Beach forever without consideration of previous Department of Fish and Game rulings.

Dear Sirs,

The City of San Diego has failed for a year and a half to get a measure through its own coastal safeguards that would establish a rope barrier across the Children's Pool Beach permanently just at the high tide line. With the establishment of a no-take MPA in all of South La Jolla that beach becomes the only protected entry for spearfisher's in La Jolla.

In 2001, the California Coastal Commission (CCC) considered the establishment of a permanent seal reserve at Seal Rock, 120 yards north of Children's Pool. Before deciding, the CCC consulted with the State Lands Commission and DFG and both agencies strongly stated that a permanent reserve on a trusted public beach such as at Seal Rock or at Children's Pool would be inappropriate and should not be allowed.

From the Coastal Commissions own records, please review www.coastal.ca.gov/sd/6-00-126.pdf

Though the Commission could have entertained an extension of the temporary reserve, with safeguards for public access and non-encroachment on Children's Pool, it found against the establishment of any permanent structure on a public trusted beach after getting DFG input. Last year the Coastal Commission approved a "temporary in perpetuity" rope barrier from Dec 15 to May 15 at Children's Pool with nobody present except the applicant at a hearing in Santa Clara. This March, the Coastal Commission is prepared to approve a year round rope barrier to be 365 days/year forever.

Not only that, the Commission is trying to grant a waiver to San Diego to allow the CCC to grant this forever barrier, prior to, not contingent on, local permits that have been so elusive to San Diego. Its own Planning Commission denied the first permit application as an encroachment on public access. We have been contacted by local freedivers, concerned that the state trust that governs the beach and the state constitution are being violated for the convenience of San Diego which seeks to convert a public beach to a seal viewing arena as a lucrative tourist attraction.

We enjoy the seals there too, and do not wish them abused or removed. We just want to lawfully and respectfully go on public land per state law, knowing how to co-exist with the seals as fellow denizens of that beach as the trust requires. The trust specifically protects convenient access for fishermen and there is no danger of depletion of harbor seals in the region, in fact they are quite bold, though sweet of disposition, unassuming and easy to get along with. That is in stark contrast to the humans who seek to stampede San Diego into closing a trusted beach by roping it off and leaving management of that access route to absolutist animal rights activists who rule by intimidation.

It is hoped you will look into this situation before access to a major public ocean access route is closed off forever.

Scott Anderson

Scott Anderson
President, San Diego Council of Divers
PO Box 84778
San Diego, CA 92138-4778

RECEIVED
FEB 03 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED
FEB 02 2012

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

31 January 2012

Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: California Coastal Commission File 6-11-078,
Deny application for rope barrier at the
Children's Pool, La Jolla, California

Dear Ms. Ahrens:

I am opposed to granting a permit to the City of San Diego for the installation of a rope barrier at the Children's Pool. The Children's Pool was specifically given to the children of San Diego as a swimming beach by Helen Browning Scripps the City desires to make a 'buffer zone' between people and seals. From a land use point of view, a buffer zone is typically taken to mean an area used to separate two 'things' from one another. In the present case, the City desires to separate seals and people. However, the manner in which the City proposes to do this would make swimming access for harbor seals only. This is not right. This is not the intent of Ms. Scripps gift nor is it even the stated purpose of the revised Trust governing the Children's Pool.

This buffer was found by the local Commission office not to "result in adverse impacts on public access". (A-6-LJS-10-009) and quoted the City *"The rope barrier is a clear indicator to the public to keep an appropriate distance from the seals, while at the same time allowing the public to access the beach and water. Thus, while the rope barrier would provide a buffer between people and the seals, it is not intended to prevent access to the beach or the ocean."*

This is stretching credibility. The public access to the water provided within the barrier is measured in inches! Must, then, this separation between seals and people be maintained in the water as well? And, if so, how is this to be accomplished? A ruling for 'perpetuity' will only cause continued confusion and rancor between beach users and animal activists who continue to verbally (and sometimes physically) abuse beach users at the Children's Pool

Yours truly,


David W. Valentine

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 459-4696

RECEIVED
FEB 01 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

31 January 2012

Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: California Coastal Commission File 6-11-078,
Deny application for rope barrier at the
Children's Pool, La Jolla, California

Dear Ms. Ahrens:

I am opposed to granting a permit to the City of San Diego for the installation of a rope barrier at the Children's Pool. The Children's Pool was specifically given to the children of San Diego as a swimming beach by Helen Browning Scripps. The continued presence of a rope barrier has caused seal activists to 'stake out' a permanent territory above the Children's Pool and harasses citizens who want to enjoy the beach. This is troublesome during the winter when there is little recreational use, but it is frightening during the summer when tourists and locals are being continuously harassed. Granting a year round permit in perpetuity only means that this harassment will continue in perpetuity.

The Coastal Commission granted the City of San Diego a permit for a rope barrier 5 months per year on the premise it would not be an impediment to beach access. The barrier may not be, but the activists are. The Commission cannot allow a special interest group or groups to operate with the City's tacit approval to harass, heckle, yell at or block passage to the beach. But they do. And they have taken no action to eliminate this public nuisance. The City of San Diego cannot be trusted to act in a manner consistent with good Trust stewardship.

Yours truly,


David W. Valentine

MA

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 459-4696

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JAN 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

29 January 2012

Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: California Coastal Commission File 6-11-078,
Deny application for rope barrier at the
Children's Pool, La Jolla, California

Dear Ms. Ahrens:

I am opposed to granting a permit to the City of San Diego for the installation of a rope barrier at the Children's Pool, whether it is for day or a year for a number of reasons. One of these follows.

In March 2001 application 6-00-126 was made to the Coastal Commission:
Under IV. Findings and Declarations B (b) it was determined that:

Placement of a Barrier at the Children's Pool Beach without a Coastal Development Permit: *the placement of a [rope] barrier at Children's Pool Beach was either to keep people out of the water or to keep people away from the seals, or both. Regardless of why the barrier was installed, it is a permanent structure on the beach and results in a change of intensity of use, in this case, a change in public access to the ocean. And was ruled illegal*

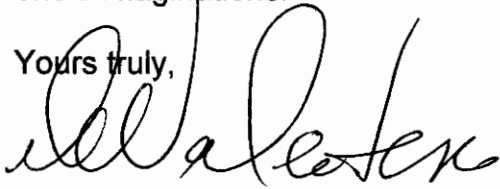
From the Resource Agency

... two of the agencies indicated in writing that installation of signage and implementation of a docent program and education program for the public would be effective at managing the area and reducing incidents of seal harassment. DFG staff indicated that the City had no authority to create a seal reserve from granted tideland that would generally prohibit public access across its boundaries. SLC staff expressed concerns with regard to the area being closed to public access and its conflicts with the legislative land grants. NMFS indicated they are not designating Children's Pool Beach as a refuge, reserve or sanctuary

In discussions with these agencies, it was stated thatThe City should be doing everything possible to protect public access in this area and to alleviate the health concerns. However, if the City believes that protecting the seals is a higher public need than public access to the waters which is directly against the intent of the act which authorized the Commission in 1976. Therefore, the City's action to exclude public access to the water on a permanent basis is inconsistent with the above land grant.

Throughout the referenced decisions, the words "permanent" and "inconsistent" appeared together and interchangeably... The presentation of the 2010 "pupping season" rope barrier permit for Children's Pool was presented to the Commission as a "temporary rope barrier in perpetuity". This is an oxymoron of that stretches one's imaginations.

Yours truly,

A handwritten signature in black ink, appearing to read "D. Valentine". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David W. Valentine.

MA

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JAN 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 459-4696

30 January 2012

Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: California Coastal Commission File 6-11-078,
Deny application for rope barrier at the
Children's Pool, La Jolla, California

Dear Ms. Ahrens:

I am opposed to granting a permit to the City of San Diego for the installation of a rope barrier at the Children's Pool.

As I am sure you are aware, the original "barrier" was erected by seal activists to successfully block the beach from public access with a series of minor deterrents the most important being the threat of physical harm to beach goers. The original City of San Diego rope barrier began with a series of temporary single year "pupping season" installations. Each installation required an "emergency" permit and fraudulent lawsuits with injunctions that maintained the barrier in place until past May 15 when the lawsuits were dismissed. The dismissals vacated court orders against the rope barriers but were too late to provide unfettered beach access to citizens. The City then used the term "temporary advisory rope barrier in perpetuity" and sold that as under its jurisdiction; jurisdiction which it did not have. The Commission is now being asked to accept a new permit under its own jurisdiction which is a "forever version" of a local permit.

Note in A-6-LJS-10-009 it was asserted *"Again, the intent of the temporary buffer is not to keep the public from reaching the beach or ocean at Children's Pool, but to provide a buffer to help protect the seals hauled out on the beach during pupping season"*. However, a look at the map that accompanied this permit shows a rope parallel to the shore. Seals get to keep the water, humans the sand. This is a bastardization of State law which guarantees access to the water.

Also included was the statement: *Relative to the harassment, one of the reasons for placement of the temporary rope by the City is to reduce these types of issues*

by directing people to maintain a safe distance from the seals as they access the beach and ocean. While it is correct that the City permit does not include provisions to specifically address these issues, this is an enforcement issue that is beyond the scope of the permit and is more appropriately addressed by local law enforcement and thus, does not raise a substantial issue.

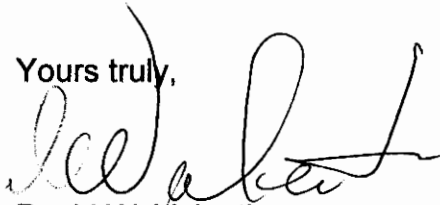
But that statement has not proven to be true. Local police are helpless (or hapless). There is no legally defined "a safe distance from the seals". The rope has become a bright line in the sand to fight over. The rope has caused more problems than it solved.

Note another statement *"In addition, existing vertical access (concrete stairs) would remain unchanged by the project."* The stairs stop at the sand. One cannot reach the water without crossing the rope and the buffer. That rope barrier is an encroachment just as the San Diego Planning Commission said it was.

Another statement: *"The La Jolla Community Plan does not envision the Children's Pool as an improved recreation area and, therefore, the placement of the rope would not conflict with long range recreation plans for the area."*

This is an amazing statement. The Children's Pool was **given** to the citizens of San Diego specifically for 'long range recreation'. **SPECIFICALLY**. It is the City that decided not to honor the Trust, but rather to change, then break it. The State Trust clearly states the beach shall be a *public park and playground forever*. To publicly deny something what has existed for three quarters of a century is insane. But these are politicians and behold to whomever supplies the most money during elections.

Yours truly,

A handwritten signature in dark ink, appearing to read 'David W. Valentine', written over the 'Yours truly,' text.

David W. Valentine.

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JAN 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 459-4696

29 January 2012

Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: California Coastal Commission File 6-11-078,
Deny application for rope barrier at the
Children's Pool, La Jolla, California

Dear Ms. Aherns:

I am opposed to granting a permit to the City of San Diego for the installation of a rope barrier at the Children's Pool, whether it is for day or a year. The Commissions legal authorities include the following:

Protection of Recreation Uses--section 30220: "Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses."

The Children's Pool was **designed** as a water-oriented recreation area for children. Allowing a rope barrier to be installed would be in direct violation of this basic and legally sanctioned use.

Protection of Public Access--section 30211: "Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation."

Installation of a rope barrier would effectively bar rightful public access to the sea. This too, is in violation of your stated legal obligation

Protection of Marine Resources--section 30230: "Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes."

The marine mammals to be "protected" with a rope barrier are of no special or special biological significance nor are they necessary to sustain biological productivity or a healthy population. There are an estimated 30,000 or more harbor seals in Southern California. Allowing public access to a beach presently used as a resting place by harbor seals in no way impacts the health of the population as a whole. Using this argument to deny access to the public is fraudulent.

Protection of Biological Productivity--section 30231: "The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained"

Harbor seals do not contribute to the biological productivity of the Children's Pool nor the Marine Protected Areas nearby. Rather, the harbor seals are top predators and consume species which do contribute to biological productivity and the economic health of the region. Allowing a rope barrier to be erected using this code section would be spurious.

For the above reasons, and others, I oppose allowing the erection of any barrier at the Children's Pool.

Yours truly,

A handwritten signature in black ink, appearing to read "David W. Valentine", written over the printed name.

David W. Valentine.

MA
David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 459-4696

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JAN 30 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

27 January 2012

Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: California Coastal Commission File 6-11-078,
Deny application for rope barrier at the
Children's Pool, La Jolla, California

The City of San Diego is requesting permission to erect a barrier across the beach at the Children's Pool in La Jolla. It is my understanding that one important California Coastal Commission mandate is to maintain access to public beaches. The City is thus requesting the Commission to abandon its primary mandate: protect coastal access for human beings.

SECTION (b) Children's Pool Tidelands Trust, Chapter 937 of the Statutes of 1931, states,

*The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the **people** of the State of California*

Me, being a "people", respectfully request that the Commission honor my right and other 'people' to unimpeded access to the Children's Pool Beach by denying the City's request to erect a rope barrier.

Yours truly,



David W. Valentine.

George Greer
34221 San Simeon St.
Temecula, CA 92592
ggreer4@yahoo.com

File 6-11-078
Coastal Commission
7575 Metropolitan Drive
Ste 103
San Diego, CA 92108-4402.

1. Seals and humans have coexisted there for decades.
2. The Childrens Pool (CP) in LaJolla was created as a safe place for youngsters to play safely.
3. CP is one of only a few places along the nearby coast where children can learn to swim in the ocean safely.
4. Seals have multiple other places to haul out and give birth.
5. The resident seals are polluting the water and the beach. The odor is more than just noticeable.
6. CP and the seals are not the major attraction to LaJolla. LaJolla is. Retail establishments gain no particular advantage to having the seals there.
7. The seals at CP have become habituated to humans. This is not good for them and makes them more vulnerable.

~Thanks,



George Greer
858-231-5455

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JAN 27 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

January 24, 2012

FILE 6-11-078

California Coastal Commission

CCC,

Please get rid of the seals at Children's Pool. Hopefully this will get rid of the tables and pro-seal people on the sidewalk. Then I can walk down the sidewalk and enjoy the beach and not have to deal with animal rights activists making a scene every time somebody goes down to the beach and causing so much hate mongering. The rope encourages their non-stop presence and disruption to the peace of the beach area. Please consider this when making your decision - I am against a year round rope at Children's Pool.



James Walker
909 Coast Blvd
La Jolla, CA 2037

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JAN 27 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

January 26, 2012

FILE 6-11-078
California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

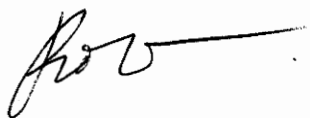
California Coastal Commission members,

I am writing to request that there be no year round rope at Children's Pool.

I think that the activists use the rope to harass people who are trying to use the beach at Children's Pool. People have a right to the use the beach at Children's Pool. The activists should not be given the tools to harass people. The rope serves as tool for them.

Please do not approve the year round rope.

Sincerely,



Robert Cowen, CPA
La Jolla, CA 92037
(858) 688-1641

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JAN 27 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Sarah Bowles
Casa de Manana
La Jolla, CA 92037
(858) 454-2151

January 26, 2012

FILE 6-11-078
California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Coastal Commission,

I am writing to request that there be no year round rope at Children's Pool.

I would like to access Children's Pool but it is not possible with the rope up and the crazy seal lovers screaming at me through megaphones not to cross the rope. It is my right as deeded by Ms. Scripps to access the beach and I don't appreciate not feeling comfortable to do it just because the activists are running amok without being controlled by tax paid city officials.

Please do not allow the year round rope as it will only serve to fuel the activists year round instead of just during pupping season. I am a nearby resident to Children's Pool and I am very much against the rope at all and especially not year round.

Yours truly,



Sarah

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JAN 27 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

William D. Miller
Casa de Manana Senior Citizen Residence
La Jolla, CA 92037
(858) 454-2151

January 21, 2012

FILE 6-11-078
California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

CCC,

I am writing to express that I am against a year round rope at Children's Pool. Here is my story.

My six year old twin grandsons visit me about once or twice a month. When they come, the first think they say, after they say I love you, Grandpa, is "can we go down to the children's pool?"

My daughter-in-law has already packed a picnic lunch and we head down to the Children's Pool, spread out our blanket and watch the twins run up to the water and then run back, giggling, when a wave comes up and covers their feet.

I am very much against the rope at all and definitely am against a year round rope at Children's Pool.

Thank you.

Bill Miller

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



Letter to the Coastal Commission to for the Children's pool 6-11-078 Analysis File

Introduction:

The Friends of the Children's Pool is a California non-profit organization for the purpose of for charitable, scientific and educational purposes, more specifically to educate the public as to the lawful use of the Children's Pool: that is, in accordance with chapter 937 of the State deed of governing Children's Pool.

For over a year we have staffed an information table on the sidewalk at Children's Pool educating and advising the public and monitoring the interaction of seals and people from a biological and legal standpoint. We are swimmers, families with children, divers, interested parties, lawyers, professionals, and maintain a growing support group using an email list of over 600 .

Purpose of writing:

A Permit for a year round forever rope barrier across most of Children's Pool Beach would be a year round in perpetuity version of a 5 month forever permit the City of San Diego issued itself over a year ago. The new permit will be a State document by Coastal Commission jurisdiction. As a State of California action, approving this permit would set precedent for every California tideland.

Where the Commission previously had only to find San Diego felt it had met its own Local Coastal Plan in the opinion of its own employees, and not exceeded its jurisdiction, this action shall be the Commission's own considered evaluation for a State ruling and expression of the purpose of the California Coastal Act. We have itemized considerations and their evaluations for the judgment of the Commission before acting to cordon off a prime public recreational beach forever.

The 11 considerations are by no means a complete list of reasons a permanent cordoning off of a California public beach would be a bad idea, and each can stand on its own as sufficient to cause the denial of the permit request. Each on has its own page of background explanation.

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SAN DIEGO COAST DISTRICT



Considerations:

- A. That a permanent structure on a public trusted beach was ruled a violation of the Coastal Act in 2001 by the Commission and that ruling must now be upheld, rescinded or corrected.
- B. That per the 2001 Seal Rock Reserve decision, a project like this one must have prior acceptance by the State Lands Commission.
- C. That per the 2001 Seal Rock Reserve decision, a project to restrict access to a beach to effect a marine mammal reserve must be accepted by Department of Fish and Game.
- D. That a State issued permit must be in keeping with the amended 1931 Chapter 937 deed of trust in all aspects.
- E. That the permit would be to augment the "marine mammal park" the City had added to the Trust and so must be in keeping with rules established by the Department of Agriculture for all marine mammal parks.
- F. That the "buffer created between people and seals" will necessarily block citizen access to the shore, and so must stem from a compelling need to govern by the State of California.
- G. The purpose of the rope cannot include prevention of harassment or inconvenience to seals or it will violate Section 109(a) Marine Mammal Protection Act which states, "No state may enforce, or attempt to enforce any law concerning the taking of marine mammals..."
- H. That no action by the Commission may violate remaining provisions of the O'Sullivan vs. San Diego case decision by Superior Court Judge Pate that were not dismissed by the Trust Amendment, SB 428.
- I. We request the Coastal Commission use its newly discovered jurisdiction to completely review the barrier situation at Children's Pool and apply the Coastal Act there in letter and spirit to restore public access for law abiding citizens. Especially consider Coastal Act Sec 30214(b).
- J. It is within the jurisdiction of the Coastal Commission to bring an end to unpermitted business activities on the easement of our beach, especially any businesses run by organizations devoted to restriction of public access to that beach where local authorities are unwilling to enforce their own statutes. Per Coastal Act Sec 30609.5 and 30212(a).
- K. The use of a waiver to allow the Commission to have to rule without local coastal permit procedures is an unprecedented and unique manipulation. If successful it will allow all local offices to present applications to the Commission without mentioning the bypassing of local safeguards or why.
- L. The current rope barrier project must be consistent with requirements from the California Environmental Quality Act (CEQA). The City of San Diego wrongfully determined the previous rope barrier projects "categorically exempt from CEQA".

One page of explanation follows for each of these 11 considerations



Consideration A: A permanent structure on a public trusted beach was ruled against in 2001 (Establishment of the "Seal Rock Marine Mammal Reserve")

From CCC hearing in March 2001. Application 6-00-126, Seal Rock Reserve: Summary

Condition #1 limits the duration of the proposed marine mammal reserve to a period not to exceed 5 years.

Under IV. Findings and Declarations B (b):

Placement of Barrier at Children's Pool Beach without a Coastal Development Permit; *As noted in a previous finding, the placement of a barrier at Children's Pool Beach was either to keep people out of the water or to keep people away from the seals, or both. Regardless of why the barrier was installed, it is a permanent structure on the beach and results in a change of intensity of use, in this case, a change in public access to the ocean.*

C: Resource Agency Input;

Essentially, two of the agencies indicated in writing that installation of signage and implementation of a docent program and education program for the public would be effective at managing the area and reducing incidents of seal harassment. DFG staff indicated that the City had no authority to create a seal reserve from granted tideland that would generally prohibit public access across its boundaries. SLC staff expressed concerns with regard to the area being closed to public access and its conflicts with the legislative land grants. NMFS indicated they are not designating Children's Pool Beach as a refuge, reserve or sanctuary and that this sort of designation is up to the City to make, if it chose to do.

In discussions with these agencies, it was stated that the City's proposal to make the area into a permanent reserve would be inconsistent with the legislative land grants.

.....The City should be doing everything possible to protect public access in this area and to alleviate the health concerns. However, if the City believes that protecting the seals is a higher public need than public access to the waters, then they should seek a change to the law.

(After quoting the Children's Pool Trust, last paragraph)

Therefore, the City's action to exclude public access to the water on a permanent basis is inconsistent with the above land grant.

Special Condition #3 included the provision No freestanding, pole or roof signs shall be permitted on the sandy beach area of Children's Pool Beach.

...None the less, the City is proposing to make the rock and surrounding area a permanent marine mammal reserve. This is inconsistent with the public access and recreation policies of the Coastal Act. In addition, delineation of Seal Rock as a permanent marine mammal reserve is inconsistent with the state tidelands grant.

Throughout the decision, the words "permanent" and "inconsistent" appeared together. The presentation of the 2010 "pupping season" rope barrier permit for Children's Pool was presented to the Commission as a "temporary rope barrier in perpetuity". No such oxymoron can hide the permanent nature of this pending permit.

Special condition #2 included the provision: No freestanding, pole or roof signs shall be permitted on the sandy beach area of Children's Pool Beach.



Consideration B and C: ...a project like this one must be accepted by the State Lands Commission and Department of Fish and Game.

From Superior Court case GIC926918 on Aug 25, 2005, by Judge William Pate.

On or about October 25, 1993, Jane Sekelsky, Chief, Division of Land Management, State Lands Commission (hereinafter "SLC"), sent a letter to Carl Lind, a private citizen, copied to Robin Stribley, Natural Resources Manager, Park and Recreation District, City of San Diego. The letter concerned the creation of a marine mammal preserve within an area encompassed within a statutory trust grant. The SLC, on behalf of the State of California, expressed its concern that the Reserve may prohibit activities specifically reserved to the people of the State of California. Such activities include "the absolute right to the public use of said tidelands and to fish in the waters thereof, with the right of access to said waters over tidelands for said purpose." The Legislature has vested in the SLC: "All jurisdiction and authority remaining in the State as to tidelands and submerged lands as to which grants have been or may be made," and has given the commission exclusive administration and control of such lands. (Pub. Resources Code § 6301.)

On November 18, 1993, the California Coastal Commission approved the establishment of the Reserve in the vicinity of Seal Rock. [Exh. 606.] The approval was conditioned on the City obtaining approval of the SLC and the boundaries of the Reserve not including any "sandy beach area."

The California Fish and Game Commission (hereinafter "Fish and Game") declined to take any action in regard to the Reserve. However, in its March 30, 1994 letter to the City, Fish and Game cautioned the City about interfering with "the public's right to fish in State waters."

On March 15, 2000, Fish and Game advised the City that the City did not have the authority to create a seal reserve on public trust tidelands. Fish and Game cited several bases for this opinion, including violation of the State Constitution, preemption by Federal law and State law, and violation of the 1933 trust itself.

*On August 15, 2000, the SLC responded to the City's request for an opinion. The SLC stood by their 1994 opinion that a small **temporary** seal reserve would not violate the 1933 trust and urged the City "to exercise its responsibilities in a flexible, balanced and thoughtful manner." However, the SLC did not address the City's inquiry concerning seals at the Children's Pool.*

And again From the CCC hearing in March 12, 2001 Application 6-00-126

Under STANDARD CONDITIONS:

5. Terms and Conditions Run with the Land *These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.*



Consideration D: ...with the amended 1931 Chapter 937 deed of trust

The language of the Trust was clearer before the City asked the legislature to amend it in 2009 to add the stipulation there be a marine mammal park as well as public park, bathing pool for children, playground, and convenient access for fishing. Still, it is clear it calls for the City Policy of Shared Use to be preserved.

The Trust was subject of a 2 year lawsuit (O'Sullivan vs. San Diego) to compel the City to live up to the Trust terms; all of them. The City was to claim the items listed as exclusive uses were choices or other uses could be substituted, and it lost. The City lost on appeal. An appeal to the State Supreme Court came back, not a word changed. San Diego paid legal fees to the lawyer who brought the suit of about a million dollars. Then the trust was amended to include the marine mammal park and the judgment against the City to restore the Pool, and likely lose most of its seals was stopped. Judge Taylor noted in vacating the court orders that would impact the "marine mammal park", that the other decisions in the case had been correct.

Rope barriers across that beach are nothing new. Note the following from the 2005 Pate decision:

The next biggest cause of actual or constructive closure of the Children's Pool was the City's decision to erect a rope barrier cutting off public access to the Pool. On March 29, 1999, the City Council rejected the City Manager's recommendation to dredge the Pool and restore the Pool to the uses set forth in the Grant, and instead voted to rope off the Pool. In doing so, the City breached its obligations under the Trust, as trustee of the Children's Pool. Instead of returning the Pool to its original and safer configuration and also rectifying the unhealthy condition of the water and sand at the Pool, the City barred the use of the Children's Pool as a "public park, bathing pool for children.... and [use for] playground and recreational purposes," as expressly required by the 1931 Trust. The rope remained up from March 1999 until September 17, 2004.

Besides the official barrier established by the City to deny public access to the Children's Pool, the general condition of the Pool area, with seal feces in the sand, the occasional dead seal rotting on the beach until washed out to sea by a high tide, and the presence of warning signs, all served to deter the public, beneficiaries of the trust grant, from using the beach.

The State as trustor is bound as is the trustee, San Diego. Both are bound by that trust to apply the requirements of public access to the sidewalk and stairs and existing beach access ramp. Also from the O'Sullivan decision:

Plaintiff also contends that "Pro-seal activists" have been permitted by the City to conduct themselves in a manner that effectively denies access to the Children's Pool to swimmers, fishermen and other users of the Pool, beach and adjoining areas. The evidence shows that certain individuals have engaged in uncivil, and on occasion, illegal conduct. They have stalked intended users of the Pool with cameras and other devices in order to heckle and harass them. (Exh. 403.) There have been instances of verbal and physical abuse and violence. On several occasions, the San Diego Police have been called to the scene. One person, in attempting to discourage people from using the Children's Pool, has been arrested at least twice and is the subject of three restraining orders from this court. Private parties requested two of them and City lifeguards on duty at the Pool requested the other. That restraining order was issued in July 2005.

The City continues the violations of the trust today and wants the Coastal Commission to take the responsibility for its actions.



Consideration E: .. rules established by the Department of Agriculture for all marine mammal parks.

When asked for a legal opinion if the City had to declare the Children's Pool a marine mammal park because it was so put into the Trust, the City Attorney wrote simply: "The term is not defined in the statute". But the term is defined outside the statute. Children's Pool is a marine mammal park of the sort designed to attract tourists to view the seals and is so is a wildlife exhibit.

From: http://awic.nal.usda.gov/nal_display/index.php?info_center=3&tax_level=1&tax_subject=180
Zoos, circuses, and marine mammal parks are regulated under the Animal Welfare Act and its regulations and inspected for compliance on a regular basis. Wildlife is not regulated unless exhibited to the public or used in research or teaching.

Are our seals used in teaching? The trust specifies "a marine mammal park for the education and enjoyment of children". Are they exhibited? By any definition of the word.

On that same USDA website one finds Animal Welfare Act Guidelines for County and State Fairs wherein it states, *Entities that exhibit certain animals must be licensed as Class 'C' licensees by USDA's Animal and Plant Health Inspection Service (APHIS). Under the AWA, an "exhibitor" is defined as an individual or business that:*

- *Uses animals in educational presentations.*

Class 'C' licensees include: • *Marine Mammal Parks*

Does the exhibit of seals at Children's Pool involve financial gain? Over and over Children's Pool has been defended as a lucrative tourist attraction the City cannot afford to do without. People stand behind ropes, fences and guardrails, monitored by a Park Ranger, to look at animals. That is an exhibit.

Sea World is defined as a marine mammal park, as are the facilities of all members of the International Alliance of Marine Mammal Parks and Aquariums.

7 USC § 2133. Licensing of dealers and exhibitors

The Secretary shall issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe and upon payment of such fee established pursuant to 2153 of this title: *Provided*, That no such license shall be issued until the dealer or exhibitor shall have demonstrated that his facilities comply with the standards promulgated by the Secretary pursuant to section 2143 of this title:

§ 2143. Standards and certification process for humane handling, care, treatment, and transportation of animals

(a) **Promulgation of standards, rules, regulations, and orders; requirements; research facilities;**

State authority

(1) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors.

§ 2145. Consultation and cooperation with Federal, State, and local governmental bodies by Secretary of Agriculture

- (a) The Secretary shall consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition,

Approval of a permit for a permanent barrier for people to stand behind and look at seals requires a permit from USDA. San Diego is expecting the Commission to justify and obtain this permit?



Consideration F: "buffer created between people and seals"

The Coastal Commission sometimes sets aside land as a "buffer". Specific instances are in the Coastal Act, but no definition of what a buffer is, but that it might minimize conflicts between uses. (30231)

For conservation purposes: *A buffer zone is intended to avert the effect of negative environmental or human influences, whether or not it embodies great natural or cultural value itself. The importance and function of a buffer zone and the necessary protective measures derived thereof is a relatively new concept in conservation science and can differ greatly for each site.*¹

Any way you cut it, a buffer is supposed to separate people from something and in this case, between the high tide line and the shore where seals would be. That cannot stand as a Coastal Commission action, yet on appeal, this buffer was found by the local Commission office not to "result in adverse impacts on public access". (A-6-LJS-10-009) and quoted the City *"The rope barrier is a clear indicator to the public to keep an appropriate distance from the seals, while at the same time allowing the public to access the beach and water."* This is a special kind of buffer, designed to change and restrict people's use of the beach but not to do it really, and needs its own definition as buffers ordinarily are supposed to have an effect.

And in the next paragraph it is restated *"Thus, while the rope barrier would provide a buffer between people and the seals, it is not intended to prevent access to the beach or the ocean."* This convoluted logic and stated purpose that contradicts planned intent in San Diego's local permit for a single beach is one thing. The California Coastal Commission in defining a buffer this way, to justify a perpetual barrier will introduce statewide chaos as other communities find it beneficial to bypass local established land use procedures in their Local Coastal Plan.

¹ [^] Ebregt, Arthur and de Greve, Pol, *Buffer Zones and their Management: Policy and Best Practices for Terrestrial Ecosystems in Developing Countries* (Wageningen: Netherlands Ministry of Foreign Affairs, 2000)



Consideration G: The purpose of the rope cannot include...

Arguments have been made that San Diego must go to extraordinary lengths to protect seals from any possible harm or inconvenience because of the ascendancy of the Marine Mammal Protection Act. (MMPA) But neither San Diego nor the Coastal Commission may interpret or enforce federal law, and not this one in particular.

Section 109. (a) — *No State may enforce, or attempt to enforce, any State law or regulation relating to the taking of any species (which term for purposes of this section includes any population stock) of marine mammal within the State unless the Secretary has transferred authority for the conservation and management of that species (hereinafter referred to in this section as "management authority") to the State under subsection (b)(1).*

The section in the Marine Mammal Protection Act disallowing state laws concerning the taking of marine mammals has been judged to allow state laws protecting such animals on a state level to stand – as state laws for state purposes. A State action to protect seals cannot have anything to do with federal concerns but must stand on its own. Thus, San Diego and the Coastal Commission must show why California has a compelling reason to take action to give public beaches over as exclusive seal viewing arenas to the detriment of public access. It is yet to be done.

When San Diego was under court order to restore Children's Pool to public use, it tried to find reason it could not. It cited federal problems. The Southwest Regional Office of National Oceanographic and Atmospheric Administration sent San Diego a letter stating it could remove the seals if it wanted, and no permit would be required.

The burden remains on San Diego to show why building up a colony of animals on a public beach to the detriment of the beneficiaries of its trust, forever diminishing the access to the shore for them and their heirs is a necessity for the State of California.



Consideration H of the O'Sullivan vs. San Diego case decision

As mentioned above, the O'Sullivan case (No. GIC 826918) demonstrated all the way to the State Supreme Court that San Diego did not have the authority to violate the 1931 trust grant that created Children's Pool. The decision resulted in 2 court orders:

1. To force the City to remove 3000 cu yds of sand to restore the Pool to its as granted condition, suitable for a "bathing pool"
2. To make the water clean enough to pass state health department standards for public swimming.

The burden assigned to the City was its own plan in 1999 to take out built up sand, and remove barriers to public access. After the trust was changed to add a marine mammal park, the orders were vacated because they would drastically effect the seal population and so the marine mammal park. The judgments themselves were not vacated – only the City's chosen methods to restore public use were disallowed. There could not be restoration of the previous sand level, the water contamination problem could not be solved by dispersing seals. Judge Taylor who vacated the "sand dredging" and "seal deterrence" plans also stated the other decisions in the O'Sullivan case had been correct. So the City was still in violation, it just could not use its preferred remedy and lacked another. San Diego has now gone further in violation of the Trust, but wants the Coastal Commission to shield it by taking responsibility for a permanent barrier across a beach earlier found to be on the wrong side of State Law.

It is worth repeating one of the finding in the O'Sullivan Case here:

"The next biggest cause of actual or constructive closure of the Children's Pool was the City's decision to erect a rope barrier cutting off public access to the Pool. On March 29, 1999, the City Council rejected the City Manager's recommendation to dredge the Pool and restore the Pool to the uses set forth in the Grant, and instead voted to rope off the Pool. In doing so, the City breached its obligations under the Trust, as trustee of the Children's Pool. Instead of returning the Pool to its original and safer configuration and also rectifying the unhealthy condition of the water and sand at the Pool, the City barred the use of the Children's Pool as a "public park, bathing pool for children.... and [use for] playground and recreational purposes," as expressly required by the 1931 Trust."



Consideration I:completely review the barrier situation at Children's Pool

The original rope barrier came about as a series of temporary single year "pupping season" installations. Each required an emergency permit and two were forced by lawsuits with injunctions that conveniently kept the rope in place until past May 15, after which the lawsuits were dismissed. The dismissals validated the court orders against the rope barriers, too late. The City then hit on the term "temporary advisory rope barrier in perpetuity" and sold it as that under its jurisdiction; jurisdiction which it did not turn out to have.

The Commission is looking at accepting a new permit under its own jurisdiction which is a forever version of a local permit. Some things were accepted as San Diego's prerogative to inflict on itself that would not meet state wide acceptance. A touch of that was presented in Consideration F.

Note in A-6-LJS-10-009 it was asserted *"Again, the intent of the temporary buffer is not to keep the public from reaching the beach or ocean at Children's Pool, but to provide a buffer to help protect the seals hauled out on the beach during pupping season"*. However, a look at the map that accompanied this permit shows a rope parallel to the shore. Seals can be anywhere but most likely close to the water. The only way people can be kept from between the rope and the seals and reach the ocean would be if the rope were turned the other way to split the beach in two. The Commission needs this resolved instead of making the absurdity its own.

Also included was the statement: *Relative to the harassment, one of the reasons for placement of the temporary rope by the City is to reduce these types of issues by directing people to maintain a safe distance from the seals as they access the beach and ocean. While it is correct that the City permit does not include provisions to specifically address these issues, this is an enforcement issue that is beyond the scope of the permit and is more appropriately addressed by local law enforcement and thus, does not raise a substantial issue.*

But that statement has not proven to be true. Local police are helpless. There is no defined "a safe distance from the seals". The rope has become a line in the sand to fight over. The rope has caused more problems than it solved. Divers and swimmers have discovered the seals like to play in the water and the Pool has become an attraction where seals and swimmers happily interact. Nobody has been bitten by a seal at Children's Pool, and the notion mother seals are aggressive has been shown to be untrue.

Every justifying assumption has proven wrong, yet the City wants more of the same, forever safe from review. The Commission needs proof from San Diego that rope barriers have the value the Commission was lead to believe they would. Certainly those assumptions need to be in writing in the permit body, and subject to verification within a given timeframe, not blindly cast in concrete forever.

Note another statement *"In addition, existing vertical access (concrete stairs) would remain unchanged by the project."* The Coastal Commission does not define vertical access as up and down stairs to sand. It is defined as from the road all the way to the shore. One cannot reach the shore without crossing the rope and the buffer. That rope barrier is an encroachment just as the San Diego Planning Commission said it was.

Another statement: *"The La Jolla Community Plan does not envision the Children's Pool as an improved recreation area and, therefore, the placement of the rope would not conflict with long range recreation plans for the area."*

However the State Trust clearly states the beach shall be a public park and playground **forever**. Plans are underway to replace and improve lifeguard, shower and restroom facilities within the trust boundaries.



Consideration J: ...bring an end to unpermitted business activities on the easement of our beach....

If the Coastal Commission has jurisdiction over any property then it has jurisdiction over the access easement as well. The Commission is bound to uphold the 1931 land grant Trust, as a State Agency as is every other California entity. That Trust contains stipulations as to the use of the land, and in the body of uses, it lists "parkway and highway". That does not mean the City might pave the beach – it refers to Coast Blvd, which is not only the easement, but under control of the CCC by being in the Coastal Overlay Zone.

The Coastal Commission granted San Diego a permit for a rope barrier 5 months a year in perpetuity on the premise it would not be an impediment to access because San Diego said it was not intended to be one. It is right there in W26b-3-2010 in more than one place. The the Commission cannot allow a special interest group to operate with the City's tacit approval to harass, heckle, yell at or block passage to the beach. But they do. If a country club wanted to keep its beachfront solely for its patrons and brought thugs to frighten away ordinary citizens, would the Commission dismiss that as a "behavior problem"? What if they stationed people above a beach to deride beachgoers with a bullhorn, telling them it was illegal to pass?

Would the Commission ignore reports that the local authorities refused to prevent a band of surfers from intimidating everybody else off a beach? We hope not.

The Commission showed a great amount of trust to grant a 5 month barrier permit "in perpetuity" based on the word of the applicant it would maintain it somehow without letting it result in an impact on beach use. San Diego does not maintain the easement free of obstruction and intimidation and has so violated the premise, believing at the time, its permit could never be reviewed by ordinary means because it had jurisdiction, meaning it controlled what violations could be looked in to and which can be ignored. We have shown the Commission two examples of this including where San Diego maintains a gated and locked historical public access route thinking it is safe from investigation because the City claimed jurisdiction. No more.

If the Commission cannot do anything about denial of vertical access to the shore by a collusion of City officials and a special interest group devoted to beach closure, and if the Commission is at a loss because the local authority prefers not to enforce its own codes or the Coastal Act, then the Commission will have no authority at all.

All we ask is that existing statutes be enforced by the City's existing codes, for signage and vendor table permits on the fee title easement to our public beach – statutes violated all the time by sidewalk vendors. Most illegal vendors would comply, were the law applied evenly, or at all. It is up the Coastal Commission to act where local government fails to uphold the Coastal Act.



Consideration K: The use of a waiver....

The waiver by which this permit comes before the Commission is under an obscure section of law 14 CCR 13053 being pulled up now to help San Diego out of a jam of its own making. It is going to put the Commission into a jam. Allowing 13053 to be used will set the precedent that the Executive Director or someone acting on his behalf can turn the approval process around so the Commission has to act on permits without the benefit of prior scrutiny by local land use officials. There is no record or report required. If this is allowed to be used, every Commission meeting will have to begin with asking if local authorities have completed their permit process first, or there will be no way to know.

All Commission meetings start now with a district report of regular and de minimis waivers issued. Waivers granted under 13053 would not be required to be reported, as would this one, were citizens not watching this time. A California Public Records Act request for the last 10 such waivers issued in S. California was answered by CCC San Francisco Dec. 22, 2011. *".. we were unable to locate any records responsive to your request and do not believe that there are any such records."*

This waiver was requested because the City had not acted on its Site Development Permit. And it had not, because its own Planning Commission had unanimously rejected it. The Planning Commission was then sued by a disgruntled animal rights activist who had successfully lobbied for the permit in the first place. Rather than legally defend the integrity of San Diego's land use procedures, our City Attorney introduced the jurisdiction issue and shifted the burden onto the Coastal Commission.

§ 13053. Where Preliminary Approvals Are Not Required.

(a) The executive director may waive the requirement for preliminary approval by other federal, state or local governmental agencies **for good cause**, including but not limited to:

- (1) The project is for a public purpose;
 - (2) The impact upon coastal zone resources could be a major factor in the decision of that state or local agency to approve, disapprove, or modify the development;
 - (3) Further action would be required by other state or local agencies if the coastal commission requires any substantial changes in the location or design of the development;
 - (4) The state or local agency has specifically requested the coastal commission to consider the application before it makes a decision or, in a manner consistent with the applicable law, refuses to consider the development for approval until the coastal commission acts, or
 - (5) A draft Environmental Impact Report upon the development has been completed by another state or local governmental agency and the time for any comments thereon has passed, and it, along with any comments received, has been submitted to the commission at the time of the application.
- (b) Where a joint development permit application and public hearing procedure system has been adopted by the commission and another agency pursuant to Public Resources Code section 30337, the requirements of Section 1 3052 shall be modified



accordingly by the commission at the time of its approval of the joint application and hearing system.

(c) The executive director may waive the requirements of section 13052 for developments governed by Public Resources Code, section 30606.

(d) The executive director of the commission may waive the requirement for preliminary approval based on the criteria of section 13053(a) for those developments involving uses of more than local importance as defined in section 13513.

(e) The executive director shall waive the requirement for preliminary approval when required pursuant to Government Code section 65941(c). NOTE: Authority cited: Section 30333, Public Resources Code. Reference: Section 30620, Public Resources Code; and Section 65941, Government Code.

The waiver request was made "*....since the City has not acted on that SDP*". That would place it under section (4) above. The Applicant made that request, not the Agency, and the City did not refuse to consider the development, but did consider it through its Planning Commission which found it a violation of the Coastal Act, fair and square. So now the Commission is looking at a retread of that failed permit request, and if the CCC approves it, the City guardians will have a difficult time rejecting a CCC pre-approved permit, so it will steam roller through.

Why is the Commission being put in this position? What is the "good cause" that 13503 requires the Director to take action? Why is it a good idea to accept this tangled mess dropped on the Commission without benefit of analysis by local land use procedures?

San Diego has made a muck of its jurisdiction over the only man-made beach in California trusted to the Children of California. It should not be the job of the CCC to somehow fix this mess. It should be the job of the CCC to make San Diego fix it.

Send it back. There is no emergency. The seals and the citizens have gotten along without a perpetual year round rope barrier for 18 years. If the Commission missteps now, it could cost public access to more beaches in the future where a 13053 waiver can grease the skids of approval by skirting local safeguards.



Consideration L: The current rope barrier project must be consistent with requirements from the California Environmental Quality Act (CEQA).

The City of San Diego wrongfully determined the previous rope barrier projects as follows: **ENVIRONMENTAL DETERMINATION:** Categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15304 (Minor Alterations in Land Use) and 15333 (Small Habitat Restoration projects).

Section 15304, Minor Alterations in Land Use. This section does not apply because the City of S.D. failed to foresee the indirect effect the rope barrier will have on the population density of seals at Children's Pool (CP). The rope barrier will encourage more use of the area by animals and less use by humans thereby having a significant effect on the environment. In the 1990's, Sea World, (with City approval) began releasing rehabilitated seals into the La Jolla area for 11 years without an EIR. The resulting increase of seals in the 1990's using CP resulted in beach closure in September of 1997 "due to continuously high fecal coliform counts." A report later confirmed that the contamination was the result of "a seal excrement overload for the Children's Pool." This substantial evidence and other facts were revealed during the lawsuit, O'Sullivan vs. City of San Diego initiated in 2004.

Other sections which further support the previous paragraph are in **Article 20. Definitions:**

15358. EFFECTS

(a)(2) Indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect or secondary effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems.

15382. SIGNIFICANT EFFECT ON THE ENVIRONMENT

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

15384. SUBSTANTIAL EVIDENCE

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

Section 15333 Small Habitat Restoration Projects. This section does not apply because there is no habitat being restored by erecting a rope barrier.



Recommendations:

1. Do not allow the waiver under 13053.

San Diego City officials have had five years to come up with a plan to administer this beach equitably. It went to the legislature to amend the State land grant Trust and got everything it asked for. It came to the Coastal Commission to approve a 5 month forever rope barrier and got everything it asked for. It wanted a permanent structure restricting access on a public trusted beach and could not get it through review of its own Local Coastal Plan. This is a mess San Diego City Officials made and should resolve before asking for more special favors from the Commission. Simply stop, and have San Diego bring a workable plan through its own Local Coastal Plan safeguards like everybody else.

2. Reject the permit.

This permit flies in the face of all precedents and standards of the Coastal Act. It is obviously a structure encroaching on public access and designed to affect beach use. If not, it would be just a decoration. It was touted as a means to decrease hostilities. Instead it is a "line in the sand" pitting local groups against each other over an unenforceable barrier to public access.

3. Consult with the State Lands Commission and Department of Fish and Game.

This is not a local issue. It is responsibility of the CCC now and is a property created and trusted under State agencies. Without involvement of the required authorities, the Commission risks being reversed. The Marine Mammal Protection Act is not a factor. The Commission cannot consider actions to interpret or enforce federal law.

4. Go to the experts.

The Commission does not have the capability to unsnarl this in one session. San Diego City Officials have withheld information in their application and have made all decisions up to now around tourist money, emotion, seeking to pacify animal rights activists, avoiding lawsuits and pure politics. The five month rope permit was allowed on intents and assumptions that the Commission has no time to investigate. There needs to be a blue ribbon report from the standpoint of California law and real biological studies.

5. Consider alternatives San Diego discarded.

Community groups brought alternate plans to the San Diego Natural Resources and Culture Committee. The Chair called a special session misusing her ability to set agenda to force a yes or no vote on the escalation of rope barrier terms given her by animal rights activists. That made one plan the only possibility presented to the City Council on 5/17/10. Now that the Coastal Commission owns the jurisdiction it should consider options that were discarded and find some of its own and set conditions for compliance with the intent of the Coastal Act.

6. Impose conditions to meet minimal standards of the Public Trust Doctrine and Coastal Act.



Conclusions ratified at January 25th meeting of Friends of the Children's Pool. Joined by the San Diego Council of Divers, the Other La Jolla Swim Club and interested parties standing against encroachment and infringement of access to the shore at Children's Pool Beach, San Diego, California.

John P. Schlaefli

Scott R. Ardren

Ryan Sweeney

Kenneth L. Hunrichs

Butch Butler

KENNETH L. HUNRICHS,

Don Perry, Donald F. Perry

Michael Dong

Lois Zedewitz

Phyllis Minick

John Fisk

Robert J. Ewing

ROBERT J. EWING

Kent D. Trego

Kent D. Trego

Marie Hunrichs

Debbie Beacham

Melinda Werryweather

Johnson

Jean Perry

Charles R. Barringer

Richard Guarascio

Sam W. Pinn

Don A. B.

Dear California Coastal Commission,

I am writing in support of removing the Barrier rope at the Children's Pool Beach in La Jolla, San Diego. The presence of the seals is a wonderful tourist attraction and many years of shared use shows that the safety of the seals is not in jeopardy. There were more pups born last year than ever before and those of us who spend time down there know very well that the unique domesticated nature of these animals poses no threat to either the seals or humans. The on-site ranger is assigned as the enforcement mechanism on this beach... not militant animal activists who have no respect or regard for the law or our community. Their track record shows a long history of harassment, multiple law suits against the city and community members and even assault. This past weekend they lined up across the opening between the rope and the stairs blocking people from passing. These groups use the guideline barrier rope as a tool to lie to the public and say that the beach is closed which is in direct violation of the following...

Taken from...

<http://www.coastal.ca.gov/legal/new-laws-2009.pdf>

"SEC. 1. Section 1 of Chapter 937 of the Statutes of 1931 is amended to read:

(a) That said lands shall be devoted exclusively to public park, marine mammal park for the enjoyment and educational benefit of children, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incident to, or convenient for the full enjoyment of such purposes.

(b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California."

The following piece regarding multiple use is taken from...

<http://www.fgc.ca.gov/policy/p4misc.aspx>

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SAND BEACH DISTRICT

"MULTIPLE USE OF LANDS ADMINISTERED BY THE DEPARTMENT OF FISH AND GAME

It is the policy of the Fish and Game Commission that:

Lands under the administration of the Department be made available to the public for fishing, hunting or other forms of compatible wildlife dependent recreational use, and for scientific studies whenever such use or uses will not unduly interfere with the primary purpose for which such lands were acquired.

For the purposes of this policy, undue interference shall not mean that hunter and angler access to properties that would otherwise be available for access for passive recreational activities (i.e., bird watching, interpretive tours, etc.) is deemed to be necessarily incompatible. Further, hunting and fishing shall not be banned simply because a Department administered land was acquired primarily for the protection of various threatened and endangered species unless it can be clearly demonstrated that such activities would be likely to have a detrimental effect on listed species on the property in question."

Of course the above quote is even more applicable considering the trust verbage ensures "the absolute right to fish" and "bathing pool for children".

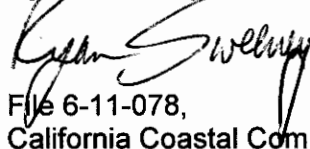
Lastly, there is the topic of the newly implemented MLPA closures. Two thirds of La Jolla's coastline is no longer open for fishing as of January 1, 2012. The Children's Pool is an important access point for both consumptive and non-consumptive divers. Within the very small remaining 1/3 of La Jolla's open fishing area this beach is one of the only consistent safe entry points. Allowing access at this location is not only the law, but is the right thing to do for both the people and the seals.

Please do not give these militant environmental activists any more power to push their agenda that the community does not want. The seals are fine, Shared use works just fine according to the scientific studies. It would be nice if both the pro-access and anti-access groups would disappear and return this beach to the valuable gem it is for our community.

Thank you for your time and consideration.

Best regards,

Ryan Sweeney



File 6-11-078,
California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103,
San Diego, CA 92108-4402

Phyllis Minick 5860 Cactus Way La Jolla CA 92037 pminick@aol.com

California Coastal Commission
San Diego Area
ATTN: Melissa Ahrens, Coastal Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

January 20, 2012

Subject: Proposed Year-Round Rope, Children's Pool (aka Casa Beach), La Jolla, CA
FILE 6-11-078
Applicant: City of San Diego

To the California Coastal Commissioners:
Dear Commissioners,

In wanting to know you better, I've read your brief biographies and come to understand how fortunate we Californians are for your dedication to public service. As scholars, attorneys, environmental activists, educators, artists and successful entrepreneurs – just a few qualities among your wide range of skills and accomplishments -- you represent our best hope for lawful and wise decision-making about our coastal issues.

Regarding local rulings: the LJ Community Planning Association, on September 2, 2010, heard public testimony and deliberated fully about the proposed permit for a Year-Round Rope at La Jolla's Children's Pool. The trustees took two actions:

- **Denied** that a "Rope Barrier" should remain in place year round on the Children's Pool Beach, because the "Rope Barrier" creates more problems than it solves, and no Coastal Development Permit was found to allow this barrier. Passed 10-1-2
- **Rejected** the City of San Diego's determination that The Children's Pool Beach "Rope Barrier" Project is categorically exempt from CEQA Guidelines. Passed 11-0-2

The City of San Diego Planning Commission at their December 9, 2010 hearing agreed with the LJCPA's position and, with a vote of 7-0, **denied the City Park & Recreation Department's request for the permit.**

Regarding the law: Tidelands Trust (CH 688), the California Constitution (Article 10), and the California Coastal Act (Sections 30210 through 30213, Sections 30220, 30221) and the City's own Local Coastal Program all guarantee public right-of-way to coastal waters. **Any barrier restricting coastal access violates all these laws, statutes and practices.** A sign bearing the City of San Diego seal marks the entry to the Children's Pool and states, "This beach is open to public access at all times."

Regarding animal protection: **Seals are not an endangered species at the Children's Pool.** "Scripps oceanographers documented the harbor seal population in La Jolla as stable at 150-200 seals, with a migrating population of ~500 (Prof J. Moore & T. Linder, SIO, U-T report 5/24/10)." In 2011, 45 seal pups were born at the Children's Pool -- an all-time record birth rate there -- along with a large increase in the number of swimmers, divers and beachgoers at that beach.

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Regarding the Founder's intent: No Children's Pool beach existed until EB Scripps donated the funds, ordered the work and created a sea wall that caused a sand build-up. In return, the State of California and City of San Diego guaranteed human use of that beach in perpetuity, as documented in an enduring trust.

"The name says it all... The Children's Pool was created specifically for the children to learn ocean swimming and appreciation of a wonderful water resource.

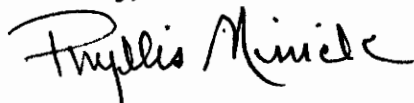
Occasionally, the events of our daily lives force us to take action to preserve the rights guaranteed to us under law and by historical tradition. The Children's Pool is just such a cause. It combines the aquatic education, outdoor recreation, clean water and environmental responsibility -- all equally under attack (at present). Designed, built and dedicated by the namesake and benefactress of La Jolla, Miss Ellen Browning Scripps, for the specific purpose of aquatic education and recreation and the natural appreciation of the environment, challenges by radical environmental groups, i.e., seal activist groups, falsely target this resource.

We feel it is our duty as citizens and ocean enthusiasts to hold the line against radical extremists that would destroy our traditions, dramatically degrade the environment and violate the Trust, in rule of law, which has recently been upheld in court (**La Jolla Historical Society, see BREACH OF FIDUCARY DUTY, page 27**). ***A bronze plaque above the stair entry stairway states,***

**The Children's Pool
Given By
Ellen Browning Scripps
"As a Gratuity to Children"
Dedicated June 1, 1931**

As I review the Commissioners' outstanding credentials in the law and environmental protection, I urge each of you to consider – in that context – the foregoing reasons to deny this or any permit for a rope barrier at the Children's Pool. This beautiful site has room for everyone – any barrier prevents openness and freedom.

Sincerely,



Phyllis Minick

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JAN 20 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Clement P. Hoffman
5503 Calumet Avenue
La Jolla, CA 92037

FILE 6-11-078
California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

Re: Children's Pool Rope

1/19/2012

Dear Commissioners,

I have been a resident of La Jolla since 1972. I practiced medicine in San Diego for over thirty years. My wife and I raised our children at the Children's Pool.

I am a strong opponent of any rope barrier at all on the Pool. I believe strongly that this protected access should be available for people all year long with no rope restriction. The seals have a huge coastal habitat which they can use.

I attended the Planning Commission Meeting where the Commission voted down 8-0 the City's request to place the rope barrier across the pool year round. The Planning Commission clearly saw the threat to public access to the ocean, which is protected by the Coastal Act.

Now the City is trying to go around the Planning Commission and against strong community support for public access. This is simply arrogant

disregard for the public in favor of a small but highly vocal and well-funded group of animal activists.

I urge the Coastal Commission to remove the rope barrier completely.

Yours sincerely,

Handwritten signature of Clement P. Hoffman, consisting of a stylized 'C' followed by 'P. Hoffman' and a long horizontal flourish.

Clement P. Hoffman, MD

MA
California Coastal Commission
San Diego Coast District
7575 Metropolitan Dr. Suite 103
San Diego, CA 92108-4402

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JAN 20 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Ref:
File # 6-11-078

To those interested in a fair decision concerning the Children's Pool in La Jolla.

The seals have enjoyed this beach for over 20 years (rent free) and I feel they need to move on to fresh waters where no negative energies are surrounding them. Many adults feel the pinipeds need to be protected by humans---I don't believe that is nature's way of supporting the mammals that live at sea, or on land.

The ocean is to be enjoyed by all, and especially by proponents of E.B. Scripps, who originally envisioned the Children's Pool to be used by families, and hence she had the 'sea wall' built for that purpose and a contract signed by the city.

So many of the humans that wish to "protect" the seals are from out-of-town, or who write letters undermining the FOCP, and do not pay property taxes or make the traffic/parking situation a priority.

As noted recently in local newspapers, the smell/stench from both the seals and the seagulls have contributed to an unhealthy and unnecessary condition around the coast and the Children's Pool environment. Fresh water coming either through the breakwater or opening it up entirely would allow the seals to choose freely as well as allow those who wish to enjoy the CP to do so.

Therefore, I highly recommend the California Coastal Commission to seriously investigate the merits of opening the beaches without any rope barriers that would reflect animosity and control by those who would "protect" the seals.

Submitted by:
Portia S. Wadsworth
living in BirdRock, La Jolla for 47 years.

Portia S. Wadsworth

01/15/12

California Coastal Commissioners

SD Coast District

7575 Metropolitan Drive

San Diego, Ca. 92108-4402

Re: Childrens' Pool Usage

I am a native San Diegan and I swim the Cove and bike all over town. In the few times I have swam into or out of the Childrens' Pool I have interacted with the harbor seals very favorably. When I am in the water they come up usually with a buddy and kind of play with you in the water. We, the swimmers and the seals get along well in the water.

In pupping season I am in agreement that the beach rope should be up out of respect for the birthing and rearing process—not a problem.

During the rest of the year I heartily favor mixed use. I have watched foolish people approach a seal on the beach and the seal retreats (you all call it a taking) to the water. The seal floats out; watches the beach and when it clears comes right back in and goes back to his or her nap. Very prudent behavior.

On many occasions I have asked and never received information as to how many seals have ever been hurt by humans and the Childrens' Pool? I am sure Mr. Pease and his disciples would have posted evidence and pictures of this. Absent this information and from my 30 years of ocean swimming and surfing I am absolutely convinced seals and humans can share the beach in the non-pupping months.

You need to go observe the behavior yourself and you will see how easy it is for the beach goers and seals to get along.

The fanatics that hang out there yelling at everyone are very intimidating to both man and seal.

Cheers to you all and I hope you do the prudent thing here.

Sincerely,

J. Otis Benton

(SD NATIVE :))

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JAN 18 2012

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SAN DIEGO COAST DISTRICT

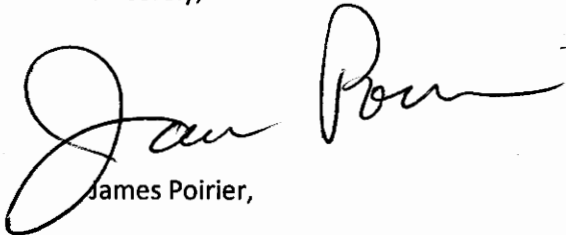
January 13, 2012

California Coastal Commission,

I strongly urge that you do not permit the rope at the Childrens Pool to stay up during the summer. It is a public beach and the rope is a way to restrict people from a public California beach. Please do not permit such an injustice to occur.

Thank you for thinking about the children and people of California.

Sincerely,

A handwritten signature in black ink, appearing to read "James Poirier". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "Poirier".

James Poirier,

Science teacher

tel: 858-456-1082

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JAN 17 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Raoul E Harpin
1251 Rhoda Drive
La Jolla, CA 92037

California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

In re: the roping of the Children's Pool beach

Dear People,

I am writing to express my opposition to the roping of the beach at the Children's Pool in La Jolla. Funds to develop the Children's Pool were donated by Ms Scripps in the 1930s to provide a safe beach for small children to protect them from the rip currents and undertows that are prevalent along the La Jolla coast. When my children were small we spent many happy hours at the Children's Pool playing in the water, on the sand, and exploring the tide pools year round, knowing that the children were safe from the frequently dangerous ocean conditions. I would like my grandchildren and other small children to be able to enjoy the same safe experience. There are many areas along the coast where the seals can safely establish colonies, including the rocks off La Jolla where they lived for many years before moving to the Children's Pool in the last few years. But there is no other place along the village coast where young children can enjoy the ocean safely.

Sincerely,



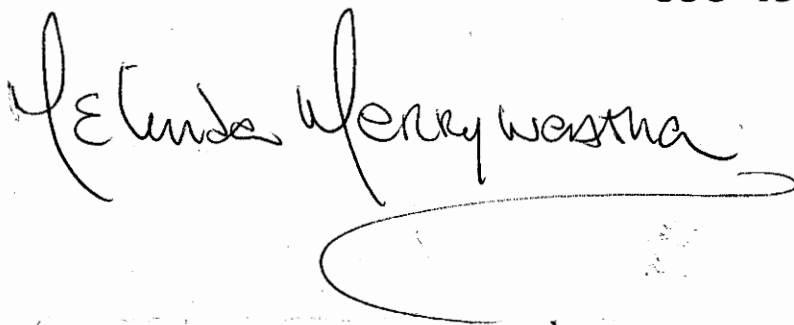
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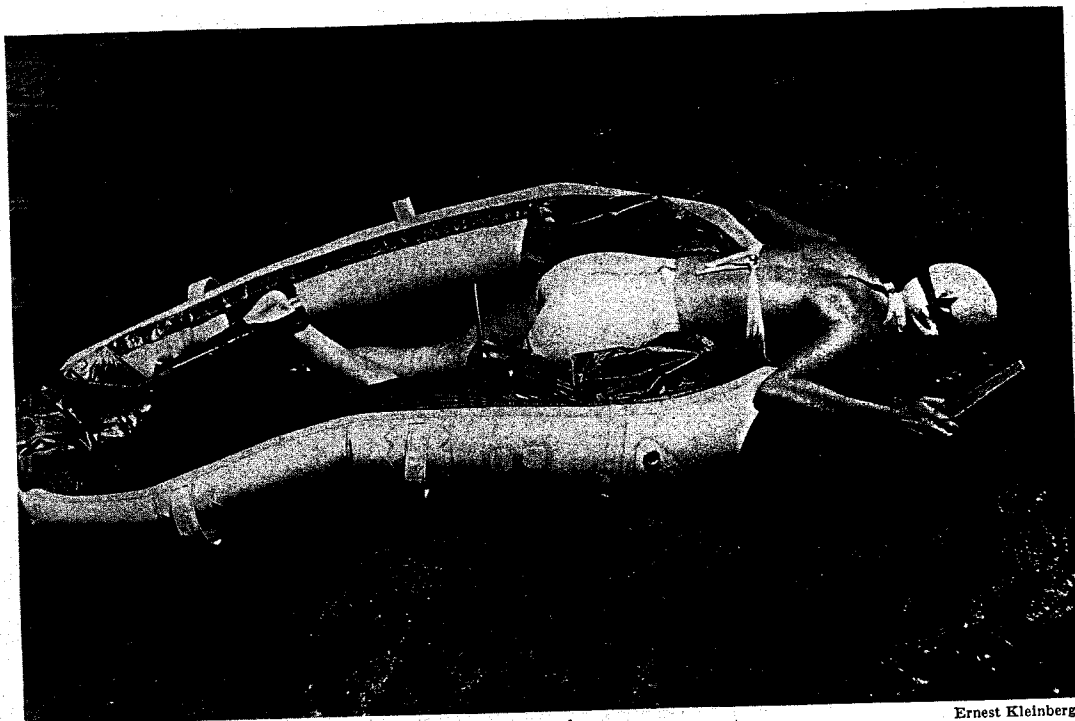
To who it may concern,I was raised in La Jolla,I learned to swim at the Children's Pool as did my Grandmother and Mother and I taught my Son to swim there, and believe it is my constitutional right in California to teach my Grandchildren to swim there,we are a community of swimmers,surfers,divers and fisherman,we can not even park at our own village beaches due to the fact over 2,000 people come a day to the all new FREE Sea World,with no parking,and the destruction of our public restrooms,the majority of people that come do not spend a cent in La Jolla,and we have to deal with the possibility every day that someone we know is going to be taken out by a shark,the lifeguard's will tell you,"if you want to be eaten by a shark swim with the seals".This is a man made pool there is nothing natural about having seals in a man made pool,this is also where diving in California began,this is our history,please give us our beach back and relieve us of the fear that one of us will be taken out by mistake. I never want to see a rope on my beach OR on any beach in California if you let this happen, there will be NO END TO IT up and down the coast.

Enclosed please find the National Geographic artical on the Childrens Pool.

Melinda Merryweather 522 westbourne St La Jolla Calif 92037
858-454-5939



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Ernest Kleinberg

Afloat in a Rubber Life Raft, She Scans the Pacific Depths for Rock-clinging Abalone

To avoid long swims and to rest between dives, many gogglers drift over the hunting grounds in such craft. Others use paddleboards or inner tubes. After sighting abalone through her face plate, the girl slips overboard and swims down to pry them loose with the flat iron bar fastened to her wrist.

an "ab" clamped down on his prying iron, which the goggler had carelessly tied to his wrist with a leather thong. Thereafter, he followed the usual custom of fastening the iron loosely to his wrist with a strip of inner-tube rubber.

Big Lobsters Are Protected

Knowing that abalone clamp down when touched, one waggish diver played a trick on his fellow gogglers. Finding a good bed of the mollusks, he tapped each abalone with his iron. When his companions tried to pry them loose they couldn't dislodge a single one! Noting the location of his private stock, the practical joker later returned to reap a rich harvest.

Gogglers find spiny lobsters good sport, and good food, too. Specimens bought in the markets are midgets beside those brought in by the Bottom Scratchers. One member tells a tale which would sound "fishy" if others had not verified it.

"This old granddad was so long I was afraid to tackle him," said the diver. "I stretched out my arms to measure him as he lay in a crevice on the reef, and I could just reach both arms wide enough to measure his length!"

Lobsters are protected by law; none over 16 inches or under 10½ may be taken (632).

Lobsters fall easy prey to an experienced goggler. Being a natural scavenger, the "spiny" can be tricked into revealing himself if tempted with a meal. Some gogglers use one hand as bait to lure the crustacean from his lair, then grab him securely as he emerges. Some, as if aware of the housing shortage, resist eviction by bracing their legs so firmly against the walls of their rocky homes that they cannot be captured.

Many fish are weird. An example is the "horned" bullhead shark (page 627).

"I spotted one of these ugly fellows under a reef," reported Lamar Boren, one of the Bottom Scratchers. "All I could see was a big red mouth and two long, white horns. I shouted for Jack, who was hunting near by. He dove, and came up laughing with the report that it was nothing but a bullhead shark."

"Jack has always wanted to catch one with his bare hands. So he handed me his spear and dove, surfacing a minute later with the brute thrashing around in his hands. He was holding it by the tail and one flipper (page 620). We put a stick in his mouth when

he'd take off for Honolulu again!"

Finally the huge fish was beached. It weighed in at 207 pounds. The catch caused excitement among local marine biologists, who identified it as the first broom-tailed grouper known to have been taken in California waters.

Since then, Prodanovich has speared and landed seven of these monsters, though none outweighed his first.

His last catch provided a dramatic reverse twist to the old "big one that got away" story. Off La Jolla he spotted a deep-sea behemoth lolling under a weed-covered shelf.

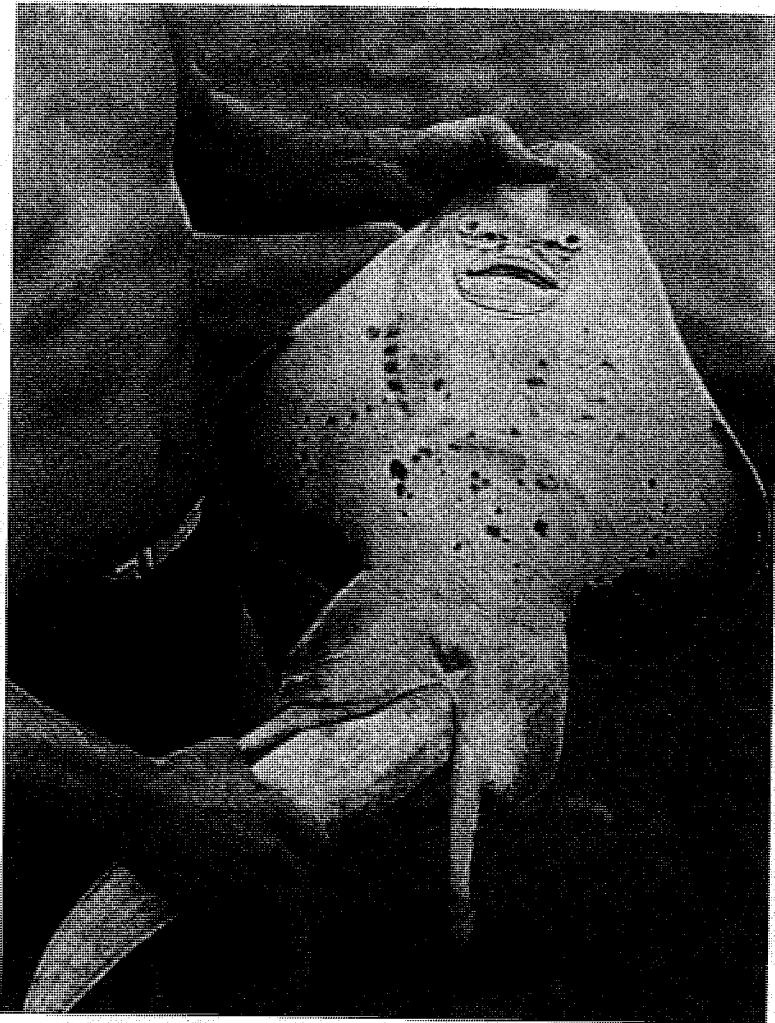
Another Big One

Aiming carefully, he drove his powerful, spring-driven spearhead into the creature. The line sang and zipped through the water as the fish took off. To his dismay, Prodanovich realized that the bass was taking his line *under* the reef—almost sure death for any line. And so it proved; the line soon parted, probably cut neatly by a piece of coral.

Sadly the champion spear fisherman returned to shore, with nothing but a broken line to testify to the big one that got away.

But he who laughs last sometimes is a good fisherman. One month later, Prodanovich again spied a big one. He knew that these big bass sometimes like to lie in kelp beds. Skirting one bed, he saw the tail of a giant protruding from the forest of brown weeds. Quickly he drove home his spear, aiming through the kelp at the fish's concealed body. Then began a fight which ended one hour later with Prodanovich the victor.

As he dragged the 112-pound gulf grouper onto the beach, Prodanovich gasped with surprise. *Two* spear points were embedded



Only Another Guitarfish Could Love Such a Face

Gogglers find these creatures, harmless, though of nightmare aspect, half buried in sand on the Pacific floor off La Jolla. Twin reproductive organs project from the fish's body near the root of the thick, powerful tail.

in the giant's back. From one hung the remains of the spear he had lost the month before, a remnant bent and twisted by the efforts of the grouper to dislodge the barb. Prodanovich had the last laugh with his "big one that got away"—almost (page 632).

Many jewfish, or black sea bass, have been caught by gogglers and hook-and-line sportsmen in the area (page 616). An inventory of the stomach of one specimen recently caught revealed five fishhooks, several feet of line, leaders, and a six-ounce sinker!

Abalone, a mollusk much admired for its meat, must be taken by surprise, for once warned of danger it clamps itself firmly to the rock and is very difficult to pry loose (page 631). One diver nearly drowned when



Barehanded, He Makes a Seagoing Toughie Say "Uncle!"

Spotted under a reef, this bullhead shark was pulled out by its fin and tail. Captors must beware of the fish's powerful teeth, designed for cracking mollusks, crabs, and other hard-shelled prey.

they decided to take a stab at the jewfish.

"Wally was to hit him on the right side, while I smacked him on the left," Jack told me. "We took deep breaths and dove. We had to swim farther than we anticipated, and Wally ran out of air, leaving me alone with this deep-sea citizen. I speared him just back of the head. Three prongs penetrated, and I saw them bend over at right angles.

"Mr. Jewfish suddenly remembered an appointment in deeper water and tore out of that channel like a PT boat, his tail whipping up a froth of sand and kelp en route. Our wives reported that the spear shaft went past them like a sub's periscope, bound for Japan. We didn't see big boy any more that year."

All winter the boys discussed strategy for

their spring and summer hunting. They designed stronger spears for their return bout with this Dempsey of the deep.

"One morning we were exploring underwater caves near the cliffs," Jack recounted, "when we met 'junior,' just a little fellow—maybe a hundred-pounder. Through a hole in a reef we peered right into his underwater nursery. All I could see was one of his big eyes—it looked like a flashlight! Just a little fellow!"

Two Years of Effort

They experimented with the idea of spearing him through the window in the rock. That didn't work—the spear just bounced off his armorlike scales.

For two years they experimented and failed in attempts to capture one of the giant fish. Finally they built a slip-point spear, powered with a high-tension spring, and prepared for the showdown.

In September, 1945, Prodanovich was cruising the waters off La Jolla on his paddle-

board; by his side lay his new spear, not yet tried in battle. Searching the depths, he suddenly caught his breath as a monster swam into view below him.

With his spear cocked for action, he dove. Within range, he struck, his spear entering the fish squarely between the ribs, completely penetrating its body. The goggler quickly surfaced, and mounted his paddleboard as the fishline from board to spearhead whipped the water to froth.

"He towed my heavy paddleboard as though it was a piece of driftwood," Jack related. "Sometimes both board and I were completely submerged. Finally the fish wore itself out, and I started the long tow to the beach. But every time I thought the sailing was smooth,



Three Fish Make Two Handfuls. Powerful Thrusts of Rubber-finned Feet Drive a Goggler Shoreward with His Catch
In his left hand the swimmer holds a halibut and a bass; in his right, another halibut, with spear attached to his wrist by a strap of inner-tube rubber. Some goggles tie fish to their belts.



Ernest Kleinberg

With Swim Fins to Boost Speed, a Quintet Takes Off in a Racing Start from a La Jolla Breakwater

Lovers of other water sports besides goggle fishing find fun at San Diego's seaside suburb. Homes, hotels, and apartment houses (background) overlook the Pacific. La Jolla is famed as the seat of the Scripps Institution of Oceanography.



Penny Hellyer

"I'd Be Just as Happy," She Says, "If You Had Left That One in the Ocean"

Yvonne Hellyer holds a starfish in one hand and with her other gingerly pokes an octopus brought in by a spear fisherman. Despite their reputation, the eight-armed cephalopods are not feared by California gogglers. Dangerous, however, are sting rays, with barbed tails, and moray eels that bite like marine bulldogs (page 623).

wind holds out, you then go down 20 feet for a spiny lobster—and they have been known to measure three feet in length!

Surely your prowess has been proved by now? Wrong. A final test challenges. You must seek bottom at 20 feet and bring up two sharks, one at a time! That test doesn't sound too formidable until you learn that said sharks are to be captured by the tail, *barehanded!*

At least two women divers have done it. Admittedly, the captives were harmless pointed-nosed guitarfish, frequently called shovel-nose sharks. They attain a length of four feet (page 621).

"I once grabbed one of these four-footers by the tail," said Jack Prodanovich, veteran goggler. "He was lying in eelgrass when I cinched onto him. He gave me a swell ride, jerking me through the weeds for about 10 feet before shaking me off!"

This same diver recently made goggling

history by spearing and landing single-handed what is credited with being the largest fish ever taken by a goggler.

A 500-pounder Lurks in Depths

"About four years ago, Wally Potts and I took our wives out fishing near the La Jolla caves," Jack related. "We were swimming 'battle formation,' about 50 feet apart, and I held the inside position nearest the cliffs. From experience, I knew we would swim over a channel where we usually found good fish.

"Suddenly I spotted a reef I knew didn't exist. The 'reef' moved, and I backed water and yelled for Wally. Together we peeked into the depths and spotted a monster—a black sea bass, or jewfish, that must have weighed 500 pounds!"

The boys held counsel of war. Armed only with five-pronged spears on short shafts, they must have felt like Don Quixote in his classic encounter with the windmills. Undaunted,



If Fish Could Talk, They'd Say, "Give Jack Prodanovich a Wide Berth!"

Off La Jolla, this king-sized black sea bass, or jewfish, was "knocked out" by a thrust of the goggler's spear. Prodanovich then mounted his stunned prize and paddled it ashore. Beached, the fish revived and struggled furiously until subdued. Its captor's spear has a detachable point with a long line for playing fish.

under water in half a minute! And even a dub wearing them can outdistance an Olympic champion."

These men who "live with fish" form a fast-growing group. Ten years ago the sport was virtually unknown, save to a few hardy individuals who made their own crude goggles and broomstick spears and explored the surf alone. By 1949 over 8,000 enthusiasts had joined the ranks in southern California alone, with other groups forming on Gulf and Atlantic coasts and in inland waters.

One manufacturer has shipped goggles throughout the world, and during the war sent them to RAF pilots in Egypt, to Pan American Airways employees in the Pacific islands, and to goggle enthusiasts in the East Indies. I saw members of our armed forces using California-made goggles on Waikiki Beach, Honolulu, and on Johnston, Kwajalein, Eniwetok, and Manus islands in the Pacific.

Most experienced goggles have their own

favorite fishing holes, secret spots in reef or surf where granddaddy lobsters lie, or where abalone or fish are especially large and abundant. A good skin diver can keep his family well fed on his submarine efforts. During depression times one goggler supported his family for two years in this fashion.

The Bottom Scratchers Club

Seasoned divers are the eight men comprising San Diego's unique Bottom Scratchers Club. Each is a veteran of several years' underwater fishing; each has passed rigorous tests. So difficult are these trials that only nine men have qualified for membership in the 15-year history of the group!

As a starter, you must swim alone through the heavy surf, navigating your way over a treacherous reef covered with razor-sharp coral and white with foaming combers.

Later you must dive in 30 feet of water, bringing up three abalone in one dive. If your

Goggle Fishing in California Waters

BY DAVID HELLYER

With Illustrations from Photographs by Lamar Boren

AS I slipped from the reef into deep, clear water off La Jolla for my first goggle-fishing adventure, my diving companion shouted a friendly warning:

"Prepare for a shock," he cautioned, swimming alongside. "Your first look at the ocean's innards will give you a jolt!"

My nose was tightly encased in the rubber housing of an unfamiliar face plate. I tried to inhale before submerging. This created a strong suction which pressed the mask against my cheekbones, but gave me no air at all.

"Breathe through your mouth," my colleague advised.

Swimming breast stroke, I gingerly submerged my head until the cool water lapped my ears. Instinctively, I kept my eyes shut. Half dreading what came next, I opened my eyes and—wonder of wonders! My goggle-fishing friend was right—my first impulse was to paddle for shore as fast as possible!

A Submarine Wonderland

Even Alice, fresh from Wonderland, would have gasped at the landscape spread below me. Long, brown tentacles of kelp, waving weirdly in submarine currents, appeared to clutch at me. Elgrass danced on the ocean's floor; every grain of crystal sand, each little animal and fish stood forth boldly like images in a stereoscope. First I was amazed, then enchanted; the spell never has been broken.

Color abounds along these reefs. Incredibly orange garibaldies, the goldfish of the sea, dart from rocky holes on the bottom. This inquisitive denizen frequently will swim to within arm's length of a goggler, his comical face gaping into the diver's face plate. Perhaps the goggler appears as ridiculous to the garibaldi as vice versa!

Acres of sea urchins carpet rocks and reefs, their purple and red spines at stiff attention like hatpins in grandma's pincushion. Sand dollars dot the ocean floor, partially buried and standing vertically like wheels from some abandoned prairie schooner.

Countless sea anemones blanket the reef walls like beds of chrysanthemums, their fingerlike tentacles waving a fatal invitation to small marine animals on which they feed. Spider crabs dart in and out of dark crevices, and pink and white starfish cling to rocks like decorations on a Christmas tree.

Occasionally a diver discovers a group of

strange, cone-shaped objects, like leather corkscrews four inches long, lying on the bottom. These are eggs of the ugly bullhead shark.

Tide pools teem with interesting specimens. Sculpins, "little old men of the sea," lie at rest on the bottom.

Tide-pool blennies swim jerkily from rock to rock, looking for a fight, for this pugnacious, eellike little fish always has a chip on his scaly shoulder. Sea hares, fantastic, sluggish specimens which look like animated puddings, slither over the rocks. An occasional long-jawed goby swims by. This mudsuckerlike fish will live out of water for a day or longer, if kept covered with damp seaweed. Fishermen covet them for bait.

Anchovies Flash Like Mercury

We were swimming in a narrow channel, walled in by reefs, in water perhaps 15 feet deep. A school of anchovies flashed by, their scales sparkling in the morning sun. In tight formation, they cut through the blue water like an errant river of mercury. Suddenly their ranks were shattered by a lightning-quick flash of white.

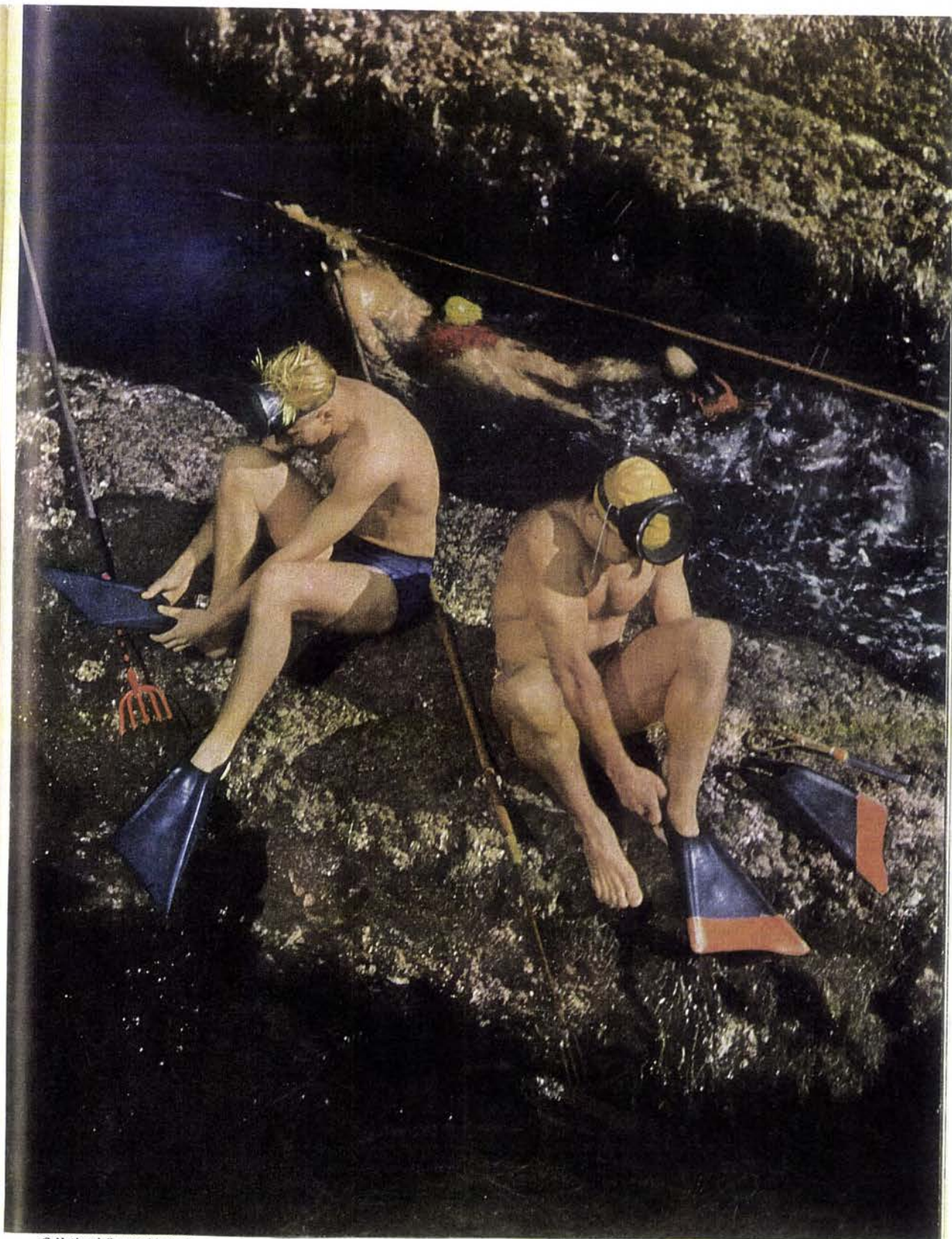
"Halibut feeding," my friend called, as he took a deep breath to dive. Down, down he swam, almost to the bottom of our private pool. Over a sandy patch in the weeds he poised his spear, then lunged the five-tined weapon into the sand.

A cloud of roiled water muddled his spearhead, and when the sand settled I saw that he had transfixed a beautiful California halibut, much prized by anglers and goggles alike as table fare.

This species, a member of the flounder family, is frequently taken by divers. One recently speared at La Jolla weighed 30 pounds, though commercial fishermen have taken specimens weighing up to 60 pounds. Pacific halibut may weigh 500 pounds!

My only equipment for this underwater adventure was a face plate and a pair of swimming trunks. But my experienced companion wore swim fins—black rubber "feet" somewhat suggestive of a duck's (page 625).

"Fins allow us to utilize the tremendous driving power in our legs," he explained. "The human foot is very inefficient in water because its area is so small in proportion to the muscle power of the leg. Wearing fins, a good 'skin diver' can travel 70 to 100 feet



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Ektachrome by Lamar Boren

With Heavy Rubber Fins, Gogglers Kick Themselves Down to Eerie Deep-sea Hunting Grounds

Two members of the Bottom Scratchers Club don their swim fins to explore the depths off La Jolla, California. A third (background) churns the surface of a rock-walled pool, ready to submerge when he sights his quarry. Fishermen, wearing rubber-and-glass face plates, carry five-tined spears. With prying irons (right) they dislodge abalone from rocks. To qualify for the club, candidates must capture two sharks, barehanded, in 20-foot dives.



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Ektachrome by Lamar Boren

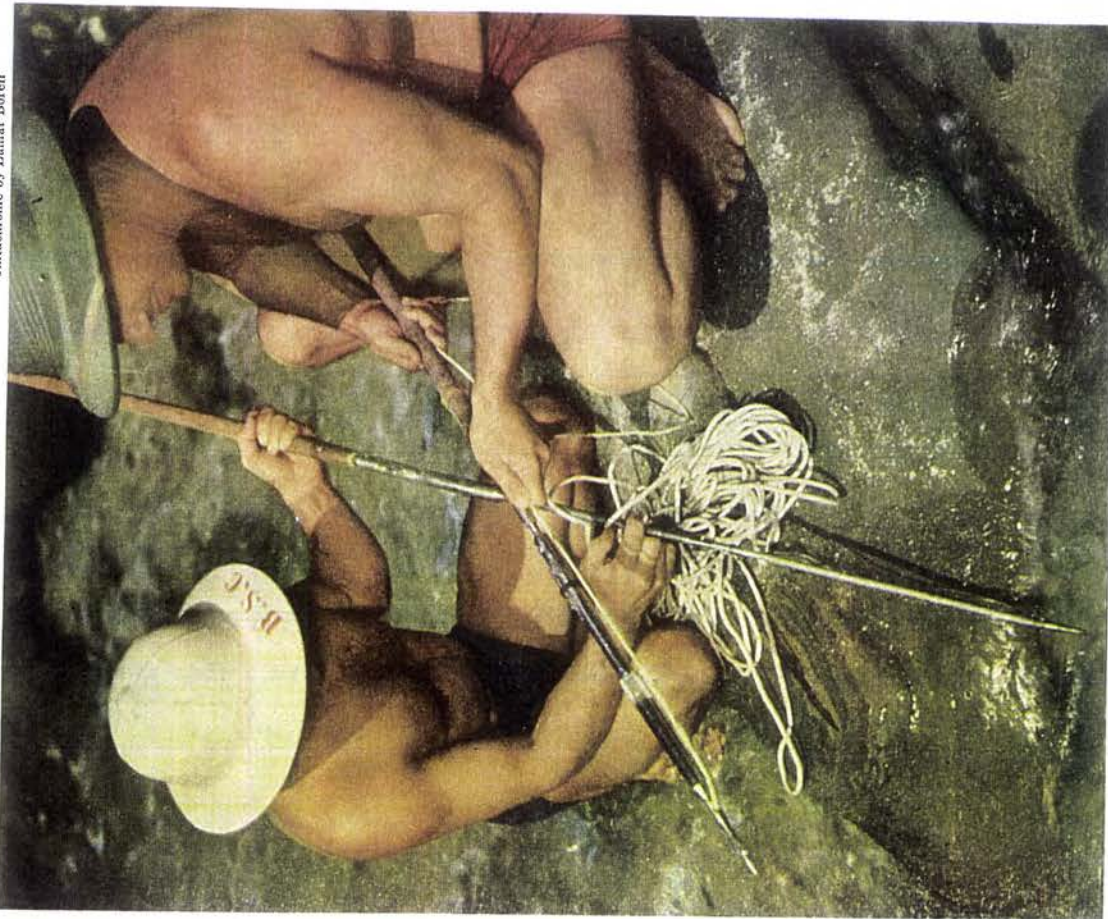
Web-footed Sportsmen, Spears Poised, Wade Out to Battle Marine Giants in Davy Jones's Locker

Within sight of La Jolla's hotels (right), "skin divers" plunge into boiling surf to capture big bass, halibut, sharks, and spiny lobsters.

With Gun Spears, These Underwater Hunters Seldom Miss
On contact with a fish, a .38-caliber shell drives the spearhead into the quarry.
The goggler hangs on by a line attached to the point.

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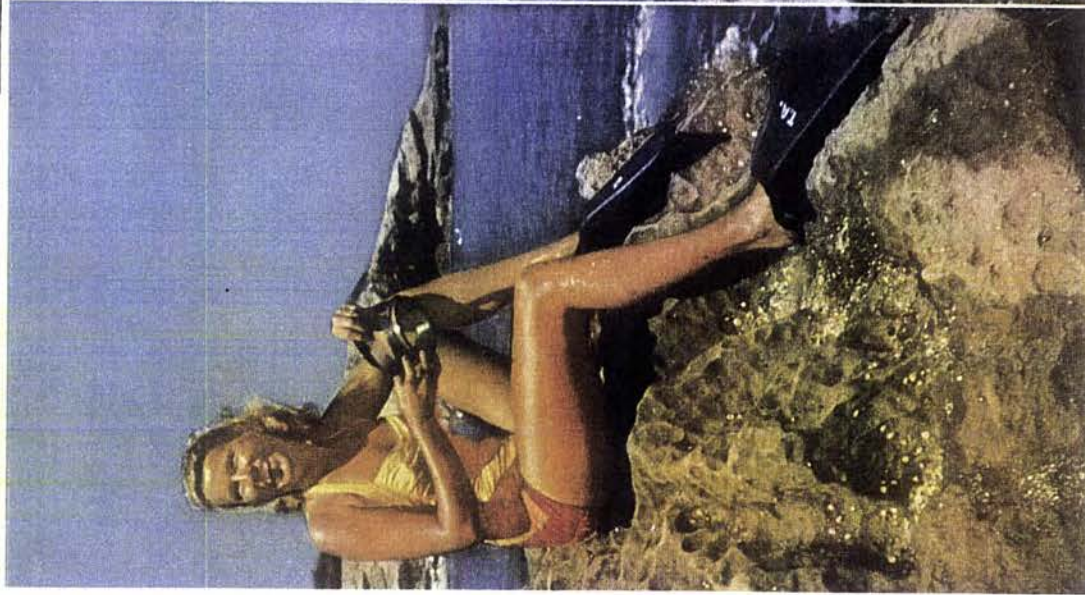
Photochrome by Lamar Boren



Behind Bullhead Shark's Silly Grin Are Powerful Teeth
Erect spines on its back gives this creature another name—horned shark. Gog-
glers call it the "fish with the lipstick mouth." It was caught by hand.

Photochrome by Mrs. Lamar Boren





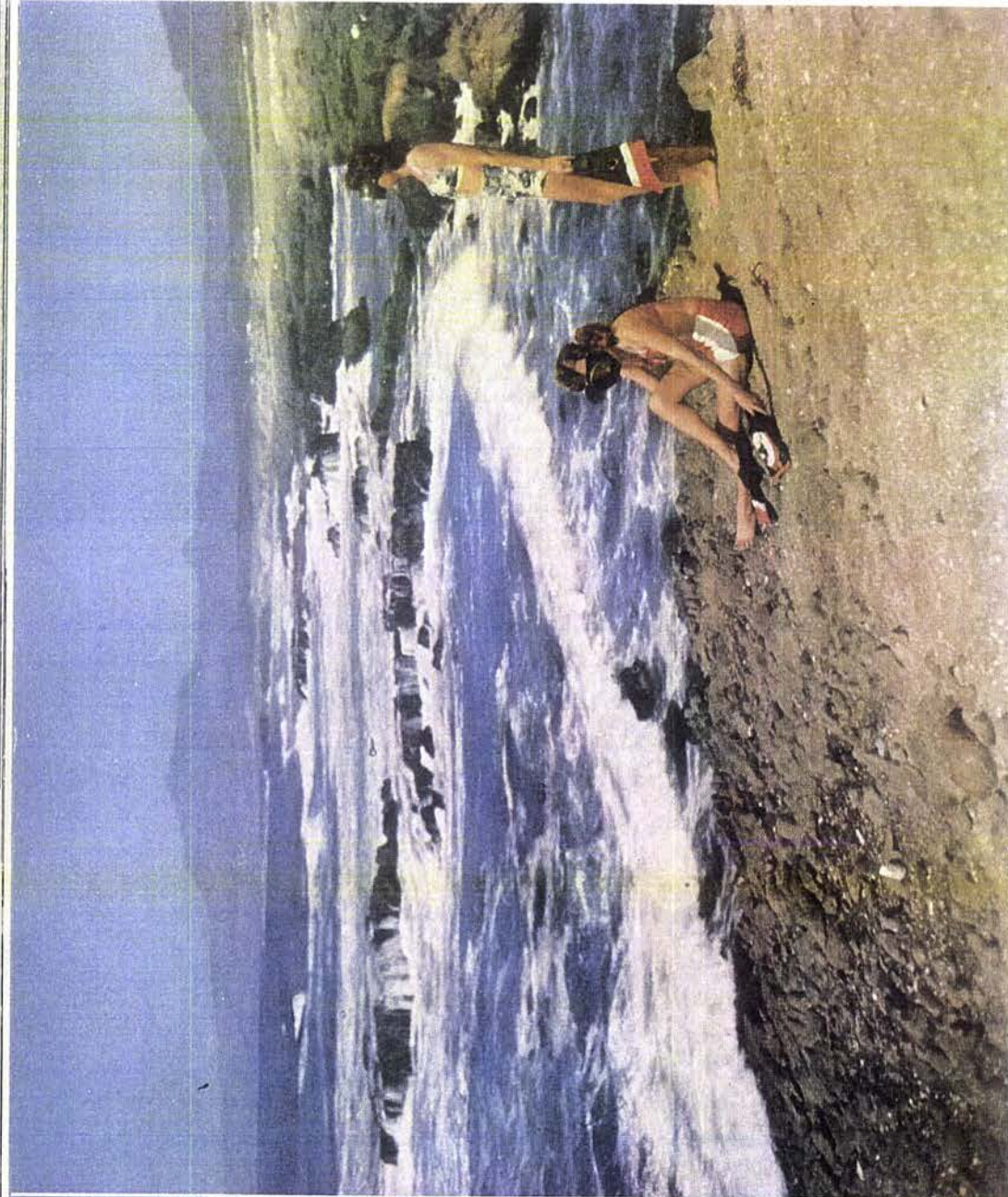
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Kodachrome by Ernst Kleinberg

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Who Needs Scales and Tails? These California Mermaids Would Make a Goggler of Anyone

On a jaunt to Baja California (right), members of the Bottom Scratchers Club and their companions risked broken bones but found fish and spiny lobsters plentiful. More and more girls, like the one resting on a rock near La Jolla, are taking up spearfishing.



Ektachrome by Lamar Boren

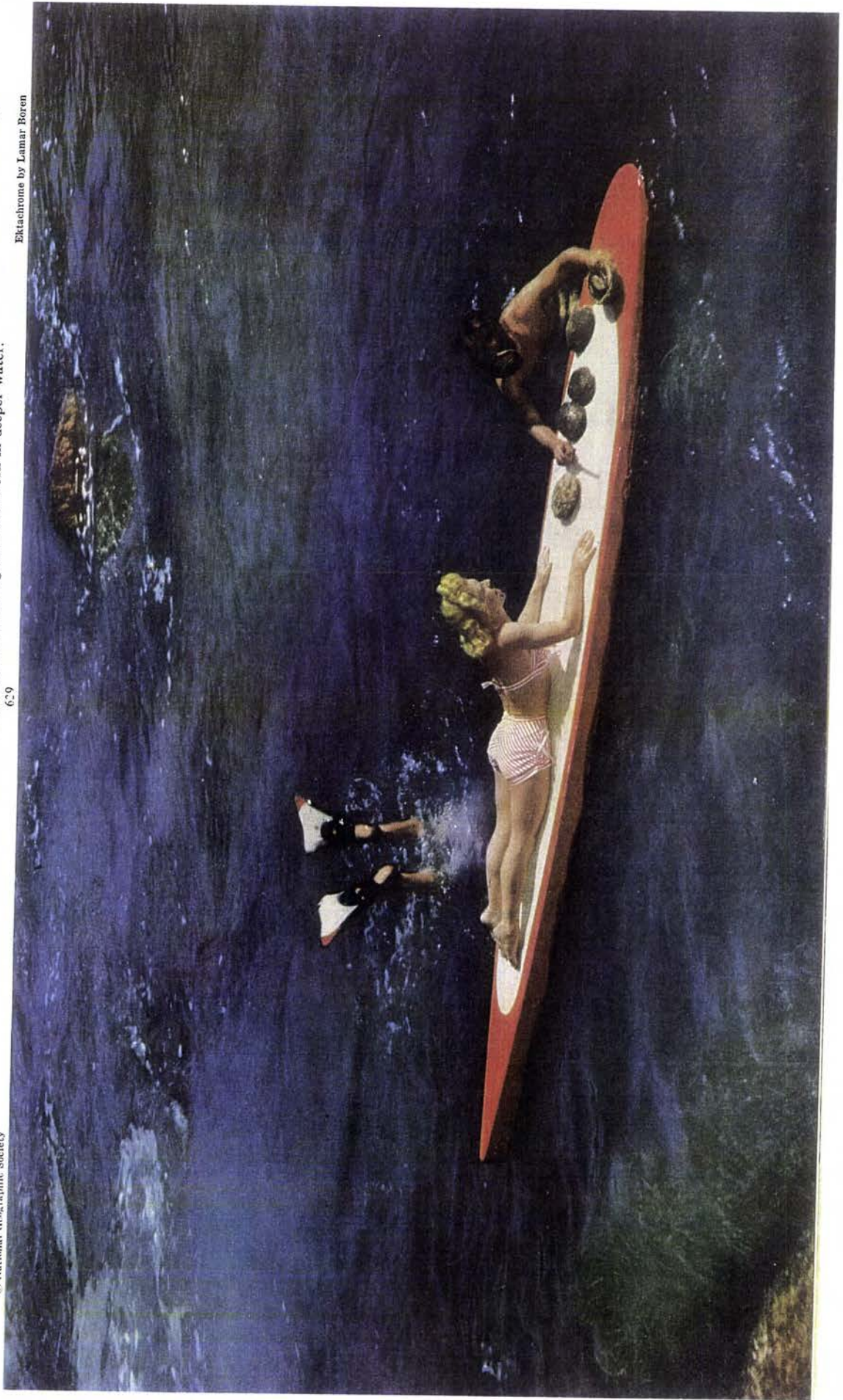
Good Hunting! As One Goggler Goes Down, Fins up, Another Surfaces with Abalone for His Comely Board Tender

The girl on a plywood paddleboard follows the divers to spare them long swims to unload their catch. California law lets sportsmen take 10 abalone a day from high-tide mark to a depth of 20 feet. Commercial fishermen wear diving suits and work in deeper water.

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6-9

Ektachrome by Lamar Boren



After a Day of Diving, Gogglers Feast on Tasty Chowder

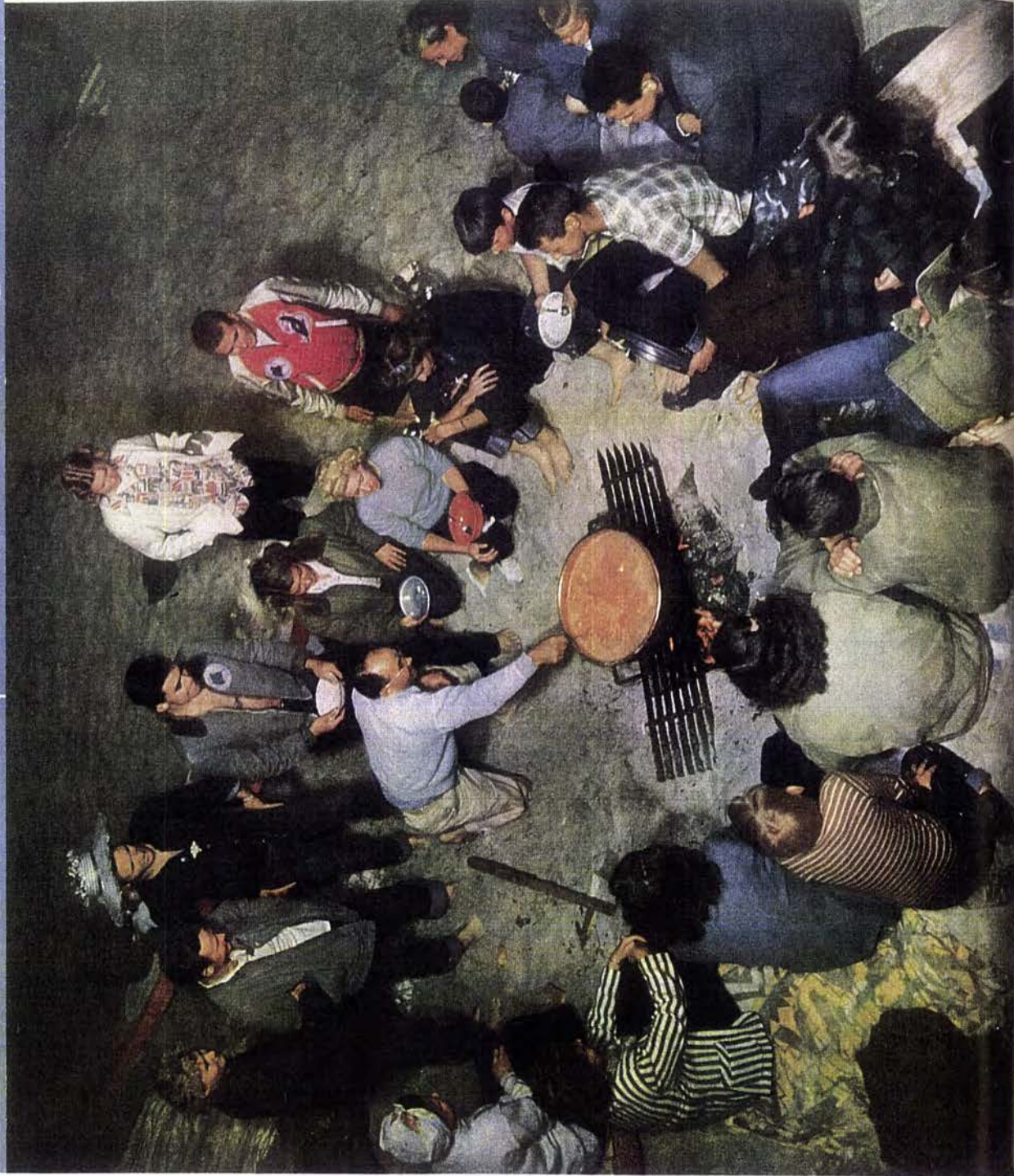
Into the pot go fish, spiny lobsters, abalone, and clams cooked with a spicy tomato sauce. Also popular are abalone "burgers."

Among these spear fishermen and friends gathered around a fire on La Jolla beach are boys wearing the sting-ray insignia of the Mantas, a high school and college age diving club.

Ten years ago goggling was known only to a hardy few. Today thousands follow the sport. From their ranks, in World War II, came many of the Navy's "frog men," or underwater demolition experts.

On Guam these specialists destroyed more than 1,000 obstacles, to make troop landings possible. Others, on Omaha Beach in the Normandy Campaign, suffered heavy casualties while sapping within two days 85 percent of the German underwater traps.

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Ekktachrome by Lamar Boren



No Matter How Thin You Slice It, It's Still Abalone

After bringing "abs" up from the depths, gogglers gouge the animal from the shell (right) and trim viscera and outer surfaces from the edible "foot," or muscle.

Then the meat, tough as a rubber tire, is cut into half-inch strips and "tenderized" with a wooden mallet (left). Steaks are fried or cooked in chowder. They suggest the oyster in flavor.

Abalone are marine gastropods, or snails. When clamped to rocks, they take in oxygen by pumping water under the edge of their shells and discharging it through a row of holes.

Pacific coast Indians once used abalone shells as ornaments and as currency. Later, curios made from them sold so readily that shells were worth twice as much as meat. Today, while some are polished and sold as souvenirs, tons are used to build retaining walls.

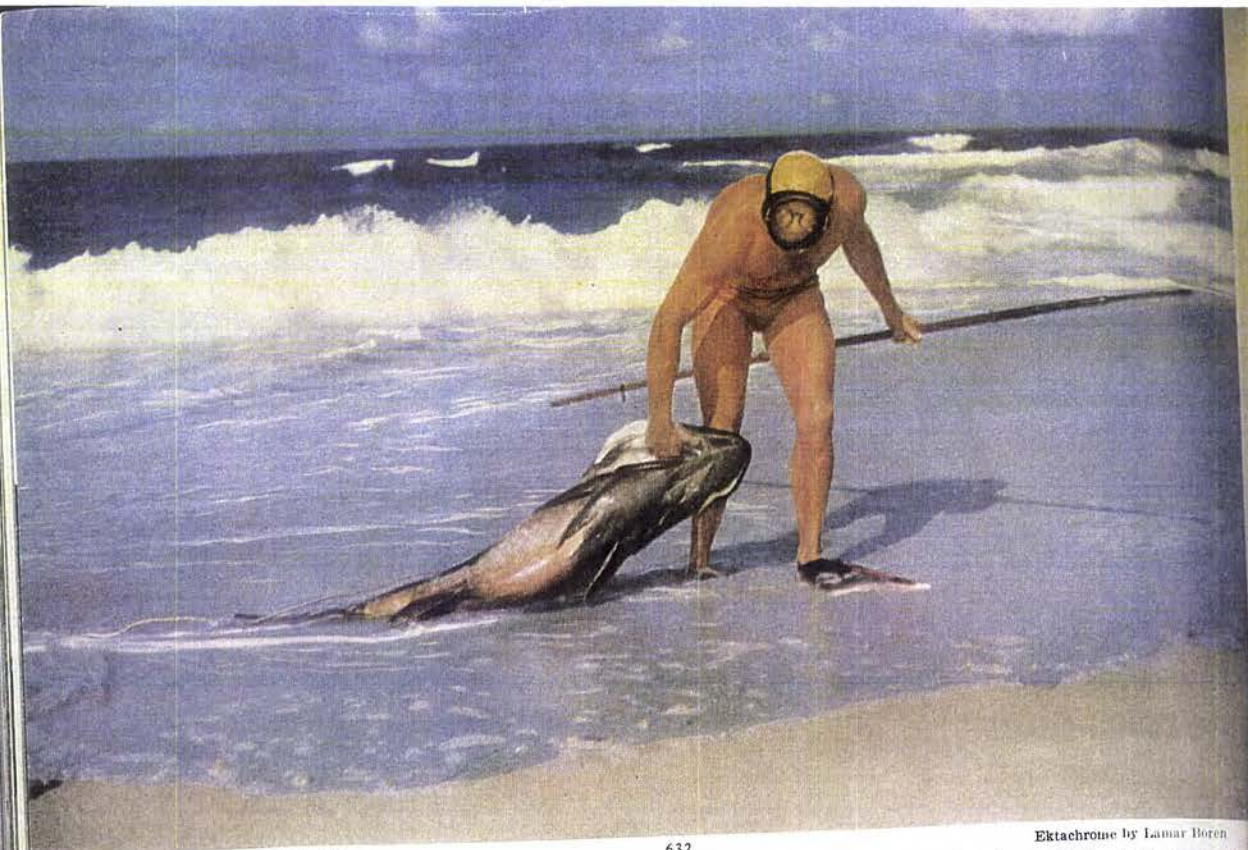
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Ektachrome by Lamar Boren

631





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Ektachrome by Lamar Boren

↑ A Goggler Drags In "the Big One That Got Away"—Almost!

When Jack Prodanovich landed this 112-pound gulf grouper, he found it carrying a spear point he had lost a month earlier. Prodanovich, crack diver of the Bottom Scratchers Club, has caught other fish weighing up to 207 pounds.

↓ "Hey, Ma, Come Look at This Big Bug Pop Caught!"

Junior holds the antennae of a 12-pound spiny lobster speared by a goggler in a rocky den off La Jolla. The Pacific coast crustacean, *Panulirus interruptus*, lacks the pinching claw of its northeastern American cousin. The tail yields rich meat.

Kodachrome by Ernest Kleinberg



December 13, 2011

FILE 6-11-078, California Coastal Commission
7575 Metropolitan Dr., Suite 103
San Diego, CA 92108-4402

David Johnson
The Other La Jolla Swim Club/Meetup.com
4222 Wightman Street
San Diego, CA 92105-2618

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JAN 13 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I have been swimming in the La Jolla Waters since the 1980s.
It is based upon these years of experience that I write this letter
and ask you to reject the rope barrier at the Children's Pool (CP) Beach
for the following two reasons.

1. It restricts, and is another step toward closing public access to the ocean.

Those in favor of closing the CP Beach have proffered two basic arguments.

First argument for beach closure: "People on the beach prevent seals from coming onto the beach."

The truth is that in the last ten years the seals have continued to come onto the beach with people actively using the beach.

Second argument for beach closure: "When people and seals are on the beach together the seals are stressed and the people must therefore leave the beach."

The truth is that seals naturally and easily leave the beach during the daylight hours as they feed primarily during the day. Video of seals flushing into the water are shot during the daylight. Seals do not naturally or easily leave the beach during late evening or night time hours. Most video of seals sharing the beach with humans are shot during the late afternoon and evening hours. Seals in the triple digit numbers remain on the beach in the evening and night hours while people gather for celebration as was done on May 30th 2011 to celebrate the 80th birthday of the Children's Pool.

The rope lends credence to the two false assertions above that harm is done either by people to seals or that seals may attack a human. No record has been found where a harbor seal has bitten a human. First, Harbor Seals have limited ability to chase people. Unlike Sea Lions they cannot stand on their front flippers. Second, their response is defensive in nature, their first instinct is to flee to the water. Third, in seal to seal confrontations it is the exception rather than the rule that they inflict damage onto the other. Just as seals enjoy playing with each other in the water, acclimated Harbor Seals come to people in the water and enjoy being petted.

The fact that the seals sleep on a public beach attests to the fact that they trust humans. They do not perceive humans to be a danger to them. Yes, they will flush into the water as they by nature give way to the dominant creature on the beach be it human or another seal.

The last ten plus years at the Children's Pool have demonstrated that a rope barrier is a static and incomplete answer as well as has it been proven to be part of the continuing problem created by the City working to prevent access to the CP Beach and Ocean waters.

2. The rope is a continuation of both San Diego City action and inaction further inhibiting public use of the beach and therefore encourages larger numbers of seals to congregate thereby negatively effecting the coastal ocean ecosystem. Sea World's dumping of over a hundred seals into the nearby waters and the Cities' four year closing of the CP Beach to humans as well as the creation of the Harbor Seal Preserve at Seal Rock are the primary factors which led to the dramatic increase in numbers of CP Harbor Seals. (The rope allows those who desire beach closure to demand that people treat the beach as a Harbor Seal Preserve while it is still classified in name only as a public beach.)

- A. The fish population has decreased to support the increased seal population.
Fact: per Sea World website: Adult harbor seals eat 5% to 6% of their body weight per day, about 4.5 to 8.2 kg (10-18 lb.). See attached document.

The harbor seal population increased from eighteen in 1997 to the present maximum count on the Children's Pool beach of over three hundred. That means that an increase of a daily estimate of 2,000 - 3,000 pounds of fish and sea life are taken from the local coastal waters by the Harbor Seals due to the Cities' end run around judge Pate's decision and order. The City asked for and obtained passage of Senate Bill 428. This bill does not overrule the judge's decision that the beach be returned to its 1941 size but it did cause suspension of the judgement and add seals to the Children's Pool Trust.

- B. The large shark population, specifically the Great White sharks and Seven Gill sharks, increase their presence in the area as their natural prey the Harbor Seal population increases. This large shark increase is slow, gradual and a significant negative change of the eco system caused by artificially introducing and protecting an unnaturally large seal population in the center of a major metropolitan city stretch of coastal beaches. More great white sightings have been made over the last year than previous years.

Introducing the seals to this artificial beach is similar to introducing a large population of rabbits to an urban area. To artificially introduced rabbits would draw coyotes into the area where they would prey on small pets and children. The principle is the same. We have had one Triathlete killed by a shark chasing a Children's Pool harbor seal. This is determined by the Children's Pool site fidelity. This occurred ten miles to the north in Solana Beach in 2009. See attached article.

- C. This seal population like the Children's Pool itself is a result of human intervention and the rope is an added and unnecessary artificial barrier enabling those tenaciously striving for beach closure.

Please reject this rope and its defacto creation of a seal preserve.

Please reject this rope and what the beach closure extremists are able to do with it.

The present rope is used as a tool to restrict beach use and often successfully used to close the beach completely.

Sincerely,

A handwritten signature in black ink, appearing to be "O. Johnson" or similar, written in a cursive style.

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HARBOR SEALS

DIET & EATING HABITS



FOOD PREFERENCES AND RESOURCES

1. Adult harbor seals eat squid, crustaceans, molluscs, and a variety of fish; including, rockfish, herring, flounder, salmon, hake, and sand lance.
2. A harbor seal's diet varies seasonally and regionally and often is subject to local prey availability.

[RETURN TO TOP](#)

FOOD INTAKE

1. Adult harbor seals eat 5% to 6% of their body weight per day, about 4.5 to 8.2 kg (10-18 lb.).

[RETURN TO TOP](#)

FEEDING HABITS

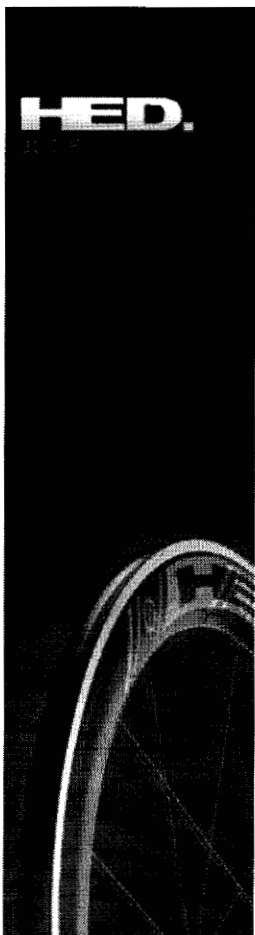
1. Harbor seals don't chew their food. They swallow their food whole or tear it into chunks. With their back molars, they crush shells and crustaceans.



Williams
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Southern California Triathlete Killed in Shark Attack

Written by: Jay Prasuhn
Date: Fri Apr 25 2008



Dave Martin, a 66-year old retired Solana Beach veterinarian and member of the San Diego Triathlon Club, was killed today during a rare shark attack while swimming off the coast of Solana Beach.

Martin was among a group of about 10 triathletes when he was attacked midway through a weekly morning open water swim. Martin died from trauma to his legs associated with the attack from what was believed to be a great white shark.

"In 100 years, I would never have imagined this to occur here in North County," said Solana Beach lifeguard captain Craig Miller. "But sharks live in the ocean. I don't know why or how, but unfortunately they found this area."

While not all the swimmers with Martin have been identified, sources named local triathletes Anita and Ken Flagg, Diana Noble, Penny Shelley and Rob Hill as among them. Shelley and Hill opted not to swim, but were on-site.

Hill spoke briefly at the late morning press conference in Solana Beach, asking that the family be given time to grieve the loss. Solana Beach Mayor Joe Kellejian offered his condolences, simply stating "we're all shocked."

The group had been swimming northbound, approximately 150 yards off shore. They were beyond the surf in waters about 20 feet deep, headed to a surf break called Tabletops at Tide Park. A further 50 to 75 yards out is a string of kelp beds. The athletes typically swim longshore (parallel to the shore) until lifeguards put buoys out in the water in mid-May. Swimmers tend to aim for these buoys during training. It was at Tabletops where the attack took place.

Martin was hit by the shark and lifted out of the water, according to those swimming with him. He appeared to scream "shark" to his swim partners, two of whom pulled Martin from the water after the attack. Solana Beach lifeguards, alerted by the yelling, were on-site at the shore and lifted Martin to a truck and drove him to the bluff top at Fletcher Cove. Attempts to save Martin failed.

Reports say both of Martin's legs were damaged in the attack, but intact. His femoral arteries were severed, causing excessive bleeding that was difficult to stem. An air ambulance was on-site upon Martin's arrival at Fletcher Cove, but he was pronounced dead at 7:49 a.m.

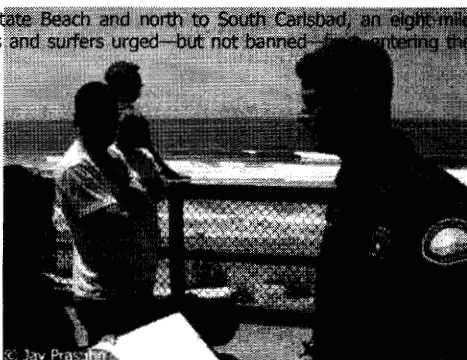
Miller announced that the area south to Torrey Pines State Beach and north to South Carlsbad, an eight-mile stretch, will be under a 72-hour advisory, with swimmers and surfers urged—but not banned—from entering the waters.

Coast Guard helicopters canvassed the shoreline Friday looking for the shark. California State Law protects great white sharks, so a positive identification may not result in its destruction unless it poses a specific further threat to humans. An aerial Coast Guard search will continue until 6 p.m. today, and will resume at daylight and take place through the weekend.

Richard Rosenblatt, a marine biologist at Scripps Institute of Oceanography in La Jolla was on-site at the press conference to provide his opinion as to how Martin became a victim of such a rare attack.

"We are almost certain it was a great white shark. It's difficult to say how big it was, but it may have been anywhere from 12 to 17 foot long," he said. "It is not a resident population to this area, but occasionally females can be spotted near here as they pup their young."

Rosenblatt explained the incident: "I was told the victim was pushed up out of the water, attacked from below with a powerful rush and a powerful bite, likely thinking it was a seal. This is typically what a white shark would do, because to a shark a swimmer is not unlike a seal as it looks up at a silhouette on the water surface."



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Rosenblatt said the last report of a San Diego-area shark attack came in 1994 when a body was found floating off the Ocean Beach pier with a bite wound. Rosenblatt added that the bite in that case could have been post-mortem.

Miller added, "I've been here in Solana Beach for 39 years, and we have never had a shark attack here. We never even had a white shark sighting."



Martin was remembered as a well-liked person. Dan Rock of B&L Bike and Sport in Solana Beach reminisced that, "Dave used to borrow my triathlon bike when he did shorter races like Solana Beach or Mission Bay... a lot of Koz races.

"I guess people get nipped," Rock continued, "But for a guy to just go down like that... it's a tough one. The people that were swimming with him, some of them are really struggling right now."

Rock, an avid surfer and waterman, added, "One of my friends, RJ, called me and said he'd seen a small, baby great white at Cardiff Reef a week ago Sunday."

Pat Muirragui, 36, one of Martin's San Diego Tri Club teammates, stood overlooking the ocean on the bluff following the press conference, trying to make sense of the attack. "I got a text to go out with them this morning at 6:30, but it was too early for me—I prefer the evening (La Jolla) cove swim," Muirragui said. "They go out for a mile, come back and have breakfast at Naked Café. My

friend Loreen was out swimming with them, though, and when I heard the news, I was horrified—I thought it could have been Loreen, but in general, my heart just sunk."

Miller said that while the event will certainly raise concern about water safety, the rarity of this accident shouldn't be lost. "Thinking about our past history here and the fact that it is so rare, I can only imagine that this is a freak accident. I certainly hope it is," he said.

Miller added that, "We have two major triathlons coming up, and it's a concern. With these triathlons, we don't send people out too far, but even with this particular group this morning, they weren't out that far."

Meanwhile, surfers continued to wait for waves offshore just two miles north at Seaside and Cardiff Reef, only hours after the attack. "This is probably going to affect our swimming and triathlon community a bit more than our surfing community."

Muirragui had his own plans. "There have never been attacks here before, but now I'm spooked. I used to surf here all the time at Tabletops. You never know what's lurking out there... It's the shark's home. And the kelp beds out there, I would think could be dangerous because they're loaded with fish. I've been doing ocean swims twice a week now, but it'll be a long time now before I get in the water to go swimming."

"You think about all the people, all the time, all the years, it's gotta be a freak accident," Rock said. "It's unfortunate, but the guy was doing something he really loved to do, probably having a great day, and I hope I am as well when I go."

San Diego Triathlon Club members will meet at B&L Bike and Sport along Coast Highway 101 this evening at 6 p.m. after closing to discuss the accident. Rock said the triathlon community at large is invited to offer their condolences. The store is at 211 Coast Hwy. 101, and people are gathering around 6 pm. Martin is survived by 4 children and several grandchildren.

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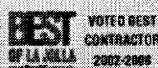
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Fin sighting of possible shark closes beaches near Children's Pool



Surfer Greg Nielsen of Del Mar saw what he thought was a shark fin today at La Jolla's Children's Pool.

Lifeguards closed the beaches in La Jolla Wednesday about 1:30 p.m. after surfers said they saw a fin that they believed belonged to a large shark

at Casa Reef just south of Children's Pool.

The beach was closed for a mile in each direction as a precautionary measure, said San Diego Lifeguard Lt. Nick Lerma. The closure will last until at least Thursday morning.

Greg Nielsen of Del Mar, one of the group who said they were surfing out in front of the elevated Children's Pool temporary lifeguard tower, said, "There were four or five of us in the water and we saw it straight out 75 to 100 yards outside of the lineup from where we were, said

"It just wasn't going up and down like a dolphin," said Nielsen. "It was kind of like, right there."

Nielsen said he didn't see any of the body of the suspected shark just the fin.

"It was a foot and a half tall, we didn't get a side view of it or anything," he said. "It didn't look or feel like a dolphin at all: It was enough to get us out of the water."

Nielsen said they reported the fin sighting to lifeguards who told them they'd keep an eye on it and warn people.

Lerma said lifeguards determined the fin sighting was a credible report and that a large shark of sufficient size to pose a threat might be in the area, so the beaches were ordered closed.

A helicopter was called in to the area to search for a shark and was circling in the skies more than an hour later.

To hear what one tourist told NBCSanDiego go to www.nbcsandiego.com/news/local/Shark_Warning_Frightenes_La_Jolla_Tourist_San_Diego-128881608.html

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Short URL: <http://www.lajollalight.com/?p=49504>

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Posted by [Dave Schwab](#) on Aug 31 2011. Filed under [La Jolla, News](#). You can follow any responses to this entry through the [RSS 2.0](#). Both comments and pings are currently closed.

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Seal Team 6 · 19 weeks ago

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The Cross on the beach was like the star of Bethlehem and brought the wise Great White Sharks.

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James · 19 weeks ago

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So you're saying the "Pro Beach Access" group brought the sharks?

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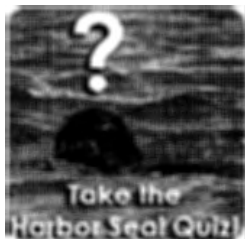
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[HOW SEALS CAME TO CHILDREN'S POOL](#)



A Children's Book:
The Tale of Silly Seal

PREY AND PREDATOR RELATIONSHIPS

WHITE SHARKS & THE SEAL POPULATION

According to Department of Fish and Game, Marine Region, "white sharks play a crucial role in the marine ecosystem by helping to suppress pinniped (seals and sea lions) populations. The only real threat white sharks face are from humans, as well as the occasional killer whale."

With this information, the DFG also recommends that to avoid a shark encounter one should not "swim in or near areas frequented by sea lions, harbor seals, and elephant seals, near their rookeries, or near the mouths of rivers where the animals concentrate looking for fish."



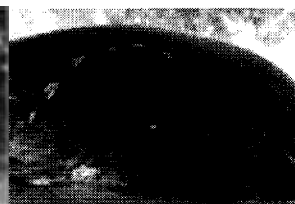
Shark bitten seal at La Jolla Children's Pool 2005

Although this may be an issue of common sense, with this data, it is also common sense that the growing pinniped population at The Children's Pool may pose a problem for the swimmers, surfers and divers who frequent the surrounding beaches in the very near vicinity. For example, Casa Beach, a public swimming area, is immediately adjacent to The Children's Pool. The La Jolla Cove, also a public swimming and diving area, is also steps away from the La Jolla Underwater Park Ecological Reserve where white sharks are known to be born.

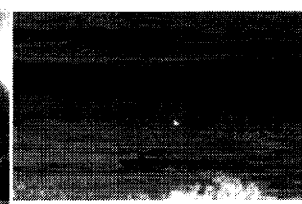
Sharks sightings and alleged shark bites have been increasing in the La Jolla area. The above photo shows a seal believed to be bitten by what indicates a white shark. A warning to beachgoers was issued on August 31, 2005 when the harbor seal pictured above was reported by Children's Pool lifeguards, according to the San Diego Union Tribune.



White shark bite (above)



White shark bite close-up



Shark sightings - San Onofre

A photo was posted of an attacked seal that made it back to Children's Pool



(Click me)

RECEIVED 6-11-078

From: sean kelley <kelley.sean1@att.net>

Date: 1/10/2012 6:09 PM

To: "focp@san.rr.com" <focp@san.rr.com>

JAN 12 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

My name is Sean Kelley. I reside at 10746 Fenwick Road San Diego, Ca. 92126

I grew as a child swimming in the children's pool. And although I was too young to appreciate the jewel we had here, I do recall wonderful times there and hearing my father remark what a treasure we had here in La Jolla.

As I understand things, the pool is man-made and not a natural habitat for the seals which as a youth I never saw ashore. Just a few seals, now and then on the rocks offshore. I also understand that this population of seals didn't begin growing in such numbers until Sea World began introducing them with some program of theirs and after people were asked to no longer swim there.

In the past, the seals had always been a more migratory species which moved based on weather conditions and food supply.

But the man-made wall acts as an un-natural habitat which they seem to have stuck to and reproduced in large numbers causing an unsafe and unclean swimming area for the children who have enjoyed this spot since it was built. Much the same as the bears in Yellowstone and Yosemite which were once allowed to rummage thru and eat the discarded food and refuse of humans. In this case it was determined by experts that it was un-natural and unsafe and this practice was halted. The bears and humans now co-habitate these parks in a more natural and safe setting. And they no longer migrate towards campsites in such drastic numbers as they once did.

I believe the seals here at the children's pool of La Jolla would do just as well if they were removed from this un-natural setting. They would simply resume a more natural migratory existence.

I've seen and read about similar situations in which the seals "annexed" man-made structures such as boat docks along the California west coast simply because the "living is easier". But it is not natural.

I believe that the animal rights activists (albeit well intended) have overlooked such facts. And that the seals would be just fine if removed from the children's pool, safe, happy and naturally.

California Coastal Commission
File 6-11-078, C/O Melissa Ahrens, Coastal Analyst
District 7575 Metropolitan Drive, STE 103
San Diego, CA 92108-4402
1-619-767-2370
FAX: 1-619-767-2384

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JAN 12 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST

Via Fax & US Mail

January 10, 2012

RE: LA JOLLA CHILDREN'S POOL AND COAST BLVD. WALKWAY

Dear Ms. Ahrens,

I am writing to express my concern regarding the La Jolla Children's Pool and Coast Blvd. Walkway action proposed during the January 11-13, 2012 CCC Meeting in Santa Monica, CA. I do not support any actions that would result in erection of a rope barrier or closure of the La Jolla Children's Pool access (for people) to the Pacific Ocean in La Jolla, CA.

Thank you for your help and if you have any questions, please contact me at any of the contacts listed below.

Thank you.



Kathleen Neil
2050 Torrey Pines Road
La Jolla, CA 92037
858-518-4396
kneil@att.net

FAX TOTAL PAGES: 1

MAA
347 Gravilla St.
La Jolla, Ca 92037
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California Coastal Commission
7575 Metropolitan Drive, Ste 103
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Esteemed Coastal Commissioners,

I'm writing to ask you to **please not allow the La Jolla Children's Pool to be closed to human access.**

While we all value the preservation of endangered wildlife and endangered habitat, it's important to **remember that harbor seals are not endangered**, or even threatened. They are thriving on thousands of miles of coastline, from Mexico to Alaska. Harbor seals don't need "saving." They are doing just fine. The idea that seals will be "homeless" unless the Children's Pool is closed to humans is simply incorrect.

I certainly agree with our efforts to protect endangered species. It's great that we fence off Mariner's Point for the least tern nesting season, and that we preserve the Penasquitos, Agua Hedionda, Batiquitos, and San Dieguito estuaries, among others, along with the Del Mar Mesa vernal pools. That is true environmentalism. There are many habitats and many species, such as blue whales and sea otters, which are endangered and need our help.

But **the Children's Pool is not a natural environment** that needs "saving." It's a man-made environment, built long ago as a unique, safe place for children to swim in the ocean. Harbor seals didn't need this pool for the first 60-odd years of its existence - they're a recent arrival there. They were always fine without it in the past. But there's no other beach like it for children or divers in San Diego or even in southern California.

Providing a man-made environment for a species that's not threatened is akin to feeding the wildlife - something that's actually detrimental to the animals' ability to survive in the wild. We write citations to people who feed pigeons or ground squirrels or any other type of wildlife. Would we shut down a beach for seagulls or ground squirrels? Would we shut down a neighborhood park because wild coyotes were living in it? No, we wouldn't. Then why would we then shut down a beach for another successful species simply because it's a mammal like us? Yes, seals are cute and fuzzy, but that's not environmentalism, that's sentimental pseudo-environmentalism.

Please don't close the Children's Pool to humans. The seals are fine there as they are, and so are the humans. I grew up on that beach in the 50's and 60's and have many fond memories of it as a child. We never had any problems with the sea lions (as distinguished from harbor seals) that frequented those waters. They were a delight to a child, as the newcomer harbor seals are now. **We can live in harmony with these natural creatures without closing the beach.**

Thank you for your consideration.

John Welsh
La Jolla resident for sixty years

California Coastal Commission
File 6-11-078, C/O Melissa Ahrens, Coastal Analyst
District 7575 Metropolitan Drive, STE 103
San Diego, CA 92108-4402
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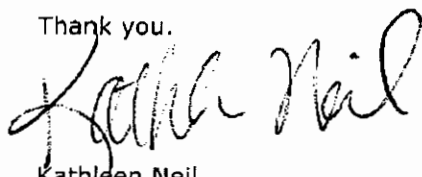
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Kathleen Neil
2050 Torrey Pines Road
La Jolla, CA 92037
858-518-4396
kneil@att.net

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JAN 10 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

FAX TOTAL PAGES: 1

6-11-078

Subject: Strongly disagree with permanent rope barrier at Childrens Pool

From: bakir silajdzic <bakir_sonic@yahoo.com>

Date: 12/1/2011 11:28 PM

To: "focp@san.rr.com" <focp@san.rr.com>

Hi,

I have recently heard news that the city of San Diego is planning on filing for a permanent rope barrier at the Children's Pool in La Jolla. I would like to say that this would be a very unfair, and unnecessary move. The seals there are really not bothered by the people. i have seen first hand that people tend to keep their distance and so do the seals. This public beach should stay open to the public as it was intended to when it was constructed. I would also like to point out a very rude lady there who yells on a speaker to tell others to keep their distance from the seals. when she does this it actually does freak out the seals and cause them stress. I think before any filings are done please take the time to visit the location and see for yourself.

*Thanks,
Bakir*

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JAN 14 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

6-11-078

Subject: CCC and Children's Pool Rope Issue
From: KENT TREGO <nautilusoceanic@yahoo.com>
Date: 12/29/2011 11:44 AM
To: Fo CP <focp@san.rr.com>

To: California Coastal Commission

This is the second and last of my communications regarding the Children's Pool rope issue. There is much evidence that Pacific harbor seals are not disturbed by the presence of people on the Children's Pool beach. There is more than enough video and image proof available that shows Pacific harbor seals sharing the beach with people. Human disturbance of Pacific harbor seals at the Children's Pool is not a significant issue.

Pacific harbor seals have had many years to become used to the human presence at the Children's Pool. In a similar situation, California sea lions at the La Jolla Cove are also used to the close presence of humans as is the colony of Pacific harbor seals at the Children's Pool.

I am the author of over 60 scientific journal papers in oceanography and geology and currently do research in coastal oceanography for a coastal engineering firm in San Diego County.

With Regards,
Kent D. Trego
La Jolla, California

RECEIVED
JAN 14 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Please note the important information given below as it applies to the rope barrier consideration at the Children's Pool in La Jolla, California.

This information applies to the question of Pacific harbor seal premature birth at the Children's Pool in La Jolla

1. 39% of all Pacific harbor seal births in a pupping season may be premature (Steiger et al. 1989, Journal of Wildlife Diseases). The rate of Pacific harbor seal premature births at the Children's Pool has never approached this percentage which is considered normal for Pacific harbor seal rookeries.

2. Pacific harbor seal premature births are common in maternal females that are young, primarily less than 5 years of age (Bowen et al. 1994, Canadian Journal of Zoology). Maternal female Pacific harbor seals 4 to 6 years of age with low body mass most commonly have premature births (Ellis et al. 2004, Journal of Mammalogy).

There have been claims that people are causing Pacific harbor seal premature births at the Children's Pool in La Jolla. There is no evidence for this as the percentage of premature births in the Pacific harbor seal colony at the Children's Pool is much lower than the expected normal percentage of almost 40% and determining causes for premature birth in Pacific harbor seal rookeries is extremely difficult as there are many many reasons to consider for the origin of premature birth in Pacific harbor seals..

Kent D. Trego
La Jolla, California

Kent D. Trego has published over 60 scientific journal papers in oceanography and geology and does consulting oceanography work in San Diego.

EMAIL RECEIVED
FOCP@SAN.PR.COM
12/14/11

19 December 2011

Melissa Ahrens
California Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive
San Diego, CA 92108-4402



Re: La Jolla Seals

Ms. Ahrens

I would like to add my voice in favor of the year round rope at Casa Beach in La Jolla.

The presence of these harbor seals is an amazing resource for La Jollans as well as for the many children who are bused in to see the seals and tourists who visit and are in awe of being able to see these mammals in their natural habitat.

I am a long time resident who has long been concerned with our fragile and nonrenewable coastal resources as one of the founding organizers for several workshops which eventually produced the Preliminary Plan for the La Jolla Coastline.

Sincerely,

A handwritten signature in black ink, appearing to be "DR" inside a circle, with a long horizontal stroke extending to the right.

David Raphael Singer
604 Bon Air St.
La Jolla, California 92037

(o) 858.459.4820
(p) 858.459.3542

File 6-11-078, Children's Pool Rope Barrier

DEC 28 2011

7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Coastal Commission File 6-11-078, Children's Pool Rope Barrier Project

- The City of San Diego's request for a year round rope barrier at Children's Pool should be rejected because of the anticipated impact from the increase in use by the Harbor Seal population caused by the rope barrier. Expert opinion testified to in court proved that increased use by the seals will result in significantly increased pollution levels on the sand and in the waters of Children's Pool from animal feces. The City refuses to clean up after the animals in the "marine mammal park" it has created and expects its youngest citizens to play and swim in a polluted public park.
- Environmental, historical, cultural and scenic values of Children's Pool spoiled by a rope barrier have not been fully evaluated as required under CEQA Statutes and Guidelines Chapter 2.6 §21084.1. HISTORICAL RESOURCE; SUBSTANTIAL ADVERSE CHANGE. This evaluation process requires an Environmental Impact Study and Report and has not been done.
- This project is the plan of a misguided City Council to transform this dedicated children's bathing pool into a circus-like tourist attraction in pursuit of hoped for tourist tax revenues at the expense of the quality of life for residents. Recreational, community and cultural values have been sacrificed toward this end. This neighborhood has been significantly impacted by the change in the status and uses of Children's Pool. No consideration was ever made of the parking, public facilities and overall impact to the community before a "marine mammal park" was inserted into this already congested neighborhood.



- The defacto closure of the Children's Pool has impacted the other nearby parkland at Scripps Park and the La Jolla Cove. Swimmers and divers who have used Children's Pool as an ocean access point for decades have been forced to use the La Jolla Cove instead. This shift has impacted the Cove negatively as the facilities there are overrun. The missing environmental study would confirm this impact.

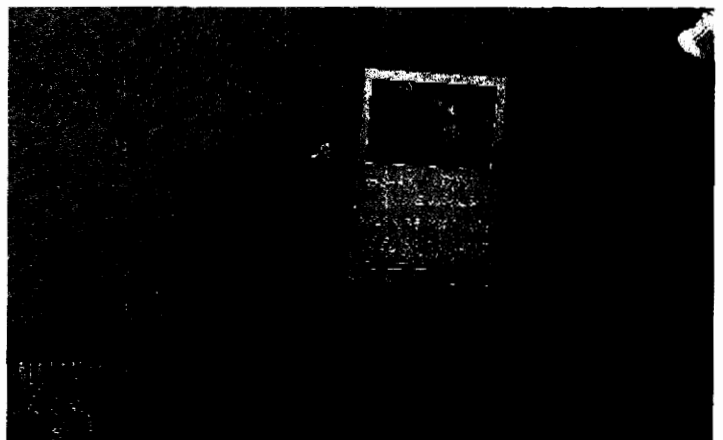
- A permanent rope barrier prevents the Ranger Program from being fully implemented before the effectiveness of the Ranger Program can be determined. Before any more permanent barriers are used, the Ranger must be allowed time to carry out his plan which includes improved signage, education and the docent program. These management steps will go a long way toward eliminating the current conflicts at Children's Pool.
- A rope barrier hinders lifeguard emergency services and places the safety of the public at risk. The old lifeguard tower is scheduled to be demolished and replaced. This construction activity further restricts the lifeguard's ability to provide emergency assistance to swimmers. The rope barrier would only place an additional obstacle in their way during construction and endangers public safety.



- The gate across the beach access ramp, "Baja Road," has been closed for years further restricting coastal access to Children's Pool. This has allowed extremists to complete the closure by blocking access at the stairway. A rope reinforces that illegal activity. The Ranger is forced to stand by and watch as the activists "ask" people to stay off the beach as the sidewalk and stairs are physically blocked.

Visitors not wanting confrontation submit to the activists demands and are intimidated off the beach. Without the rope barrier the authority to manage the beach will be with the Ranger as it should be.

- *San Diego Municipal Code §52.20 Obstructing Public Places — Prohibited That it is hereby declared to be unlawful for any person to stand or sit on any sidewalk or crosswalk or occupy the same so as in any manner to obstruct the free use thereof by the public and passage thereon by pedestrians, or to hinder, molest or annoy any person or persons in passing along the same, or to obstruct or stand around the entrances of any public hall or public building within said City of San Diego.*



The City of San Diego refuses to enforce this statute in the face of clear violations.

- The rope barrier placed by the County Health Dept. during the beach closure is the same rope that will imply closure by the "advisory" rope. The same rope barrier with two

distinct purposes results in greater public confusion with reduced and restricted public access.

- The fixed rope barrier under this proposed permit application is expected to control moving subjects; people and seals. A rope barrier cannot do that. Only the thoughtful consideration of a person (Ranger) can manage the beach and its users with the constantly changing conditions.
- The rope barrier restricts coastal access and would violate the California Constitution, The California Coastal Act Sections 30210 through 30213, Sections 30220, 30221 and the City's own Local Coastal Program.
- Local Coastal Plan for La Jolla: "Where new development is proposed on property that lies between the shoreline and the first public roadway, ensure an offer of dedication as a public easement of a vertical access way of *not less than 10 feet in width* and running the full depth of the property provided that the need for such access way has been identified within this community plan . . . " This beach is an identified coastal access.



The San Diego City Council has embarked on a course of action that violates citizen's rights to use their public beaches and only invites further lawsuits and community division. The Coastal Commission has an opportunity to correct the past mistakes of the City of San Diego and should take this opportunity to do so by rejecting the application for the year round rope barrier at Children's Pool.

CALIFORNIA COASTAL ACT

Coastal Act Sections 30210 through 30213, as well as Sections 30220 and 30221 specifically protect public access and recreation and prohibit intrusions hindering public access to the coast.

- **Section 30210** In carrying out the requirement of Section 4 of Article X of the California Constitution, **maximum access**, which shall be conspicuously posted, and Recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. "**maximum access**" is pretty clear what the intent was for coastal resource access.



- **Section 30211:** requires that "Development shall not interfere with the public's right of access to the sea..."

Access is restricted by the placement of a rope barrier across 96% of a public beach. If protected wildlife is present at the opening, 100% of the beach will be closed to access by the public because of the rope barrier.

- **Section 30212(a):** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects. Vertical access is being hindered by the rope barrier and the original rope barrier permit was based on erroneous findings about what "Vertical Access" actually is. This point needs close examination before the error is compounded.
- **Section 30213:** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. Maximum public access to the California coastline is what the Coastal Act protects.
- **Section 30220:** Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses. Children's Pool is a unique resource in California. It was dedicated and entrusted to San Diego for a Children's Bathing Pool through a State Tidelands Trust.
- **Section 30221:** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area. Demand is increasing for recreational access to the coast as large areas are being closed as Marine Life Protected Areas (MLPA's). This project further reduces access to suitable lands and coastline for human use.

CALIFORNIA CONSTITUTION

ARTICLE 1, DECLARATION OF RIGHTS

Section 25. The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; provided, that the legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken.

ARTICLE 10, WATER

Section 4. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

- This permanent, year round rope barrier was rejected by the La Jolla Community Planning Association (LJCPA) at several public meetings. They recognized that this rope barrier does not comply with the LCP or the Coastal Act. Shortcuts taken to make this project "categorically exempt" from CEQA review were rejected at this meeting. This project is similar to the City proposal closing Children's pool and has already been overwhelmingly rejected five previous times by the LJCPA.
- If the rope barrier is in place and a seal is on one side and a person on the other, how does that rope barrier create a "buffer" between them? It does not and is ineffective to the stated purpose. There is no definition of the separation distance created by this "buffer" and is so vague to make it ineffective and unenforceable.
- The City of San Diego will be expected to review and issue its own permits for this rope barrier project after an anticipated approval through the waiver process with the CCC. This will bring the application for the permit back to the entity that is requesting this permit. It is a conflict of interest for the City Council to be in a position to rule on an application for a permit they are requesting. They cannot be both the applicant and ultimate judge on this project. The permit was rejected by the land use authorities on the San Diego Planning Commission because the rope barrier was found to be an encroachment on public access to the sea.
- The Planning Commissioners prevented the City Council from violating the Coastal Act where the City would have placed a development on a public beach that hinders public access to the sea. That should have been the final determination from the City about this project.
- Instead of proposing an alternative plan, the City is going forward with the same project, unmodified from its original form and unjustified as to its intent, to block public access to a Trusted, public beach.
- The San Diego City Attorney in a legal opinion provided to the City Council advised the Local Coastal Program must first be amended before the current permit application can be considered or approved. Why is it being heard before the CCC before the LCP is

amended? There appears to be a blind ambition to ram through this unpopular project with the intent to circumvent all required local reviews.

- The proposed year round rope barrier conflicts with the San Diego City Council's own resolution of May 17th, 2010. The Council is asking to put a rope barrier across a beach that, in the Council's own resolution, will be closed from December to May every year. Why is a rope across a closed beach necessary? It is not and the application for a permit should be denied for lack of purpose.

- The Children's Pool is a Joint Use Beach by City Council Resolution which is policy today. The rope barrier would permanently create a seal sanctuary all the way across a public beach. This would be inconsistent with the City's Joint Use Policy for Children's Pool by encouraging more seals and discouraging people from using the beach and accessing the water.



- The San Diego Mayor, City Attorney and the courts have all affirmed that there is no emergency on Children's Pool Beach. When the seasonal pupping season rope is removed a measure of balance between humans and wildlife is restored to the beach. There have been no emergencies on the beach that have changed that determination. A rope barrier beyond the seasonal rope is not needed for the protection of seals or people. This has been demonstrated all summer long as the beach has again been shared by seals and people. There is extensive video documentation of this and it will be provided to any interested party.

- The extreme animal activists such as APRL/SealWatch and the Friends of the Seals are the source of many problems at the Children's Pool. Instead of imposing an unnecessary impediment to beach access, the City should regain control of the out of control sidewalk area and beach. Citizens and other lawful beach users are harassed and intimidated off this public beach by the "seals only" animal rights activists using the seasonal rope barrier as an effective but unlawful deterrent to lawful beach access.



- It should be the City's duty to stop the unlawful harassment by extremists and protect its citizens. This has not been a priority of the Police Department, Park and Recreation Department or the City Attorney in the past as they all have been negligent in enforcement. This must change. This rope barrier is misused by



those who would misinform citizens of the status of an open public beach. The rope barrier should not be permitted.

- On February 12, 2010 at a CCC public hearing, Executive Director Peter Douglas recognized a "pattern of behavior that impedes legal access to the beach" by extremist groups. That "pattern of behavior" continues to this day and must be addressed to allow coastal access protected by the Coastal Act. A rope barrier only reinforces the intimidation tactics of the extremists.
- In the City's attempt to rush through this project in 2010, the La Jolla Community Planning Association was not notified of the Notice of Environmental Determination as required. The appeal period was past before anyone was notified of the city's self determined exemption to the CEQA guidelines and statutes. The City's willingness to disregard legal procedures makes the request for a waiver to bypass local review a questionable practice. A waiver should not have been granted and this project should have received local approval before being considered by the Coastal Commission. The rope project was rejected by the San Diego Planning Commission's 7-0 vote against the year round rope. A similar decision can be anticipated from the Planning Commission.
- 112.0301 Types of Notice (c) Notice of Public Hearing. A Notice of Public Hearing shall be provided before a decision is made on an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, or Process Five, or an appeal of a Process Two, Process Three, Process Four decision, or of an *environmental determination*.
- Judge Pate in his August 25th, 2005 decision in the O'Sullivan v. City of San Diego case (partially quoted below and re-affirmed by Judge Hofmann's ruling) cites several reasons why the Children's Pool must be returned to human use. The imposition of a "marine mammal park" from the amended Trust does not relieve the City of San Diego to act in behalf of the intended beneficiaries of the 1931 Trust. The people of San Diego still have a place at the Children's Pool in despite all the City's attempts to ignore its legal obligations to maintain this public park and bathing pool.

VALERIE O'SULLIVAN Plaintiff,

v.

CITY OF SAN DIEGO, a municipal entity,

and FOES 1 through 500, inclusive,
Defendants.

) CASE NO. GIC 826918

) TENTATIVE STATEMENT OF DECISION

)

)

REMEDIES


- As stated above, the court will not order the City to modify its law enforcement activities at the Children's Pool or remove the surveillance camera located at the Pool. The City argues this court does not have the authority to order it to take any action in

regard to the Pool, because such actions would be discretionary. If the Children's Pool were a "natural" beach, as argued by the City, such a position might have merit. This court probably would not order the City to clean up a dirty or contaminated "natural" beach where the City was not the direct cause of the contamination.

- However, the Children's Pool is not a "natural" condition. It is a man-made, artificial condition, which was entrusted to the City for specific uses and purposes. The City has knowingly declined to remove sand from the Pool, even though the sand has reached the point where the Pool in reality cannot be used for its intended purpose. Although the City has approved requests to study the removal of the sand, even as recently as September of 2004, it has consistently failed to remove the sand that has been building-up for the last 70 years.
- The presence of unhealthy levels of bacteria from seal feces in the pool water has been consistently left un-addressed by the City. The substantial increase in the number of seals using the Children's Pool seems to have some relationship to the actions or inactions of the City. The creation of the Reserve in close proximity to the Children's Pool and the release by Sea World of rehabilitated harbor seals in the kelp beds off-shore of the Pool, seem to have contributed to an increasing number of seals using portions of the Children's Pool in the mid-1990's. The City's decision to separate the seals from humans and then closing off the Pool to humans, likewise appears to have encouraged the seals to occupy more and more of the beach with ever increasing numbers.
- The occupation of the Children's Pool does not seem to be a "natural" phenomenon. According to the evidence at trial, Children's Pool is the only public beach in California that has been taken over by seals. The City was warned in 1997 that if it did not discourage the seals from hauling-out at the Children's Pool, the number of seals present at the Pool would greatly increase. In response to the situation, the City put up barriers to keep the public out of the Pool area. To date, the City has taken no steps to reduce the level of pollution at Children's Pool.
- Therefore, in order to protect the rights of the people of California to the full use and enjoyment of a unique asset, the Children's Pool, the City, as trustee of the Children's Pool, is hereby ordered to employ all reasonable means to restore the Pool to its 1941 condition by removing the sand build-up and further to reduce the level of water contamination in the Pool to levels certified by the County of San Diego as being safe for humans.
- Nothing contained in this order shall be construed as requiring the City to violate any law, rule or regulation of any federal, state or county government. The court will maintain jurisdiction to oversee compliance with this order. This order shall be fully complied with no later than six (6) months after the date this order is issued. The City is directed to file a report with this court, no later than sixty (60) days following entry of this order, setting forth what steps it has undertaken and intends to undertake to comply with this order.

IT IS SO ORDERED,

Dated: August 25, 2005


JUDGE WILLIAM C. PATE
Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
HALL OF JUSTICE
TENTATIVE RULINGS - January 03,2008

EVENT DATE: 01/04/2008 EVENT TIME: 10:30:00 AM DEPT.: C-60

JUDICIAL OFFICER: Yuri Hofmann

CASE NO.: GIC826918

CASE TITLE: O'SULLIVAN VS CITY OF SAN DIEGO

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Misc Complaints - Other

EVENT TYPE: Motion Hearing (Civil)

CAUSAL DOCUMENT Motion - Other, 12/12/2007

/DATE FILED:

Defendant City of San Diego's "Motion to Clarify the Court's Injunction" is DENIED.

The Court is wary of ruling on the instant Motion, as it appears to seek something akin to an advisory opinion before the controverted issue is ripe. On the other hand, the City appears to be asking the Court to re-analyze an issue which has already been addressed and determined by this Court and the Court of Appeal. Specifically, the "rope issue" was discussed in both this Court's and the Court of Appeal's final rulings in favor of Plaintiff and against the City. Ultimately, both Courts found that the placement of a "rope barrier cutting off public access to the Pool," along with other various restrictions, "served to deter the public, beneficiaries of the trust grant, from using the beach," which resulted in the City's breach of its obligations as trustee under the subject Trust. (See Court of Appeal Ruling, pp. 12-13, quoting portions of the Trial Court's Statement of Decision.) More specifically, the Trial Court stated in its lengthy Statement of Decision:

The next biggest cause of actual or constructive closure of the Children's Pool was the City's decision to erect a rope barrier cutting off public access to the Pool. On March 29, 1999, the City Council . . . voted to rope off the Pool. *In doing so, the City breached its obligations under the Trust, as trustee of the Children's Pool.* Instead of returning the Pool to its original and safer configuration and also rectifying the unhealthy condition of the water and sand at the Pool, the City barred the use of the Children's Pool as a "public park, bathing pool for children, . . . and [use for] playground and recreational purposes," as expressly required by the 1931 Trust. The rope remained up from March 1999 until September 17, 2004.

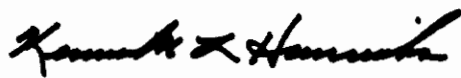
(8/26/05 Statement of Decision, p. 24, ls. 3-14, emphasis added.)

In the instant Motion, the City asks the Court to reconsider the rope issue in the context of new evidence not proffered at trial. The Court declines to do so. As noted above, the relevant issue has been considered and decided, and the Court's directives to the City are clear and unambiguous.

There are dozens of reasons why the Coastal Commission should stop this rope barrier project. The State Legislature had the opportunity to revoke the State Tidelands Trust when it amended the Children's Pool Trust in 2009 with SB 428. They did not do so because it would violate the Public Trust Doctrine and the original intent of the 1931 Trust entered into by the State of California, the City of San Diego and Ellen Browning Scripps. This rope project needs to be referred back to the San Diego City Council for reconsideration because of the flaws in the process and the numerous violations of public policy and statutes as explained above.

This project is full of errors and shortcuts that will be costly and embarrassing to the City when the full scope of their neglect and malfeasance is again revealed. Please stop this project and reject the application for a year round rope barrier at Children's Pool.

Sincerely,



Kenneth L. Hunrichs

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Ranger monitoring beach use.





Six extremists blocking stairs.



Intimidation tactics directed towards two deaf women on the beach by paid agitator and APRL/SealWatch employee.



Six more extremists blocking stairs and intimidating visitors.



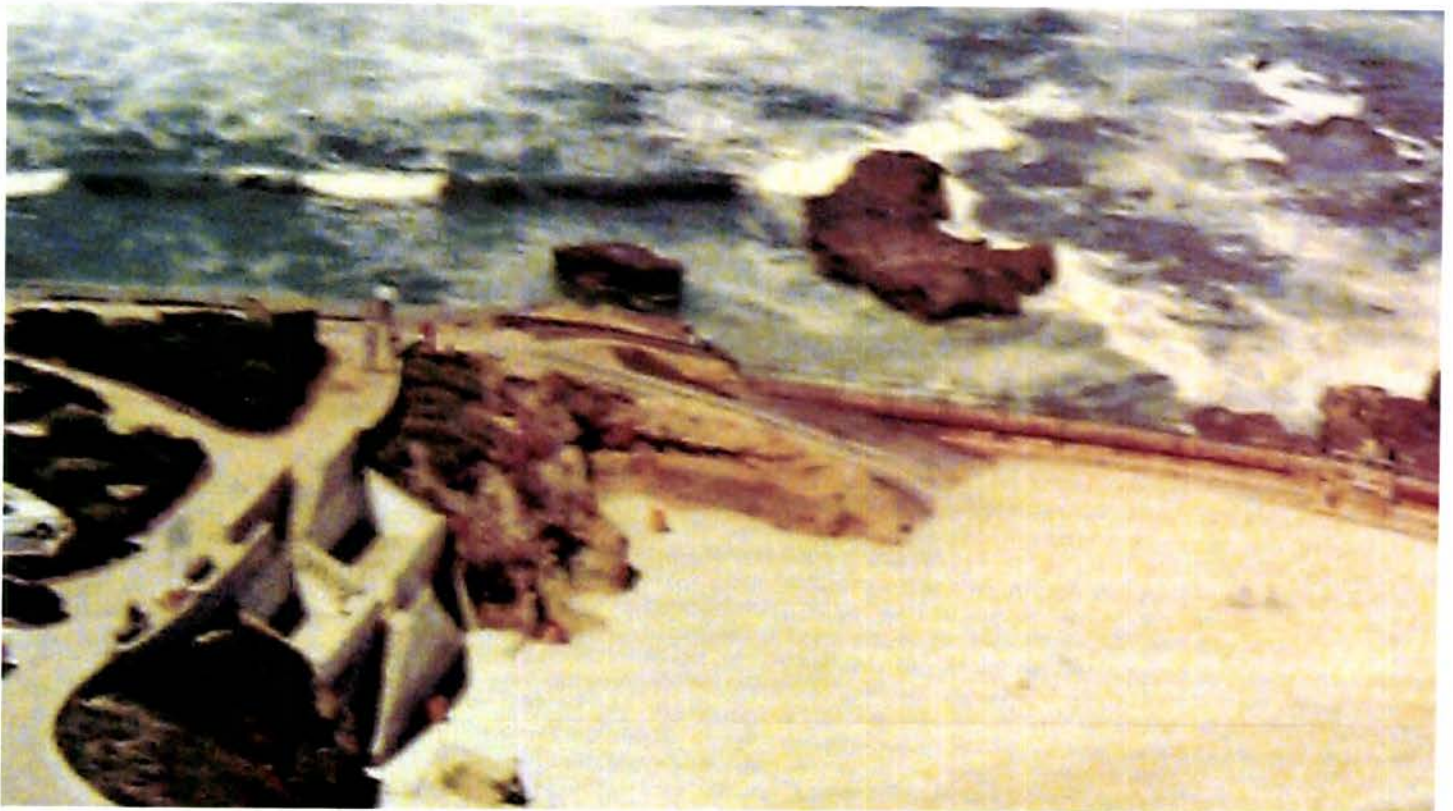
Another "welcome to the beach" gesture in the language of the extremists.



July 4th, 2011



Closed / neglected access ramp.



Improved coastal access ramp as it was in the 1950's, 60's and 70's.



Illegal closure of stairway by extremists.



Closed beach



Shared use on the 80th Anniversary of Children's Pool, May 31, 2011.



Illegal closure of stairway by extremists.



Illegal closure of stairway by extremists.



Shared use on the beach, 80th Anniversary of Children's Pool, May 31, 2011.



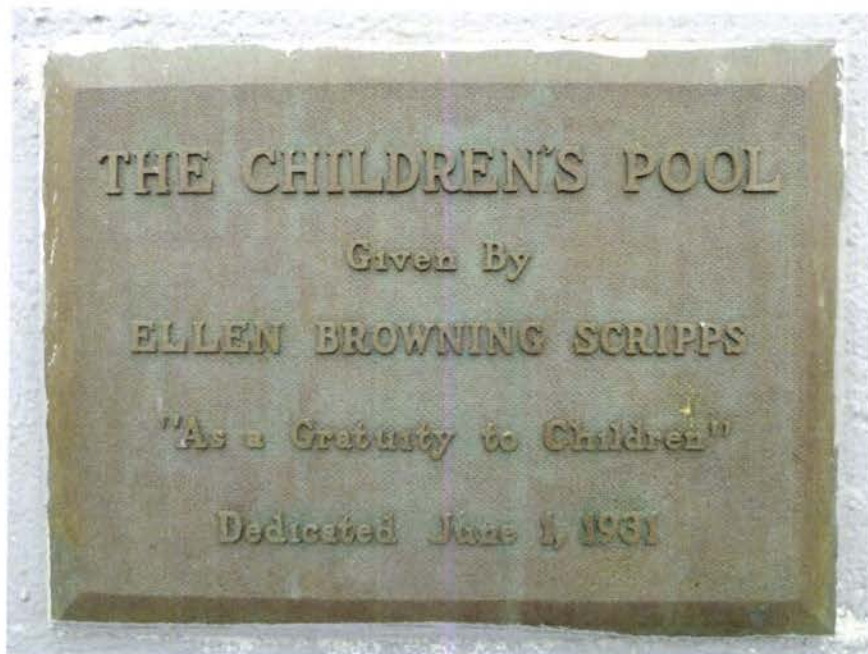
Illegal closure of stairway by extremists.



Summer weekend.



The result of a rope barrier.



Ellen Browning Scripps
& Friend.

RECEIVED

DEC 27 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Date: December 21, 2011
To: Melissa Ahrens, Coastal Planner, CA Coastal Commission, S.D. Coast District,
Subject: File No. 6-11-078, Rope Barrier Project, Children's Pool, La Jolla, CA

The California Coastal Commission (CCC) asserted jurisdiction over the Children's Pool Rope Barrier Project on August 19, 2011. Their rationale was the project appeared to be within the coastal zone and therefore within the historic high tide lines of 1931.

In October of 2011, the San Diego City Park and Recreation Director, Stacey LoMedico, submitted an application to the Coastal Commission for a year-round rope barrier at the Children's Pool after being denied approval at the local level. A request was also made to waive procedural regulations in order "to allow the Coastal Commission's decision on the Coastal Development Permit to be heard before the city's hearing on a Site Development Permit."

The CCC granted the waiver and I do not agree with the decision because it undermines the intent of local government land regulatory procedures required under the Local Coastal Program.

There are many reasons to deny the City Park & Recreation application of the CP Rope Barrier Project. However in this letter I will focus on one law which is being ignored and that is the California Environmental Quality Act, (CEQA).

The CCC recently stated that the formerly approved "temporary rope barrier permit" by the City of San Diego in 2010, could still stand despite being permitted under City jurisdiction and not CCC jurisdiction. The CCC claimed that they approved it after the City approval in 2010 because no substantial issue had been presented to them during the appeal process at the CCC level. This assertion is wrong for several reasons but I will only address one at this time. The City wrongfully declared the project to be categorically exempt from CEQA.

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15304 (Minor Alterations in Land Use) and 15333 (Small Habitat Restoration projects).

It was not exempt then and it is not now. Regardless of whether it is 5 months or forever, the Rope Barrier Project violates CEQA in several ways.

The City claims that the rope barrier is a minor alteration in land use. That is not true because the impact of the rope is profound and foreseeable. This has been demonstrated to be true when

barriers to human use were erected changing animal behavior and human activity on the beach.
See section 15064 & section 15300.2 as follows:

Article 5. Preliminary Review on Projects and Conduct of Initial Study

15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT

(g) After application of the principles set forth above in Section 15064(f)(g), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency ***shall*** be guided by the following principle: ***If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.***

Article 19. Categorical Exemptions

15300.2. EXCEPTIONS

(c) Significant Effect. A categorical exemption ***shall not*** be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The City erroneously claims that the rope barrier project is a small habitat restoration project. There is no habitat being restored. Instead the rope is supposed to be a barrier between man and seal by clearing human activity off the beach at a public park. It is not effective because seals can go under the rope and man can go around the rope. However, the rope at all times hinders, impedes and restricts human access to the ocean violating the Coastal Act. Animal behavior is changed and beach use is altered prohibiting the claim of a Categorical Exemption. See 15333:

Article 19. Categorical Exemptions

15333. SMALL HABITAT RESTORATION PROJECTS.

Class 33 consists of projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife...

There are three other sections that apply to the CP rope barrier project and they are 15358, 15382 & 15384:

Article 20. Definitions

15358. EFFECTS

(a)(2) Indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect or secondary effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Article 20. Definitions

15382. SIGNIFICANT EFFECT ON THE ENVIRONMENT

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An

12/23/11

To members of the costal commission,

We support the year around rope at Casa Beach in La Jolla. We believe that it should be preserved as a seal rookery.

Virginia Foster

Virginia Foster, Ph.D

1417 Park Row, La Jolla, CA 92037

G. Arthur Hammons

G. Arthur Hammons

1417 Park Row, La Jolla, CA 92037

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DEC 27 2011

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economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

There is a fair argument to state that the project would have a significant effect on the environment (CEQA Section 15382). The fact is that an increase in seals in the Children's Pool area beginning in the early 1990's, resulted in beach closure in September of 1997 "due to continuously high fecal coliform counts." A report later confirmed that the contamination was the result of "a seal excrement overload for the Children's Pool." These facts came out in the *O'Sullivan v. City of San Diego* case initiated in 2004. Later Judge William C. Pate, on Aug. 26, 2005, ordered the City to restore the Pool to its 1941 conditions.

Article 20. Definitions

15384. SUBSTANTIAL EVIDENCE

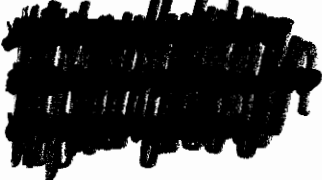
(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

Section 21080.5(d)(2)(A) of CEQA requires "that an activity will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment."

The feasible alternative is a park ranger managing the beach. After all, a rope does not move with the seals and seal are not present on the beach 24 hours per day. Seals and people can travel to either side of the rope. The rope doesn't move with changing conditions. A Ranger can help keep people a reasonable distance from seals when they are present. As of November 2011, a ranger has been hired to work at Children's Pool. Please do not approve the year round rope barrier project. It will only cause more aggravation at Children's Pool and possible litigation.

Marie Hunrichs
Marie Hunrichs



David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 459-4696

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DEC 22 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

16 December 2011

Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: California Coastal Commission File 6-11-078,
Deny application for rope barrier at the
Children's Pool, La Jolla, California

I **OPPOSE** granting the City of San Diego permission to erect a barrier, be it temporary or permanent, across the beach at the Children's Pool. And I mean **ANY** barrier from a piece of fishing line to a concrete barrier. Restricting beach access to **ANY** public beach is beyond the purview of the Commission and in direct opposition to the letter and spirit of the law which established the Commission.

SECTION (b) Children's Pool Tidelands Trust, Chapter 937 of the Statutes of 1931, states,

*The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the **people** of the State of California.*

Pinnipeds are not people.

Any barrier inhibiting the use of this or any other public beach is illegal. Preventing access to this particular beach is particularly heinous as it was dedicated as a bathing pool for children.

The argument for preventing public access to this beach is that such access would harm the population of harbor seals in southern California. This is absurd. There are more than 33,000 harbor seals in Southern California. The 100 or so seals which occupy this beach are a very minor component (0.3%) of the harbor seal population in Southern California. Preventing 750,000 San Diego County children from enjoying this beach to the benefit of a 100 or so seals is a travesty.

I trust that the California Coastal Commission will deny any applications to install a rope barrier that will inhibit the rights of the people of the state of California to conveniently access the ocean on this beach.

The above is my opinion, but I do have a doctorate in marine biology from the University of California, San Diego so my knowledge of pinepeds is a bit better than the average citizen. I have also lived in La Jolla for 43 years and my family and I have enjoyed the Children's Pool on numerous occasions. Up until the time that seal activists began to harass beach users and threaten bodily harm to humans.

Yours truly,

A handwritten signature in black ink, appearing to read 'David W. Valentine', written in a cursive style.

David W. Valentine.

MA
Veronica Brown
Coast Blvd
La Jolla, CA 92037
(858) 224-2248

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DEC 20 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
File: 6-11-078
c/o Melissa Ahrens, Coastal Planner

December 1, 2011

Greetings,

I live on Coast Blvd and I like to go for a dip in the ocean in the morning. It's peaceful, the sun is coming up, the water starts to glisten in the new day's sunlight. The undercurrent and waves at the other area beaches including the cove have been too strong for me to go in them safely lately. I would go to Children's Pool but the last time I did that:

- 1) I was yelled at from the sidewalk so that all the visitors in the area would hear
- 2) the activists ran up to other people who were peacefully enjoying the views from the jetty and sidewalk and coerced them to yell at me (annoyed by the activist they did not chime in)
- 3) the activist called in reinforcements and sent somebody down to the ocean's edge to wade in and get closer to yell at me and to video me close up
- 4) I was interrogated as to who was I working for what was my name? I did not respond because activists will use your name to ruin your name and professional image on the internet

I left Children's Pool and went to the other beach just south. The activist followed me there harrassing me and clipping at my heels all the way there trying to engage me in a public screaming match with them. I did not engage. At the other beach I was monitored and videoed.

I left to go to my car

- 1) the activist jumped in their car and followed me to my car
- 2) the activist pulled in front of my car and took pictures of my license plate presumably to find out my name and look up where I live.

The activist knows anybody doing a google search of a person's name will see the videos posted by the activists accusing the person of a criminal act against animals. And people do searches if they are dating or thinking of dating or interviewing or even thinking of interviewing a person. The videos paint a picture of the person as if they have been tried and convicted of heinous acts against poor defenseless animals. Activists use the rope as a tool of intimidation. With this letter I am asking the Coastal Commission to please do not facilitate this intimidation with a year round rope.

I am requesting that there be NO YEAR ROUND ROPE BARRIER at Children's Pool.

Veronica

Veronica

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DEC 16 2011
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT
cc: SS
DIX
WJH
MA

December 16, 2011

John Leek, Secretary
San Diego Council of Divers
3090 Admiral Ave
San Diego, CA 92123-3104

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

Ref: California Public Records Act Request

This is to request copies of the most recent 10 waivers granted in San Diego under 14 ccr §13053 or in Southern California if 10 cannot be found to have originated in or concerning San Diego. This is also called Division 5.5, chapter 5, subchapter 1, Art 1.

The issuance of waivers under §13250 and §13253(c) are common and documented under unique waiver numbers and are reported to the Commission before being executed. Each of them contains the required origin with the Executive Director and the reasoning and rationale for the decision. One would expect the same of a waiver under §13053 to meet its requirements.

The San Diego CCC office has issued a waiver under §13053, a couple of months ago, we understand. At least there is mention of one in a letter from the local deputy director, but no clue where to find this in a document, showing origin with the Executive Director as one would expect. This seems to be a very extraordinary happening, since inquiry to the San Diego office produced no recollection of the last time a §13053 waiver was issued.

In order to know if there is precedent or authority for such a waiver we are requesting copies of the last 10 such waivers under §13053 issued in the San Diego region. If there are not 10 to be found we would be happy to have copies of such waivers having been issued anywhere in Southern California.

Naturally we are prepared to pay the normal copying fees.

cc. Deborah Lee, San Diego office.

John Leek

858-610-4724 jleek001@san.rr.com



6-11-078

Subject: Children's Pool comments to CCC/Please fwd to CCC
From: George Greer <ggreer4@yahoo.com>
Date: 12/15/2011 10:39 AM
To: "focp@san.rr.com" <focp@san.rr.com>

Dear Folks,

Humans and pinnipeds were able to co-exist at the Children's Pool for decades.

They still can.

Pupping season may be an exception but seals and sea lions congregate in many places along the coast that are far less suitable for children.

The Pool is an ideal and safe place to learn to swim for toddlers especially as it is sandy and protected from the breakers unlike most beaches.

I work in retail in LaJolla and understand the retail establishments' interest in tourism. However it is a common tho erroneous belief that the seals attract tourist and tourist money.

My experience does not support that.

LaJolla itself is the attraction, as it always has, not the seals.

Please consider denying the rope restriction and recall that the CCC mandate is to promote coastal access for humans.

~Thanks,

George Greer

34221 San Simeon St.

Temecula, CA 92592-5593

DEC 16 2011

San Diego

San Diego

Subject: For File 6-11-078

From: KENT TREGO <nautilusoceanic@yahoo.com>

Date: 12/14/2011 9:26 AM

To: FoCP <focp@san.rr.com>

Please note the important information give below as it applies to the rope barrier consideration at the Children's Pool in La Jolla, California.

This information applies to the question of Pacific harbor seal premature birth at the Children's Pool in La Jolla.

1. 39% of all Pacific harbor seal births in a pupping season may be premature (Steiger et al. 1989, Journal of Wildlife Diseases). The rate of Pacific harbor seal premature births at the Children's Pool has never approached this percentage which is considered normal for Pacific harbor seal rookeries.

2. Pacific harbor seal premature births are common in maternal females that are young, primarily less than 5 years of age (Bowen et al. 1994, Canadian Journal of Zoology). Maternal female Pacific harbor seals 4 to 6 years of age with low body mass most commonly have premature births (Ellis et al. 2004, Journal of Mammalogy).

There have been claims that people are causing Pacific harbor seal premature births at the Children's Pool in La Jolla. There is no evidence for this as the percentage of premature births in the Pacific harbor seal colony at the Children's Pool is much lower than the expected normal percentage of almost 40% and determining causes for premature birth in Pacific harbor seal rookeries is extremely difficult as there are many many reasons to consider for the origin of premature birth in Pacific harbor seals..

Kent D. Trego
La Jolla, California

Kent D. Trego has published over 60 scientific journal papers in oceanography and geology and does consulting oceanography work in San Diego.

12/14/2011 9:44 PM

DEC 16 2011

Mortality of harbor seal pups at different sites in the inland waters of Washington

GH Steiger, J Calambokidis, JC Cabbage, DE Skilling, AW Smith and DH Gribble

Abstract

We examined the mortality rates and causes of death of harbor seal (*Phoca vitulina*) pups in three regions of the inland waters of Washington (USA) in 1984. One hundred eight pups were collected during 239 searches of the shoreline areas near harbor seal haulout sites or through public reports. Minimum neonatal (up to 1 mo after birth) mortality rates at these regions ranged from 12% to 26% of the pups born. Neonatal mortality was highest in the Strait of Juan de Fuca; 33 of the estimated 105 (31%) pups born at the primary site died. Causes of death varied by location. In southern Puget Sound predation by coyotes (*Canis latrans*) was the primary cause of death, accounting for eight of 43 (19%) of the dead pups examined; starvation was the next most common cause of death. Mortality at study sites in the Strait of Juan de Fuca was related to premature parturition; 19 of 49 (39%) of the pups found dead were born prematurely. Nine species of bacteria were identified in samples taken from 42 pups; *Proteus* sp. and *Escherichia coli* were the most common.

Articles citing this article

Discovery of an orthoreovirus in the aborted fetus of a Steller sea lion (*Eumetopias jubatus*)

J. Gen. Virol. November 1, 2011 92:2558-2565

[Abstract](#) [Full Text](#) [Full Text \(PDF\)](#)

Pathology and Epidemiology of Phocid Herpesvirus-1 in Wild and Rehabilitating Harbor Seals (*Phoca vitulina richardsi*) in the Northeastern Pacific

J Wildl Dis July 1, 2010 46:1046-1051

[Abstract](#) [Full Text](#) [Full Text \(PDF\)](#)

Causes and Patterns of Harbor Seal (*Phoca vitulina*) Pup Mortality
at Smith Island, Washington, 2004-2009

by
Corina L. Leahy

A Thesis
Submitted in partial fulfillment
of the requirements for the degree
Master of Environmental Studies
The Evergreen State College
July 2010

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This Thesis for the Master of Environmental Study Degree

by

Corina L. Leahy

has been approved for

The Evergreen State College

by

Gerardo Chin Leo
Member of the Faculty

John Calambokidis
Research Biologist
Cascadia Research Collective

Martha Henderson
Member of the Faculty

Date

ABSTRACT

Causes and Patterns of Harbor Seal (*Phoca vitulina*) Pup Mortality at Smith Island, Washington, 2004-2009

Corina L. Leahy

Harbor seals (*Phoca vitulina*) are the most common and widely distributed pinniped in Washington State waters. Their abundance and proximity to land allow many opportunities for examination and necropsy once stranded. Serving as sentinels of marine ecosystem health, stranded animals are useful in detecting environmental contaminant levels and disease in populations. From 2004 to 2009, mortality rates and causes of death of harbor seal (*Phoca vitulina*) pups at Smith Island, a haulout site in North Puget Sound, Washington State, were examined. A total of 16 surveys of this site were conducted during pupping seasons (June through August). Two hundred twelve dead pups were counted, of these 54 were collected for necropsy. Minimum neonatal mortality ranged from 3% to 27%. Neonatal mortality was highest in 2005; half of the total number of dead pups found over the entire study period were collected that year. Infection was the leading primary cause of death in most years. In 2005, 43% of the pups died from an infectious process. In 2006, 2008, and 2009, infection was again the leading cause of death, claiming a total 47% of pups necropsied during those years. The second leading cause of death was malnutrition; other causes of death included prematurity and dystocia. Antibiotic resistant bacteria were isolated from 17 of the 54 pups necropsied. Antibiotic resistant bacterial infections were most prevalent in 2005 and 2009. Bacteria presenting with antibiotic resistance included *Enterococcus*, *E. coli*, and *Actinomyces*; some of these isolates were found to be resistant to all eight routine antibiotics. As antibiotic resistance becomes more prevalent in marine mammal populations, there could be significant implications for marine ecosystem health. Long term data collection from this site may provide invaluable insights into the potential impacts of contaminants, pathogen introduction, and other perturbations on population recruitment, health and status.

Reproduction & Mortality

Female harbor seals reach sexual maturity at ages of 3 to 4 years; physical maturity is reached at the age of 6 to 7 years. Males reach sexual maturity at 4 to 5 years and physical maturity at 7 to 9 years (Burns, 2008). The maximum lifespan of a harbor seal is between 30-35 years, although individuals rarely live this long in the wild. Females tend to live longer than males yet mortality for both sexes is highest during the first few months after birth (Riedman, 1990). Individuals are reproductively active throughout their lives with females typically giving birth to one pup per year, although twinning has been observed (Burns, 2008). The gestation period is approximately 10.5 months.

In most regions, Washington included, pups are born on land. Pupping season varies throughout populations. Even within Washington, pupping season varies by location, but tends to occur fairly consistently at each site across seasons. In inland Washington waters, pupping season starts in late June and lasts through early September (WDFW, 2009). Pups are nursed for approximately 4 to 6 weeks and can triple their weight by the time they are weaned. These fat reserves are useful as the pups learn to forage on their own.

Several factors can adversely affect survival, often with varying effects on different age classes. In young or first time mothers, the risk of abortion or stillbirth is higher. As these females are typically smaller, they may in turn give birth to smaller offspring thus increasing vulnerability to injury or hypothermia (Geraci & Lounsbery, 2008). Starvation or malnutrition can also lead to death, particularly in dependent young pups, immunocompromised individuals, or older animals. Trauma may lead to mortality in seal populations, especially at crowded haulout sites where the density of animals can increase the chances of accidental trauma, particularly to small pups. Pathogens are another significant source of mortality. Parasitic, bacterial, viral, and fungal infections can all contribute to seal death. Seal pups are also more likely to fall victim to predation, as they are often left alone and vulnerable on shore.

In Washington State, transient orcas, eagles, gulls, and coyotes all prey on harbor seals (Lambourn, *et al.*, 2010; Steiger *et al.*, 1989). A number of

✦ LA JOLLA PARK AND BEACHES ✦

12 December 2011

California Coastal Commission
San Diego Area
ATTN: Melissa Ahrens, Coastal Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

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CALIFORNIA
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SAN DIEGO COAST DISTRICT

Subject: Proposed Year-Round Rope, Children's Pool (aka Casa Beach), La Jolla, CA
FILE 6-11-078
Applicant: City of San Diego

To Whom It May Concern:

We have been informed that the Coastal Commission is considering an application by the City of San Diego to install and maintain a rope barrier year-round at the Children's Pool (aka Casa Beach), in the community of La Jolla.

The La Jolla Community Planning Association (LJCPA) is the community organization recognized by the City of San Diego to evaluate discretionary permits and to speak on behalf of the La Jolla community on land use issues as they pertain to the La Jolla Community Plan and Local Coastal Program Land Use Plan.


At the LJCPA's regularly scheduled and publicly noticed meeting of September 2, 2010, the LJCPA heard public testimony and deliberated on the merits of the subject proposal. The trustees took two actions:

- To deny a "Rope Barrier" to remain in place year round on the Children's Pool Beach because the "Rope Barrier" creates more problems than it resolves and findings cannot be made for a Coastal Development Permit. Passed 10-1-2
- To reject the City of San Diego's determination that The Children's Pool Beach "Rope Barrier" Project is categorically exempt from CEQA Guidelines. Passed 11-0-2

The City of San Diego Planning Commission at their December 9, 2010 hearing agreed with the LJCPA's position and denied the City Park & Recreation Department's request for the permit.

We urge Staff and the Commission to deny this proposal and to preserve the vertical and lateral access to the Children's Pool sandy beach and coastal waters.

Sincerely,
La Jolla Parks and Beaches, Inc.



Patrick Ahern, President

cc. Deborah Lee, District Manager

Barbara Ann Groce
8243 Prestwick Drive
La Jolla, California 92037-2019

December 9

Dear Coastal Commissioners,

The Children's Pool is for
CHILDREN not seals.
The seals have the entire
Pacific Ocean and other
areas. The CHILDREN
only have the safe protected
Children's Pool.

We need to put our
children first!!!

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DEC 14 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Rebecca Morales, PhD
7318 Draper Ave
La Jolla, CA 92037
858-456-1000
rebeccamorales@earthlink.net
www.rebeccamorales.com

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DEC 12 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

December 9, 2011

California Coastal Commission
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

Coastal Commission:

I'm writing regarding the rope at the La Jolla Children's Pool. I strongly urge that there NOT be a year-round rope barrier.

I am a native San Diegan who grew up in La Jolla and swam in the Children's Pool as a youngster. I see the Children's Pool as a real treasure that we have neglected to value.

From my research, it appears what we have is unique. I found that New South Wales, Australia, among other select places around the world, celebrates its ocean pools. None of the pools open to the ocean like ours.

Not only is our ocean pool unusual, so is the idea of having an ocean pool for children specifically. There is no other place in San Diego where a parent with a stroller can take their child to a public beach and have easy access to their things. With minor upgrades, the Children's Pool could provide that.

I grew up with "shared use" and it worked. Please help us not only keep but improve our Children's Pool and make it an asset that would add significantly to the aesthetic character and livability of the community.

Thank you.

Rebecca Morales

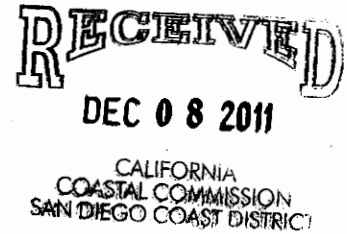
Rebecca Morales

MA
Dec 4, 2011

To Whom It My Concern

Coastal Commission

(file 6-11-078)



I object to putting any rope up at the La Jolla Children's Pool.

Please do not stop access.

Please do not put up any barrier that impedes my ability to enter the water.

Sincerely

A handwritten signature in cursive script that reads "Robin Luczak". The signature is written in dark ink and is positioned above the printed name.

Robin Luczak

519 Glencrest Dr

San Diego, CA 92139

6-11-078

Subject:

From: "Frances San Clemente" <fsanclemente@san.rr.com>

Date: 12/5/2011 5:42 PM

To: "'John Leek'" <jleek001@san.rr.com>

Dear Commissioners,

San Diego has been granted a rare waiver to submit application for a Coastal Development Permit without the required local permits or Site Development Permit. Of course San Diego wants this extraordinary measure since it has spend 17 months and endured 2 lawsuits over its stymied year round permanent rope barrier proposal at Children's Pool. If you granted the waiver in order to get it killed all the sooner that would be good, but still not appropriate.

This rope permit is not an emergency. When the City Council requested it as an emergency permit the City Attorney had to advise the Mayor that findings could not be made for an emergency permit. When the Planning Commission unanimously upheld an appeal by the La Jolla Community Planning Association it was sued by the same Activist lawyer who had lobbied the permanent rope onto the floor of a confused City Council. A temporary restraining order was granted to keep the rope up past May 15, as part of the same suit. Two weeks later the judge rescinded that TRO having seen the rope was being ignored with no resultant harm. NO emergency.

I have reprinted and included an article from June 3, 2011 in the La Jolla Light "Judge Says Children's Pool Rope Must Come Down" for you. Note the judge's statement "..... there's been no harm proven to the animals when that rope barrier has not been up;". You could consider the 8 web comments the Light received as additional public comment on the matter. <http://www.lajollalight.com/2011/06/03/judge-says-childrens-pool-seal-rope-must-come-down/>

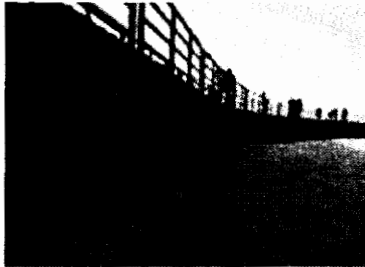
Frances San Clemente
9780 Camino Doha
San Diego, CA 92131

DEC 06 2011

LA JOLLA LIGHT

Enlightening La Jolla since 1913

Judge says Children's Pool seal rope must come down



Luminaria bags were placed along the seawall during the event. Photo: Brittany Comunale



People begin arriving as the seals lay on the beach.

Photo: Brittany Comunale



People and seals line the beach during the 'celebration.' Photo: Debbie Beacham



Some of the group sets up for the event. Photo: Brittany Comunale

By Dave Schwab
Staff Writer

The guideline rope barrier separating humans from harbor seals at La Jolla's Children's Pool was ordered to come down today by Superior Court Judge Lisa Foster.

On May 12, Foster had granted a temporary restraining order barring the rope from being taken down as scheduled on May 15.

In rendering her decision, Foster noted her legal jurisdiction is limited.

"I am constrained, the restraining order will expire today," she said.

Foster noted the plaintiff, the Animal Protection and Rescue League (APRL), has yet to prove its case that the decision by the city Planning Commission in January 2011 granting La Jolla Community Planning Association's (LJCPA's) appeal reversing an earlier decision that the rope barrier should be up year-round in perpetuity to protect the marine mammals is flawed.

The guideline rope barrier has traditionally been up to protect seal mothers and their pups during the marine mammals' pupping season Dec. 15 to May 15.

Foster said she could not yet find that the Planning Commission abused its discretion in determining that the guideline rope barrier constituted an "encroachment" into the public right of way denying public access to the beach and pool.

"There's been harassment even with the rope barrier," argued attorney Bryan Pease representing the APRL. "Without the rope barrier, there will be a constant barrage of harassment we've seen year after year."

"I know you disagree but there's been no harm proven to the animals when that rope barrier has not been up," replied Judge Foster.

The June 3 Superior Court action did not conclude the ongoing, seesawing legal battle over whether harbor seals need protection during and beyond the marine mammals' pupping season and whether the guideline rope barrier, though more symbolic than physical, constitutes an "encroachment" on the public's right to beach access.

Judge Foster set a July 15 court date at which time both sides in the Children's Pool case will return to plead their case.

In a separate but related matter, LJCPA voted overwhelmingly 11-1-2 and 12-1-1 June 2 to oppose planning actions being initiated by the city to close Children's Pool to humans during the harbor seals' Dec. 15 to May 15 pupping season.

"The LJCPA is opposed, in the strongest possible way, to the annual closing of public access to La Jolla's Children's Pool," said trustee Devin Burnstein in a motion. "Children's Pool should remain open in perpetuity. It is a priceless asset to the children and citizens of California and to the community of La Jolla."

Trustee Phil Merten added a second motion noting LJCPA believes the findings also cannot be made to support a Coastal Development Permit, or an amendment to the La Jolla Community Plan, to allow Children's Pool to be closed to people part of the year.

The advisory group's vote came after public comment during which more than a dozen pro-beach access supporters at Children's Pool testified, warning that closing the beach even part-time would endanger divers, threaten the public's guaranteed right to beach access and open the city up to future costly lawsuits by those seeking to overturn any prohibition to beach access.

Posted by [Dave Schwab](#) on Jun 3 2011. Filed under [La Jolla, News](#). You can follow any responses to this entry through the [RSS 2.0](#). Both comments and pings are currently closed.

Comments (8)

Dave · [24 weeks ago](#)

I was down at the Children's Pool yesterday (saturday). IT WAS AMAZING!!!! Children playing on the beach, beautiful weather, seals sunning themselves on the rocks and the sand, and the activists were for once NOT screaming through a megaphone.

See, not having the rope as a barrier to beach access the activists don't have a "trigger point" at which they start

disturbing the peace, violating city noise ordinances, and just making general nuisances of themselves.

On a side note, a group of spearfishermen and women on the beach were handing out free fresh white seabass tacos to the public. Fish they had caught when using the Children's pool as an access point. The only safe and legal access point for spearfishing in the La Jolla area. I guess divers have been having BBQs with the fish they have caught locally there for 80 years now. It was great to see that tradition continued.

Without the rope, the Children's pool is a better place. It's just a simple fact.

James · 24 weeks ago

"Without the rope, the Children's pool is a better place." That's your opinion not a fact. There are many people that would disagree with you. I know I'll get a bunch of thumbs down for saying that!

BUT, I do agree the area is much nicer when people don't shout and throw things! Now if we could maybe scale back the sheer number of signs posters and tables around the retaining wall and beach the area would be even nicer!

SDWaterman · 24 weeks ago

This Children's Pool issue could get much worse for San Diego beaches in the years to come.

I was at Pacific Beach this Sunday, about 300 yards north of Crystal Pier. At about 4:00 pm, a large brown seal came up into the shallow water and pulled itself out onto the beach. It looked around for about 15 seconds, and then calmly turned around and went back into the water and hung around in the shallow break water for about 5 minutes before disappearing. It did this right in the midst of the people playing on the beach and surfing in the water.

So this seal was pretty acclimated to people. How long will it be before "people acclimated" seals from the Children's pool decide to pull out on other beaches as their population grows? And when that happens, will those beaches slowly but surely become unusable? We'll make room for the seals until they "own" all the beaches and bring back the sharks?

I guess in the environmentalists view, this would be an acceptable or even ideal outcome.

James · 24 weeks ago

"Bring back the sharks"? Really? How ignorant can you be? or are you just trying to use sharks as a scare tactic? There have always been sharks in our waters and there will hopefully always be sharks in the ocean! Sharks don't eat people and there has been one that's right one (1) fatal shark attack in San Diego county in the last 50 years!

npk32 · 24 weeks ago

"How long will it be before 'people acclimated' seals from the Children's pool decide to pull out on other beaches as their population grows? And when that happens, will those beaches slowly but surely become

unusable? We'll make room for the seals until they 'own' all the beaches and bring back the sharks?"

You just blew my mind.

James · 24 weeks ago

And it might be worth noting that the seals would not become acclimated to people if people were not allowed to go down to the Children's pool!

Seal Teem 6 · 24 weeks ago

And it might be worth noting that the seals would not become acclimated to people if Sea World would not have dumped a colony of rehab seals at Children's Pool !!!

Dan · 22 weeks ago

Why is this such an issue? On the opposite side of the childrens pool is a staircase that leads to another little beach, theres another cove north ideal for swimming in, theres the shores and the cliffs. Why is this little patch of beach so important? Whats gonna happen when some little kid tries to touch a seal and it bites the child? The rope kept stupid people from doing stupid things so now just sit back and wait for someone to sue the city for not having it blocked off because they did something dumb.

<http://www.lajollalight.com/2011/06/03/judge-says-childrens-pool-seal-rope-must-come-down/>

File 6-11-078
Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

DEC 06 2011

Dec 4, 2011

Dear Commissioners,

The reasoning behind all these rope barriers the City has been stampeded into by animal rights activists and suggestions by National Marine Fisheries Service had their origin in a false news report made in 2003. It was reported a swimmer was bitten and mothers and pups were scattered by a set of swimmers. That biting incident was false. And the lifeguards reported all the seals had returned by the end of the day, no dead baby seals washed up.

During 2003 House Committee deliberations on revising the Marine Mammal Protection Act, this rubbish was taken as fact, and harbor seals were lumped with their more aggressive cousins the sea lion thereafter.

<http://www.gpo.gov/fdsys/pkg/CHRG-108hhrg88940/html/CHRG-108hhrg88940.htm>

The opening statement set the tone:

*" There have been numerous press articles about the children's pool in La Jolla, the National Marine Fisheries Service, the management agency for pinniped populations under the Marine Mammal Protection Act, just issued fines to a number of individuals that swam in the pool area who were trying to show that humans and seals can coexist. **One of the swimmers was bitten by a seal, and a number of seals stormed off the beach, which demonstrates that in these types of situations both people and the animals can be harmed.**"*

The truth is rather funny. I tracked down the guy. Attached is the real story. Shows a lot of forbearance on the part of the seal, having been attacked by the guy's wife. To verify I have purposely pushed my fingers into a harbor seal's mouth with no harmful effect. Nor did the seal seem to take offense.

Eight years later, it is not so funny that we who swim and play with the seals all the time know more than the savants in National Marine Fisheries Service (NMFS) who still have not come up with a coherent approach to this situation. Instead they "recommend" the City of San Diego take draconian measures to separate seals and people with no regard to California State Law. If a rope across the beach is an imperative under the Marine Mammal Protection Act, (MMPA) then why don't they come down and string one up?

Besides being too distant to make intelligent contributions, NMFS input has no place in State or municipal deliberations. From Section 109 of the MMPA:

"No State may enforce, or attempt to enforce, any State law or regulation relating to the taking of any species (which term for purposes of this section includes any population stock) of marine mammal within the State unless the Secretary has transferred authority for the conservation and management of that species (hereinafter referred to in this section as "management authority") to the State under subsection (b)(1). "

A state or lesser agency can write and enforce laws to protect anything it wants, however it MAY NOT base its actions on an unauthorized implementation of any part of the Marine Mammal Protection Act. Any need for such governance has to stand on its own. The only action on the table here is whether a trusted Public Beach in California should have people restrained from reaching the shore by a municipality principally concerned in doing so to placate a litigious special interest group while conserving tourist a tourist attraction it has crated to the detriment of the beneficiaries of the 1931 Children's Pool Trust.

John Leek

3090 Admiral Ave

San Deigo, CA 92123

A handwritten signature in black ink, appearing to read 'John Leek', is positioned to the right of the typed name and address.

mark holmes wrote:

The main group went by me to the right. This seal went to the left in a tight space next to the reef. There was not enough room so it put it's flippers around me and began to roll holding me under, this is when I was scratched. When we came up for air it opened its mouth in front of my face in a threatening manner, still holding on to me. My wife who was right behind me saw this and pulled her mask and snorkel off and started pounding on its head. It then let go of me and turned on her with an open mouth and teeth bared. Then all of a sudden it dove under and swam off. I am a Boomer Beach body surfer, my surfing buddies like to give me a hard time about my wife having to finish the fight!!! I was bleeding badly when we got out of the water, a lifeguard cleaned my wounds, a fish and game rep took my name, and I went off to urgent care. All of this on the day before my birthday! Shortly there after a cousin of mine who lives in NYC called to tell me he had seen it in the NY Times, another friend on vacation on Maui saw it on a local animal channel, we saw mention of it on the evening news in an add for text messages on a new cell phone as an example of the type of thing you would be kept up to date on!!! We were flabbergasted at all of this....Andy Whorhals prediction come true! We had to pay \$600 each to avoid a trial (we were told we would get this money back if others were let off in the trail process, no word from them yet). I was working for Dr. Lee Monroe at this time (25 year president of the San Diego Zoological Society) he told me that in his opinion (tongue in cheek) that the seal was engaging in pre-copulatory behavior!!! I'm glad to have all of this more or less behind me. It makes a good camp fire story and I've got a scar on my back to prove it!

Mark

From: John Leek [mailto:jleek001@san.rr.com]

Sent: Wednesday, January 31, 2007 7:20 AM

To: mark holmes

Subject: Re: So you ran into a seal?

AHA! Now, was it an attack, or did it swim past in a hurry in a tight space?

If it was coming straight at you, I figure getting your back would be because it reached past you on a forward stroke.

If it came from behind, it probably did it on purpose, though to a seal, that is a mild reprimand.

mark holmes wrote:

John, It clawed me with it's flipper on my arm and back.

Mark

From: John Leek [mailto:jleek001@san.rr.com]

Sent: Tuesday, January 30, 2007 9:16 PM

To: markholmes53@msn.com

Subject: So you ran into a seal?

I got your email address from Tom Sauer. I am the secretary of the Council of Divers and admit to having an agenda to fight the intimidation of citizens at Children's. You can see some of my investigations at http://www.friendsofthechildrenspool.com/harbor_seal_quiz.htm

You may be the only person ever documented to have been injured by a harbor seal, though the possibility is used constantly to justify closing Children's Pool 'in case'. When I first heard of your encounter, I contacted the reporter who filmed it and said it didn't seem like a seal would bite somebody in such a manner, but maybe hit him with a clawed flipper. The reporter stuck to his story, though I could not tell anything from the video.

So, you are a living historical archive. What did the seal really do?

John Leek

6-11-078

Subject: Childrens Pool rope barrier
From: "Joshua Russo" <JRusso@aptech-online.com>
Date: 11/29/2011 2:19 PM
To: <focp@san.rr.com>

Hello,

I am opposed to the placement of a rope barrier at Children's Pool and see it as an unnecessary removal of my right to access the water at a public beach, and a beach that was created for that purpose. I was at Children's Pool last Friday and grateful to be able to enjoy the ocean there. I am aware that there are some activist that are making this more than it really is and I'm asking you to protect my rights. No seals are were or ever would be harmed by the absence of this rope.

Thank you for your time,

Josh Russo

2126 Porter Ct. Fairfield, Ca 94533

(707)333-9575

DEC 06 2011

Subject: File 6-11-078
From: "Jeff" <J_Benedict@peoplepc.com>
Date: 12/3/2011 7:31 PM
To: <focp@san.rr.com>

To: File 6-11-078
Coastal Commission

DEC 06 2011

Dear Coastal Commission,

Please see the 12/9/2010 article from the "La Jolla Light" I have printed and attached. "Planning Commission denies year-round rope barrier" shows the result of the earlier attempt by the City to get an SDP for a year round forever rope barrier across our beach. These are professional people selected by the City to oversee its land use applications for validity. They unanimously saw a rope across 96% of a beach is contrary to the spirit and letter of the Coastal Act.

For the last 5 years the La Jolla Community Planning Association has opposed barriers to access there. Note the words of Joe LaCava therein:

"Planning association president Joe LaCava said, "This is a barrier that keeps the public away from the beach and shoreline," he said. "It is a hindrance to people using the beach and it does not maintain or enhance vertical or lateral access. The project conflicts with the elements of the local coastal plan and therefore you cannot make the findings and you must deny the project development application."

People share the beach quite well with the seals, and the seals have affirmed it over the years be coming back in ever greater numbers. Please stand up to the troublemakers who have no respect for the rights of Californians to have access to the water. Our City seems to be incapable of it.

Best Regards,

Jeff Benedict
714.313.0838

LA JOLLA LIGHT

Enlightening La Jolla since 1913

Planning Commission denies year-round rope barrier for La Jolla Children's Pool

BY DAVE SCHWAB

Staff Writer

The City Planning Commission on Thursday unanimously agreed with an appeal from the La Jolla Community Planning Association that the rope barrier protecting seals at the Children's Pool should not be allowed year-round in perpetuity.

In rendering their 7-0 vote, commissioners ruled that neither environmental and land-use findings, nor the necessity for justifying keeping the barrier up beyond the Dec. 15 to May 15 pupping season, could be made. The vote after a nearly three-hour hearing nullifies a September decision by a city hearing officer in favor of the year-round rope, something that was supported by the previous City Council — but rejected by Mayor Jerry Sanders.



Seals lined the beach in early December 2009, before the pupping season rope went up. Light file photo

The commission's decision can be appealed to the California Coastal Commission but not the City Council.

Longtime La Jollans who have been lobbying the city to support access at the popular beach created more than 70 years ago as a safe wading area for children were elated and surprised by the commission's lopsided decision.

"I'm shocked," said Michele Addington, a beach-access proponent who felt going in to the meeting that her side would prevail — only not so overwhelming.

Those who want the rope up throughout the year to separate the seals from people had argued the barrier is just symbolic and is necessary ybecause there will always be people who don't keep a proper, respectful distance from wildlife.

"It's not a fence — the rope is just a guideline," said Dorota Valli of the Animal Protection and Rescue League. "It doesn't prohibit people from going on the beach and accessing the water."

"The rope maintains a safe buffer between people and seals," said Jerry Horn with La Jolla Friends of the Seals.

"A guideline rope year-round would allow at least some measure of public awareness and protection for harbor seals hauled out on the sand," agreed Ellen Shively, president of La Jolla Friends of the Seals.

First District City Councilwoman Sherri Lightner, who argued the "process" involved in approving the rope barrier had been flawed, was uncertain her argument had swayed the commissioners.

"The process was not transparent and the public was left out," she said.

She said she was concerned that the public wasn't given adequate notice that the staff had determined "a project of this magnitude that was categorically exempt from CEQA (California Environmental Quality Act)" especially since it's an issue that has generated so much public scrutiny.

"We've now hired a full-time ranger who will start a volunteer docent program that, as time goes on, will be successful at Children's Pool in ways an obtrusive rope barrier will never be able to achieve," Lightner added.

Planning association president Joe LaCava said, "This is a barrier that keeps the public away from the beach and shoreline," he said. "It is a hindrance to people using the beach and it does not maintain or enhance vertical or lateral access. The project conflicts with the elements of the local coastal plan and therefore you cannot make the findings and you must deny the project development application."

Planning Commissioner Tim Golba, a La Jolla architect, said, "This is a 133-foot rope and only 3 feet of that is open," he said. "That's a 98 percent impediment and to me that is a stumbling block."

Melinda Merryweather struck a nostalgic chord in her testimony.

"I grew up in La Jolla swimming at Children's Pool, my grandmother, mother and children swam there, and now I want my grandchildren to swim there," she said.

— City News Service contributed to this report.

Posted by [Dave Schwab](#) on Dec 9 2010. Filed under [Featured Story](#), [La Jolla, News](#). You can follow any responses to this entry through the [RSS 2.0](#). Both comments and pings are currently closed.

Comments (10)

Mr. Stun Gun · [49 weeks ago](#)

Dear Joe,

This issue is dead! It doe's not go before the Coastal Commission, that is a error from the reporter, the city council requested in a resolution to seek a permit of a year round rope to the city managers office, that went to the herring officers meeting in September and that was appealed and now it lost, the City Planning Commission will now write a letter to the City Council why it was rejected.

What you don't understand Joe, is what Miss Lightner is talking about is the CEQA notification that the city tried to slip by and did not properly notify the public and city officials properly. Sound like you are just another whining seals sympathizer.

bigdipper · [49 weeks ago](#)

Wrong, Lightner said the CEQA exemption did not have adequate public notice, not even to any City officials. She was right. And wrong again, the Coastal Commission only rules if a permit goes through to them. This permit stopped locally so the Coastal Commission will never see it. Like other Councilmembers, Lightner voted for a 4 measure package in May, including the Ranger and docent program which have succeeded, and the perpetual rope has failed.

Pokey · 49 weeks ago

"It's not a fence — the rope is just a guideline," said Dorota Valli of the Animal Protection and Rescue League. "It doesn't prohibit people from going on the beach and accessing the water."

Remember these word, they will change at the beach as she ans FoS will tell everyone the beach is closed or it is illegal to cross the rope and are breaking federal law...

K n' K · 49 weeks ago

We La Jollans, if anyone, can afford to build a new pool for kids. Seals can't. My kids can learn how to swim almost anywhere. Seals can't. Humans can live anywhere on land. Seals can't. There are 77 beaches in SD for humans. None for marine mamals. Biodiversity is decreasing exponentially. I prefer paying \$5 admission for a brand new, man-made public beach every weekend to cover the construction costs, than have my kids paying \$70 admissions/person so companies like SeaWorld can grow wealthy on our stupidity for having chased away something that was right under our noses. Just think about it.

Mr, Wizard · 49 weeks ago

If we do build a new pool for the children, what guarantee do we have that the seals won't move to that one?

It sounds like you drank the cool-aid...The are not 77 beaches in San Diego

This sound like propaganda you drank out of the trough at seal watches table.

There are 77 miles of COAST in SD county... the marine mammals have the whole coast and Islands to live ! So you would rather "Yellow Stone" the seals here on a public beach that there is no way in hell that can be closed, just so you can look at them up close for free ! How selfish...

You really thought this through.

K n' K · 49 weeks ago

There are no guarantees, but then we have at least one spot for them and one for us. They can have the old pool, where they are protected, and we have the other one, where people come frequently and the pool itself is costructed in a way that is less "seal-friendly". There are organisations working with transporting back lost animals to their habitat, for eg. bears, cougars, etc. Construction technology has also evolved over the past 70 years you know. Have some faith in it.

There are people with different opinions and we need to find some kind of solution here that works for all of us. This issue has been dragging for so long now and we are all tired of nothing happening. Can you come up with one that doesn't involve removing the seals from the pool?

If the animals wanted to live anyplace else, they would. They don't come to the beach because they enjoy human company.

Would you rather disperse another species from its home so you and me can go for swim ? In my opinion, that is considered selfish. Being able to go for a swim is something you seem to take for granted sir.

I might have had a lot of Kool-Aid, but at least I don't need to boost my opinions with making that kind of statement about someone who does'nt agree with me.

Hope to see a creative solution from your side on the next post.

Mr, Wizard · 48 weeks ago

"There are organisations working with transporting back lost animals to their habitat,"
Great they can relocate them to their natural Habitat, the wild ! this is man made.

"Construction technology has also evolved over the past 70 years you know"
Great, you can pay for the cost of this new technology, 70 k in 1931 is now several millions today....

The location of the Life Guard Station is crucial as it has a 270 degree view of the beaches north and south. and is maned all year round.

This was never the seals home until the mid 90's when Sea World released all of there rehabilitated seals their, thanks to Mayor Susan Golding...

I am not selfish !, I can share the beach as the seals share it with us, they have never left, and must not mind us as they are still here and trust us so much that they will have their pups and leave their new born for us to watch over while mommy goes to look for food.....

The solution is simple, get rid of the seal activist who cause, incite and disrupted the peace and harmony their, and everyone get use to sharing the beach. we will have a full time city Ranger and Docents very soon !

The California Costa Commission will not allow this public trusted beach to be closed. The National Marine Fisheries Service are the only ones who are authorized to create a Marine Mammal park.

Gaga · 49 weeks ago

Public controversy is not a reason to say a project is not exempt from CEQA. If there is substantial evidence (which, according to CEQA, must not be opinions, but substantiated facts) of a physical impact on the environment, then a project may not be exempt. Just because it's controversial doesn't mean there is a significant physical effect on the environment.

Lori · 49 weeks ago

I brought my relatives to La Jolla the other day and we visited the pool, we went down to the beach to see the seals and were intercepted by a old woman with short grey hair and told us that the beach was closed because of pregnant seals so we went up top to take some photos and talked to a nice man at a table and we were shocked to here that the old lady lied to us that the beach is in fact open but should not get to close to the seals. One thing I can't stand is someone ling to me, we marched back down and gave her a peace of my mind, and got some wonderful pictures of the seals.

cyberKICK · 49 weeks ago

The seals are on the rocks, the other side of the wall, in Point Loma, OB, all along the beaches under the bluffs where it is difficult for people to go, in the open ocean (biologically speaking, seals do not ever need to come ashore-- they can sleep in the water, and many seals migrate and spend months at sea), and on many islands. This breed of seal is the most populous, not endangered, not threatened, not even depleted. The biodiversity you are talking about is being eaten by them as we have taken their natural predators away. There have never been so many. To say they don't live anywhere else is wrong. The experts in the field ran a study, and each day it is different seals at this beach. This beach

was supposed to be protected against being overrun and run down. Now you want to build a new one for the exact same purpose with the same promises as this one. Well, we already have one, and shouldn't need to build a new one just because you want to repurpose this one. Build a new one and put seals on it... that would be more fair.

<http://www.lajollalight.com/2010/12/09/planning-commission-denies-year-round-rope-barrier-for-la-jolla-childrens-pool/>

6-11-078

Subject: CCC Letter - Charley B.

From: Charley Barringer <windandcb@yahoo.com>

Date: 12/3/2011 12:01 AM

To: "FoCP@san.rr.com" <FoCP@san.rr.com>

To: File 6-11-078
Coastal Commission

DEC 06 2011

Dear Coastal Commission,

For your information and use, please see the article from the "La Jolla Light" published approximately and only just about a year ago, which I have reproduced and attached.

You have been handed an old festering issue. Citizens have been fighting to get San Diego to stand up to a troupe of animal rights activists led by a rogue lawyer who has intimidated our officials with a string of frivolous lawsuits.

His group operates a business on the sidewalk and harasses beachgoers with impunity. It is against everything the Coastal Commission stands for, and they exploit their supposed love for these seals in exchange for donations to a bogus fund. And, they verbally intimidate ordinary people to such an extent that these folks who otherwise probably would have gone onto the beach, withdraw and retreat from any further and lawful use of these specific public tidelands.

Please regard the comments submitted to the "La Jolla Light" and that can be found just below the article, as additional input to you and as representing the views of many, many other San Diego citizens.

In addition, the case in Venice, CA that Mr. Pease cited as a reason his employees should be able to continue owning the sidewalk, eventually went against the sidewalk vendors. However, and in spite of this fact, the City of San Diego is still intimidated enough, apparently, so as to appear to be *afraid* to force his group to obey the actual and relevant permit laws.

It would seem that the City of San Diego will do anything to placate this guy because the City is destitute.

But, you can stand up for access to public beaches, if you will.

Thank you for your time and consideration of all of the issues in this matter of the

public's ultimate right to access and use of this tidelands site.

Charles R. Barringer
P. O. Box 3167
437 Westbourne St.
La Jolla, CA 92038-3167

LA JOLLA LIGHT

Enlightening La Jolla since 1913

Appeal of year-round rope barrier at Children's Pool is Dec. 9

BY DAVE SCHWAB

Staff Writer

There is a flurry of activity surrounding the La Jolla's Children's Pool as the placement of a rope barrier separating humans from harbor seals during their pupping approaches.

On Thursday, Dec. 9 the city Planning Commission will hear an appeal brought by the La Jolla Community Planning Association (LJCPA) challenging year-round placement of the rope barrier at the pool.



Meanwhile, animal advocates have launched an 11th-hour legal attempt to get the rope barrier up at the pool even earlier than the Dec. 15 start of the seals' pupping season. And, seal advocates led by attorney Bryan Pease of the Animal Protection & Rescue League, are disputing a new city regulation allowing only two free-speech tables at a time, via a monthly lottery, at Children's Pool.

In the first lottery held for the new monthly pool regulation effective Dec. 1, two pro-beach access groups, San Diego Council of Divers and Children's Pool Friends, received permits to set up information tables.

"A federal court recently struck down a similar lottery system in Venice Beach, and the conservation groups here intend to set up their tables as they have for the past six years," said Pease in an e-mail which also admonishes Mayor Jerry Sanders for "continuing to fail to follow a council resolution he signed last June requiring immediate replacement of the guideline rope that keeps humans and seals a safe distance apart, and complete closure of the beach during pupping season Dec. 15-May 15."

Pease also filed a motion Nov. 30 in federal court seeking a temporary restraining order (tro) to get the pool rope barrier up sooner than Dec. 15. "The rope barrier was supposed to be up all summer," he said. "This is a critical time as the pupping season actually starts Dec. 1, not Dec. 15."

Noting weekends are the worst times when there is the greatest likelihood of humans interfering with seals and their behavior, Pease said having the rope up even one additional weekend before the 15th "could decrease the possibility of premature births."

"I'm also asking that the beach be closed during pupping season," he said.

Deputy City Attorney George Schaefer said the city disputes Pease's legal claims.

"The city's position is that this lawsuit is totally frivolous," said Schaefer. "This is the fourth lawsuit Mr. Pease has filed, and he's lost them all, the federal judges have dismissed them. Now he's filing a new application (tro) on grounds that were not even raised in the original lawsuit. You can't go back and raise a new issue, in this case that people shouldn't be allowed on the beach, that weren't part of the original lawsuit."

In preparation for the Dec. 9 hearing, Joe LaCava, LJCPA president, has raised several challenges in the planning group's written appeal of the city's proposal to place the Children's Pool rope barrier up year-round. The meeting is set for 9 a.m. in City Council Chambers, 12th floor, 202 C St. in downtown San Diego.

Among points raised against putting the pool rope barrier up year-round, LJCPA contends the proposal:

1. Is in conflict with lateral and vertical access to the shoreline.
2. Findings cannot be made that it will not encroach on any existing physical accessway legally used by the public.
3. Fails to adequately consider the ranger program and other options to the rope barrier.
4. Does not qualify for a CEQA exemption.

Posted by [Dave Schwab](#) on Dec 2 2010. Filed under [Featured Story](#), [La Jolla, News](#). You can follow any responses to this entry through the [RSS 2.0](#). Both comments and pings are currently closed.

Comments (6)

Phyllis Minick · [50 weeks ago](#)

Mr. La Cava of the LJCPA cites legitimate objections to any barrrier on the Children's Pool beach and represents opinions of beachgoers throughout San Diego, not limited to La Jollans. The State constitution (Article 10) forbids limiting the public's right of way to public beaches. Both the City and the State are bound by Resolution #54177 (4/23/31) to make the Children's Pool a bathing area for children (that includes marine mammals). A recent commentary in the LJ Light that this area is a natural seal rookery is not true, and children are far more benefitted by interacting with the seals than simply watching them from a distance, as they could do on TV.

Phyllis Minick · [50 weeks ago](#)

From the Sea World website:

Most Harbor Seal pups are born February - July but earlier farther south . . . in Baja California, the season is February and March.

Terry Livingston · [50 weeks ago](#)

I was walking my dog by Children's Beach this morning to see the installation of the police video cameras inside the lifeguards compound, I inquired to the purpose of the cameras and was not surprised to here that the cameras are here to protect the public from the seal activist as they have been becoming more and more of a problem there. Again the seal activist are the main problem at the pool, get rid of them and things will return to normal and the police camera system can be used to protect the public at the shopping malls form holiday thieves.

ProSeal · [50 weeks ago](#)

Deputy City Attorney George Schaefer is a defamation spreading clown : the only frivolous lawsuit was the one he lost to the anti-seal lawyer Paul Kennerson that cost the City of San Diego 1 million dollars. Pro-seal activists like Pease are heroes. If the La Jolla Light will keep printing more of such BS, I will start throwing it directly into my trashcan.

[cyberKICK](#) · [50 weeks ago](#)

Phillis is right about the law. I only would like to add that the line in the SB 428 that states "marine mammal park" doesn't change anything. A "marine mammal park" hasn't been built yet. By definition a "marine mammal park" is a park like Sea World where the animals are in captivity. I have contacted the USDA about it and The Children's Pool doesn't qualify at this time to be considered a Marine Mammal Park (MMP) because the animals are free to leave. If a park is to be built, permits are required from the USDA and proper facilities are needed (vets, cleaning, etc).

Denny · 50 weeks ago

Reply to ProSeal,

The City would not have lost any money if they would have followed the trust and not had Sea World stock the waters in and around Children's Pool with well over a hundred rehab seals, "FACT", that is way the city was sued and lost for breach of trust !

Your hero, anti shared use activist Bryan Pease, arrested for assault with a STUN GUN, at Children's Pool Beach has cost the city and federal governments thousands and soon to be millions suing the city for frivolous lawsuits. He is now costing the city tax payers and may bankrupt the city....

<http://www.lajollalight.com/2010/12/02/appeal-of-year-round-rope-barrier-at-childrens-pool-is-dec-9/>

6-11-078

Subject: do not close off the Children's Pool
From: "Rosales, Louis" <rosalesl@centinela.k12.ca.us>
Date: 11/30/2011 8:45 PM
To: "focp@san.rr.com" <focp@san.rr.com>

Dear California Coastal Commission,

I am writing in adamant opposition to the permit for a rope barrier at the Children's Pool in La Jolla. This email represents my opinion and the opinion of my wife and two children. Because I live in Los Angeles, I do not often use the Children's Pool, but I have been there and feel that it should be preserved, as originally intended, for the people of California to use and enjoy. The establishment of a rope barrier interferes with the right of the people to use this beach.

As is well known, the Children's Pool has become a place of conflict between the "save the seal" activists, who regularly set up tables and harass people who are trying to lawfully access and enjoy the beach. The "activists" yell at and harass innocent people with bullhorns, threats and intimidation.

The reality of the situation is that the seals have been able to thrive in this location in spite of its location on a popular, protected, sandy beach in southern California. They were able to thrive before the "activists" took up the cause and they would still thrive if the "activists" left them alone. The beachgoers at the Children's Pool are not a threat to the seals and the two groups can and do coexist if left alone.

Instead of a rope barrier, all that is needed is a small amount of monitoring and elimination of harassment by "activists".

Respectfully,

Louis Rosales
(310) 372-4622

— Attachments: —

Dear California Coastal Commission.docx

10.6 KB

DEC 06 2011

Subject: Strongly disagree with permanent rope barrier at Childrens Pool
From: bakir silajdzic <bakir_sonic@yahoo.com>
Date: 12/1/2011 11:28 PM
To: "focp@san.rr.com" <focp@san.rr.com>

Hi,

I have recently heard news that the city of San Diego is planning on filing for a permanent rope barrier at the Children's Pool in La Jolla. I would like to say that this would be a very unfair, and unnecessary move. The seals there are really not bothered by the people. i have seen first hand that people tend to keep their distance and so do the seals. This public beach should stay open to the public as it was intended to when it was constructed. I would also like to point out a very rude lady there who yells on a speaker to tell others to keep their distance from the seals. when she does this it actually does freak out the seals and cause them stress. I think before any filings are done please take the time to visit the location and see for yourself.

Thanks,
Bakir

DEC 06 2011

FLA
California Coastal Commission
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

RECEIVED
DEC 05 2011
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

FILE 6-11-078
Children's Pool Rope Barrier
Dec. 3, 2011

I am writing in opposition to the rope barrier permit project at Children's Pool in La Jolla Ca. A similar Permit No. 758925 and Site Development Permit No. 7821884, was denied by the San Diego Planning Commission on Dec. 9, 2010 as I was in attendance in opposition, you can see my name in the minutes that I am including in this letter as proof that I was Present at the hearing to deny for the year round rope barrier at Children's Pool. This beach was set a side for children of the city of San Diego as a safe place to swim. As one of those children who grew up on this beach I protest and claim that this beach is for the children of the state of California, entered into a trust for that purpose and the absolute right to fish, as I am a avid spear fisherman and lobster hunter who carries a valid sport fishing licenses issued by the state of California. It is my right to access the waters of this trusted beach over said land.

The San Diego Planning Commission had weighed in on this matter as a governmental body of the city of San Diego and voted 7-0 to deny the costal development permit no. 758925 and the site development permit no. 782184.

These minuets of 1 page of Item 6 of the SDPC are included in this letter.

On June 2nd 2011

The La Jolla Community Planning Association held a regular meeting. On that agenda was Item No. 11, Children Pool Beach Closure.

After public comment and a presentation by city staff the LJCPA voted 11-1-2 to deny such permit to Close of this beach from Dec, 15th to May 15th FOREVER, in fact they just didn't say no, they said "DAMN NO".

Trustee Fitzgerald put a request for a room vote to the floor, approximately 30 persons unanimously voted in opposition of the beach closure.

I am also included in the minutes of the LJPG as a speaker in opposition.

And these minuets of 3 pages of Item 11 of the LJCPA are included in this letter.

On Oct. 7th 2010 The La Jolla Community Planning Association held a regular meeting.

No. 6., President's Report

Item C., Children's Pool Rope – Appeal filed on Hearing Officer decision – Ratify

President LaCava reported he did appeal, on behalf of the LJCPA, the San Diego Hearing Officer decision, and noted the Hearing Officer spoke at length re why he should have voted to deny the establishment of the rope and then proceeded to vote to approve the establishment of the rope. President LaCava asked the Trustees to ratify his decision, on behalf of the LJCPA, to appeal this latest decision.

Voting Record #3

Approved Motion: Motion to ratify the appeal of the Hearing Officer decision to establish a permanent rope on the Children's Pool beach, (Gabsch/Merten 14/2/2)

On May 6 2010

The La Jolla Community Planning Association held a regular meeting.

Minutes of the La Jolla CPA, 6 May 2010

Voting record #5

Approved Motion: **Motion to deny proposal of the San Diego Natural Resources & Culture Committee, Action 2: Seek an emergency Coastal Development Permit to keep the rope barrier up year round, as referenced in the La Jolla Children's Pool Management Options, Vote, 13/1/1 Motion to deny.**

Voting record #3

Approved Motion: **Motion to approve proposed N.R & C.C.**

Action 4: Under the current Joint-Use

Policy: to hire a Park Ranger to patrol the Children's Pool and supervise a City sanctioned Volunteer

Docent program, as referenced in the La Jolla Children's Pool Management Options,

Vote, 14/0/1.

The city of San Diego has hired a full time city park ranger and is stationed at Children's Pool, with this ranger in place and following the guidelines of the cities Park and Recreations protocol, there is no need for a permanent year round rope barrier at Children's Pool beach, such rope would only aid animal activist who use the rope as a tool to miss inform the public of there own ideologies.

On Sept. 2nd 2010

The La Jolla Community Planning Association held a regular meeting.

Minutes of the La Jolla CPA, 2 Sept. 2010

12. CHILDREN'S POOL ROPE

Proposal by the City to amend the current Coastal Development Permit, which allows for a "rope" during the pupping season to allow the "rope" to remain in place year round.

Voting Record #6

Approved Motion: Motion to deny a "Rope Barrier" to remain in place year round on the Children's Pool Beach because the "Rope Barrier" creates more problems than it resolves and findings cannot be made for a Coastal Development Permit. Vote 10/1/2 Motion to deny.

The San Diego Planning Commission voted unanimous to deny any rope, and on countless times the La Jolla Community Planning Association has time and time again denied the permanent year round rope barrier at Children's Pool beach.

The San Diego Planning Commission is an expert on the laws rules and local regulations, which is why they made their decisions. Not politics or emotions.

Yours truly,

David Pierce
9344 Leticia Drive
Santee, Ca. 92071



**PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
DECEMBER 9, 2010
IN CITY COUNCIL CHAMBERS - 12TH
FLOOR
CITY ADMINISTRATION BUILDING**

**ITEM – 6: Appeal of Hearing Officer's decision on September 15, 2010
LA JOLLA CHILDREN'S POOL ROPE BARRIER – PROJECT
NO. 213317**

City Council District: 1 Plan Area: La Jolla

Staff: Morris Dye

Speaker slips in favor of the project submitted by Ellen Shirley, Deborah Saracimi, Jeanne Thoennes, Jerry Horne, John Hartley, Marcia Patt, Leilani Holmes, Deborah Cohen, Robert Mead, Dorota Valli, Tina Menier, Shannon Player, Dan Daneri.

Speaker slips in opposition to the project submitted by Sherri Lightner, Erin Demorest, Joseph LaCava, Thomas Brady, Marie Hunrichs, Roger Boyce, Richard Guarasco, Clement Hoffman, Phyllis Minick, Ken Johnson, David Johnson, David Pierce, Guimei Tong, John Leek, Stan Minick, Ken Hunrichs, Ann Ryckman, Michelle Addington, David Russell, Don Perry, Michael Costello, Phil Merten, Egon Kafka, Pattie Buchanan, Melinda Merryweather, Debbie Beacham.

**PLANNING COMMISSION MINUTES FOR DECEMBER 9, 2010
COMMISSIONER GRISWOLD MADE THE MOTION TO APPROVE
THE APPEAL AND DENY COASTAL DEVELOPMENT PERMIT NO.
758925 AND SITE DEVELOPMENT PERMIT NO. 782184.**

Commissioner Golba seconded the motion. The motion passed by a vote of 7-0-0 with Commissioners Naslund, Ontai, Smiley, Lydon, Otsuji, Griswold and Golba voting yea.

COMMISSION ACTION:

At the request of **Trustee Merten**: A separate vote was recorded for Consent Agenda Item B.

Approved Motion: Motion: To accept the recommendation of the La Jolla Shores Permit Review Committee: (B) Wells /Tyler Residence: 8217 Paseo del Ocaso: Demolish an existing SFR, construct 2532sf one-story home plus garage. This is a single story residence: the rear setback is acceptable: Findings can be made for a SDP and a CDP, and forward the recommendation to the City, (LaCava/Fitzgerald 10/2/2)

In favor: Burstein, Conboy, Costello, Courtney, Fitzgerald, LaCava, Little, Lucas, Manno, Whittemore.

Oppose: Bond, Merten.

Abstain: Crisafi, Gabsch.

9. REPORTS FROM OTHER ADVISORY COMMITTEES -Information only

A. LA JOLLA COMMUNITY PARKING DISTRICT ADVISORY BOARD - Inactive

B. COASTAL ACCESS AND PARKING BOARD - Meets 1st Tues, 4pm, Rec. Center

10. Sewer Pipeline Rehabilitation Project O-1 - begin Fall 2011 - Info only

Rep: Maryam Liaghat, City of San Diego Capital Projects (619) 533-3758 mliaghat@sandiego.gov

La Jolla Scenic S., La Pintura Dr., Castejon Dr., Soledad Rd., Palomino Ct., Colgate Circle, Rutgers Rd., Via Cortina.

Ms. Maryam Liaghat presented: Sewer Pipeline Rehabilitation O-1 is part of a program established by the City of San Diego and the Environmental Protection Agency mandating the rehabilitation of old and deteriorated concrete sewer mains and water lines. **Trustee Lucas** questioned re: open trenches: work will utilize trenchless technology. **Trustee Courtney**: hours of operation? Daytime only, 8:30 am – 3:30 pm. **President Crisafi**: Cautioned re sensitive habitat in canyon areas.

11. Children's Pool Beach Closure

Rep: Dan Daneri, City of San Diego Parks & Rec. 619-235-5914 ddaneri@sandiego.gov

Presented: **Mr. Dan Daneri**: An application has been filed with the City of San Diego for a (Process 5) Community Plan Amendment and Coastal Development Permit to annually close public access to La Jolla Children's Pool in perpetuity, by placing barricades with 30-inch x 36-inch signs at the top of the concrete stairs during harbor seal pupping season, from December 15 to May, within the La Jolla Community Plan Area Coastal Overlay, (appealable), and Coastal Height Limit zones. Council District 1.

Trustees Gabsch, LaCava, Burstein questioned **Mr. Daneri** and **Mr. Morris Dye**.

Community Members registering their disapproval with the proposal presented by **Mr. Daneri**: **Melinda Merryweather, John Steel, Justin Schlaefli, Marie Hunrichs, Ken Hunrichs, Bryant Smythe, John Leek, Thomas Lynch, Roman Castro for Tim Choi, Christopher Davis, Tim Choi, Ashley Davis, Al Silebi, Melinda Merryweather, Dan Byrnes, David Pierce, Don Perry. Trustee Whittemore**, in support of the Motion: expects CEQA will apply and given the state of the City's finances, the City should not consider closing the Children's Pool Beach. **Trustee Lucas** expressed his disappointment with San Diego City Council. **Trustee Costello** spoke to the inappropriate use of the Marine Mammal Protection Act, (MLPA).

Approved Motion: Motion: The La Jolla Community Planning Association, opposes in the strongest possible way, annually closing public access to the La Jolla Children's Pool. Public access to the La Jolla Children's Pool should remain open year round, in perpetuity. The La Jolla Children's Pool is a unique, priceless asset for Children, for all the citizens of California, and a critical part of the La Jolla Community. In addition, the La Jolla Community Planning Association opposes the closure of the Children's Pool Beach, as the findings for a CDP cannot be made because the closure is not in accordance with the vertical access to the beach and coastline provisions of the California Coastal Commission approved La Jolla Community Plan, Local Coastal Program and Land Use Plan, (Burstein/Courtney 11/1/2).

In favor: Bond, Burstein, Conboy, Costello, Courtney, Gabsch, Little, Lucas, Manno, Merten, Whittemore.

Oppose: Fitzgerald.

Abstain: Crisafi, LaCava.

Approved Motion: Motion: Re: The application filed with the City of San Diego for a (Process 5) Community Plan Amendment and Coastal Development Permit to annually close public access to La Jolla Children's Pool in perpetuity, by placing barricades with 30-inch x 36-inch signs at the top of the concrete stairs during harbor seal pupping season, from December 15 to May, within the La Jolla Community Plan Area Coastal Overlay, (appealable), and Coastal Height Limit zones. Council District 1. The La Jolla Community Planning Association recommends that Department of Park & Recreation not pursue initiation of said Community Plan Amendment and the Planning Commission not approve such initiation, (LaCava 12/1/1).

In favor: Bond, Burstein, Conboy, Costello, Courtney, Gabsch, LaCava, Little, Lucas, Manno, Merten, Whittemore.

Oppose: Fitzgerald.

Abstain: Crisafi.

In reference to Agenda Item 11: Children's-Pool Beach Closure: A Room Vote was requested. The Room Vote from the floor of approximately thirty persons appeared to be unanimous in favor of the Trustees' action. Trustee Fitzgerald requested his participation in the Room Vote be noted as in opposition. Trustee Conboy requested her participation in the Room Vote be noted as an abstention.

12. 8600 & 8700 blocks of Nottingham Dr. 2 Hour Parking

Previous Action (May '11): Pulled from Consent Agenda

T&T Action (April '11): Motion to approve 6-0-0 Request is to extend the 2-hour parking

Community Members **Mr. Herbert Lazerow, Ms. Roseann Brozinsky, Mr. Brian Miller, Ms. Helen Boyden, Ms. Sally Fuller** spoke to the egregious parking problems on Nottingham Drive. **Trustees Conboy, Costello, Courtney, Gabsch, LaCava, Lucas, Whittemore, President Crisafi** discussed the extremely difficult parking problems residents must contend with in the residential neighborhoods adjacent to UCSD. **Trustee LaCava** suggested Ms. Boyden consider obtaining a petition from homeowners on the 8500 block for 2-hour time limited parking and file an application with the city. **Ms. Anu Delouri**, Senior Community Planner, UCSD, will make the concerns voiced by Community Members and the Trustees known to appropriate UCSD Staff.

Approved Motion: Motion to accept the La Jolla Traffic & Transportation Committee Action, to approve the request for 2 Hour Parking limit on 8600 & 8700 blocks of Nottingham Drive, and forward the recommendation to the City, (Fitzgerald/Whittemore 12/1/1).

In favor: Bond, Burstein, Conboy, Costello, Courtney, Fitzgerald, Gabsch, LaCava, Lucas, Manno, Merten, Whittemore.

Oppose: Little.

Abstain: Crisafi.

13. Consideration of revision of Item 33 proposed in the 7th update to the LDC -

Possible Action Item - Item 33 changes the treatment of Separately Regulated Uses in the La Jolla Shores PDO.

Previous LJCPA Action (May 19 '11): Sent to LJSPRC for consideration.

LJPRC Action (May 24 '11): The committee recommends that schools & churches be removed from the list of uses allowed by right as found in §1510.0303 (d) and §1510.0303 (e) of the LJSPDO and be subject to the permit process for Separately Regulated Uses. The committee wants very strongly to continue the specific protections for uses as prescribed in the LJS PDO. Motion approved - 5-0-0

Trustee LaCava presented: The intent of the City is to bring the language of the La Jolla Shores PDO into conformity with the language of the other Planned Districts and to insure equal protections afforded to all Planned Districts. At the 05/18/11 LJCPA meeting, at the direction of **President Crisafi**, consideration of the revision of Item 33 was returned to the LJSPRC Committee for discussion. **Trustee LaCava** was present at the LJSPRC Committee meeting where concerns regarding the proposed revisions were put forward. **Trustee LaCava** returned to City Staff with concerns raised by LJSPRC Committee members: City Staff responded quickly and admirably, providing revised draft language, (copies provided to Trustees attached to 06/02/11 Agenda). **Trustee LaCava** presented language revisions and responded to questions. **Trustees Conboy, Costello, Courtney, Fitzgerald, Gabsch, Lucas, President Crisafi** commented/discussed/questioned extensively. LJCPA Members **Helen Boyden** and **Cindy Thorsen** contributed comments and voiced concerns regarding the proposed language and the LDC process.

5. Non-Agenda Public Comment

Issues not on the agenda and *within CPA jurisdiction*, two (2) minutes or less.

A. UCSD - Planner: **Anu Delouri**, adelouri@ucsd.edu, <http://commplan.ucsd.edu/>

Ms. Delouri was not present.

Trustee Little: Described the history of Proposition D, the 30-foot height limit.

Trustee Addington reported: Valued community member John Beaver is successfully recovering from surgery.

Trustee Costello spoke re the MESOM project that will be heard at Coastal Commission.

Trustee Addington reported: San Diego Gas & Electric is moving forward with the removal of wooden utility poles, and that is making a significant and pleasant difference in the community.

President LaCava noted: 1. On the Coastal Commission agenda, a lawsuit settlement re the Kretowicz residence, (per **Ms. Demorest**: It is her understanding this item has been removed from the Agenda), **Trustee Weiss** commented. 2. La Jolla Art & Wine Festival, benefiting local schools will be held October 10 & 11. 3. Annual Gallery & Wine Walk is scheduled for November 11. 4. Fund raising for Holiday Lights: Community should anticipate requests for donations.

6. President's Report – Action Items Where Indicated

A. Community Planners Committee – <http://www.sandiego.gov/planning/community/cpc/index.shtml>

The Community Planners Committee rejected, on a narrow 14/12 vote, a proposal for a "Big Box Store" draft ordinance. **President LaCava** voted against the proposed ordinance, believing it to be an inappropriate use of the Municipal Code.

B. Whitney Mixed Use – Planning Commission, Sept 9

President LaCava reported: There were robust discussions with Community Members and Planning Commissioners. The LJCPA appeal was denied. Other entities plan to appeal the decision.

C. Children's Pool-Rope – Appeal filed on Hearing Officer decision – Ratify

President LaCava reported he did appeal, on behalf of the LJCPA, the Hearing Officer decision, and noted the Hearing Officer spoke at length re why he should have voted to deny the establishment of the rope and then proceeded to vote to approve the establishment of the rope. **President LaCava** asked the Trustees to ratify his decision, on behalf of the LJCPA, to appeal this latest decision.

Voting Record #3

Approved Motion: Motion to ratify the appeal of the Hearing Officer decision to establish a permanent rope on the Children's Pool beach, (Gabsch/Merten 14/2/2).

In favor: Addington, Brady, Burstein, Conboy, Costello, Courtney, Crisafi, Gabsch, Little, Lucas, Manno, Merten, Rasmussen, Whittemore.

Opposed: Fitzgerald, Weiss.

Abstain: LaCava, Salmon.

D. Business District – Town Hall Meeting, Tues, Oct 21, 4-6pm, Rec. Center

Additionally **President LaCava** noted: a San Diego City Re-districting Commission has been formed to establish new Council Districts. There are currently eight Districts, a ninth District is to be established, requiring a re-drawing of all District boundaries. **President LaCava** urged the La Jolla community to become actively engaged in the re-districting process, to protect the interests of the La Jolla Community and to insure the La Jolla Community remains intact.

7. Officer's Reports

A. Secretary – Nancy Manno

Presented by **President LaCava**, for secretary **Nancy Manno**: If you want your attendance recorded today, please sign-in at the back of the room. You are entitled to attend without signing in, but only by providing proof of attendance can you maintain membership or become a Trustee. If you want your attendance recorded without signing-in at the back, then hand to me before the end of the meeting a piece of paper with your printed full name, signature and a statement that you want your attendance recorded. Eligible non-members wishing to join the LJCPA must have recorded attendance for one meeting and must submit an application, which is available at the membership table and on-line.

9. Add an item as did Parks & Beaches to give the city the management plans given NR&C on March 17th (Uphold the trust, take control of Children's Pool, Protect other beaches)
10. Manage the park such that the seals will be limited to double digit numbers thus limiting the destruction of the local fish and draw fewer sharks.
11. Close the beach at night for seal and human safety.
12. Close the beach at night as public safety measure.
13. I would like a child-friendly/stroller-friendly ramp and platform down to the beach.
14. Get rid of megaphones and their users; get rid of all sales of any kind of merchandise.
15. I do not want to have the city fund any lifeguard station to watch the seals.
16. Restore the pool; restore water & air quality.
17. Clean/remove the seal feces from the beach; restore the beach and it's use to the pre-seal condition.
18. Rope to allow shared use during the pupping seasons. No rope May 15 to Dec 15.
19. City run tables for sales of seal info and donations for upkeep; clean the beach

President LaCava invited **Trustees** to voice their opinions and to discuss the Children's Pool proposals and management options and, by Motion, to formalize the LJCPA recommendations regarding the Children's Pool:

Voting record #3

Approved Motion: Motion to approve proposed N.R. & C.C. Action 4: Under the current Joint-Use Policy: to hire a Park Ranger to patrol the Children's Pool and supervise a City sanctioned Volunteer Docent program, as referenced in the La Jolla Children's Pool Management Options, (Salmon/Courtney 14/0/1).

In favor: Addington, Brady, Burstein, Costello, Courtney, Crisafi, DuCharme Conboy, Fitzgerald, Gabsch, Lucas, Merten, Rasmussen, Salmon, Whittemore.

Abstain: LaCava

Voting record #4

Approved Motion: Motion to deny proposal of N.R. & C.C. Action 1: Seek a local Coastal Program amendment to close the beach during pupping season from December 15 to May 15, as referenced in the La Jolla Children's Pool Management Options, (Salmon/Addington 13/1/1)

In favor: Addington, Brady, Burstein, Costello, Courtney, Crisafi, DuCharme Conboy, Gabsch, Lucas, Merten, Rasmussen, Salmon, Whittemore.

Oppose: Fitzgerald

Abstain: LaCava

Voting record #5

Approved Motion: Motion to deny proposal of N.R. & C.C. Action 2: Seek an emergency Coastal Development Permit to keep the rope barrier up year round, as referenced in the La Jolla Children's Pool Management Options, (Salmon/Addington 13/1/1).

In favor: Addington, Brady, Burstein, Costello, Courtney, Crisafi, DuCharme Conboy, Gabsch, Lucas, Merten, Rasmussen, Salmon, Whittemore.

Oppose: Fitzgerald

Abstain: LaCava

Agenda Item #11: Heard out of sequence, see above.

11. BISHOP SCHOOL LIBRARY & LEARNING CENTER

Pulled from August Consent Agenda

DPR ACTION: Motion that the variance findings can be made for variance of zoning height per Land Development Code Section 113.0270(a)(1) and 113.0270(a)(2) of a maximum of 2.1 ft. or less for no more than an area which is equal to or less than 39% of proposed ground floor area. 7-0-0.

7607 La Jolla Blvd. – Amend existing PDP, CDP, SUP, SDP to increase the maximum building height of the previously approved library structure by 4 feet (as measured by the PDO, project conforms to Prop D) in PDO Zones 5 & 6.

12. CHILDREN'S POOL ROPE

Public testimony will be limited to 2 minutes or less per person depending on turnout and no organized presentations.

Proposal by the City to amend the current Coastal Development Permit, which allows for a "rope" during the pupping season to allow the "rope" to remain in place year round.

Presenter – Dan Daneri, City Park & Rec

Presented: **Mr. Dan Daneri**, City of San Diego District Manager, Park & Recreation Department, presented a history of The Children's Pool. San Diego Park & Recreation has been directed to apply for an amended Coastal Development Permit to permit a year-round "Rope Barrier." Mr. Daneri advocated for a permanent "Rope Barrier."

President LaCava invited Community Members to register their opinions in reference to the advisability of establishing a permanent "Rope Barrier" on The Children's Pool beach. Community Members spoke eloquently and civilly, in opposition to the establishment of a permanent "Rope Barrier." There was unanimous praise for the recently established Park Ranger Program, and consensus in support of the "Joint Use Policy."

Speaking in opposition to the Permanent Rope Barrier: **Mark S. Brown, Doug Burley, Dan Byrnes, Elaine Greco, Richard Guarascio, Ken Hunrichs, Marie Hunrichs, Don Perry, Kay Stafford, Steve Thometz, Mitch Throwel, Portia Wadsworth**, and on behalf of the San Diego Council of Divers: **John Leek**, and on behalf of The Friends of the Children's Pool: **Melinda Merryweather, John Steel, M.D.** Community Members registering their opposition, declining to speak: **Robert F. Clarke, Phyllis Minick, Janie A. Noon, William Robbins, Cindy Thorsen**, and on behalf of the La Jolla Town Council: **Rick Wildman. Anthony Ramirez** registered his opposition by e-mail sent to the LJCPA.

Community Member **Ms. Linda Pearce** registered her position in support of the "Rope Barrier," and declined to speak.

Trustees Addington, Brady, Conboy, Costello, Gabsch, Little, Lucas, and **President LaCava** spoke in opposition to establishing a permanent "Rope Barrier" and spoke in opposition to requesting an amendment to the current Coastal Development Permit. **Trustee Weiss** commented. **Trustee Fitzgerald** spoke in support of establishing a permanent "Rope Barrier."

Voting Record #6

Approved Motion: Motion to deny a "Rope Barrier" to remain in place year round on the Children's Pool Beach because the "Rope Barrier" creates more problems than it resolves and findings cannot be made for a Coastal Development Permit, (Lucas/Addington 10/1/2).

In favor: Addington, Brady, Conboy, Costello, Crisafi, Gabsch, Little, Lucas, Manno, Whittemore.

Oppose: Fitzgerald.

Abstain: LaCava, Weiss.

Voting Record #7

Approved Motion: Motion to reject the City of San Diego's determination that The Children's Pool Beach "Rope Barrier" Project is categorically exempt from CEQA Guidelines, (Costello/Brady 11/0/2).

In favor: Addington, Brady, Conboy, Costello, Crisafi, Gabsch, Little, Lucas, Manno, Weiss, Whittemore.

Abstain: Fitzgerald, LaCava.

13. Adjourn to Next Regular Meeting on October 7, 2010, 6:00 pm

12/1

Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive Suite 103 San Diego, CA 92108-4402

Dec 1 2011
RECEIVED
DEC 05 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I wish to address the issue regarding the proposed rope BARRIER at The Children's Pool, in La Jolla. This small beach is perfect for ease of access to some excellent fishing, as well as a nice protected cove with very few waves and currents.

Also note, there are lots of seals just on the other side of the wall. That used to be the area children to go to check out the tide pools. Now the lifeguards keep everybody away because seals haul out there. The rope closes the beach, and the lifeguards keep the tide pools closed. Enough already! This is a man-made development. In the O'Sullivan case it was found that:

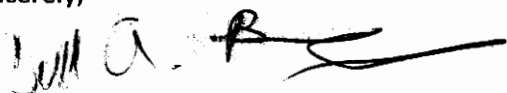
"The Children's Pool is not a "natural" condition. It is a man-made, artificial condition, which was entrusted to the City for specific uses and purposes..."

The rope is so misleading that even the Ranger stationed at the beach doesn't seem to know the beach is open. I received a ticket for playing Frisbee on that beach on the "wrong" side of the rope. There weren't even any seals on that day. The ticket was later nullified because the District Attorney decided to reject the ticket.

The rope fuels the fire and creates tension. The seal activists use the rope as a tool to intimidate people off the beach. I have video of one lady saying "The rope is there for a reason, get off the beach!"

Please return the beach to the divers, swimmers, children, and tourists. The rope will do nothing but escalate the tensions further.

Sincerely,



Dan Byrnes

11/27

RECEIVED

DEC 05 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

November 29, 2011

Anne Podney
5431 Linda Rosa Avenue
La Jolla, CA 92037

California Coastal Commission
File 6-11-078
District 7575 Metropolitan Drive. STE 103
San Diego, CA 92108-4402

Dear Sirs,

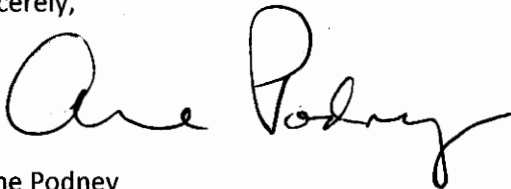
As a longtime resident of the area, I am most concerned with how the City of San Diego is handling the issue of beach access at the Children's Pool. The City of San Diego has accelerated efforts to close the pool to human access by filing a permit with the California Coastal Commission for a year-round permanent rope barrier across the beach.

Thirty years ago I taught my daughter to swim at the Children's Pool. The gentle wave action and protected beach was perfect for young families. Seals co-existed in the area and swam nearby but nested on nearby "Seal Rock." The beach was unpolluted by the seals and visitors could watch them cavort in the waters off the rock.

All that has changed and a large part of that change is because the City of San Diego appears afraid to take on the animal rights organizations that want to see exclusive use of the beach by the seals. The City has plans to begin construction of a new lifeguard tower at the Children's Pool—which seems pointless because if the beach is closed by rope barriers, no one will swim in the area.

I urge the Coastal Commission to return the Children's Pool area to the people and refuse to allow a year-round rope barrier across the beach.

Sincerely,



Anne Podney

MA

Kay R Stafford
kaystafford@mac.com

November 27, 2011

RECEIVED

DEC 05 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

File 6-11-078
Coastal Commission
7575 Metropolitan Drive, Ste 103
San Diego, CA 92108-4402

Dear Commissioners,

I hope you will take your valuable time to hear me out as I express the frustration of someone who simply wants to see an end to the ugliness and a return to traditional California beach lifestyle.

It is one of the most essential elements of the California State Constitution that public access to beaches be unfettered. Mrs. Scripps created a special venue that is entirely unique and wonderful. And, yet here we are again before you trying to protect both of these two important factors from whoever it is, in City government that, is responsible for requesting yet another permit to violate the Constitution and the Trust in favor of wild animals who are in no way endangered. What is the motivation for this endless strain on resources ranging from law enforcement through lifeguards to every planning commission and council in the county?

There is no other beach in Southern California where the littlest children can enter the water to swimming depth before being subject to waves choking them and knocking them down. La Jolla Shores is suitable only for ankle deep wading or being held in the arms of an adult.

This rope barrier is the perfect tool for self appointed vigilantes who harass and humiliate people of all ages who are simply going about their lawful, benign recreational pursuits.

It's demonstrated time and again that the seals are simply not bothered by the presence of beach goers. In many cases, they choose to be near people rather than rest at a distance. They "flush" into the water for all sorts of perfectly natural reasons, and are not traumatized by it, any more than a seagull is traumatized by being approached and sent flying.

When a diver enters the water, he is often quickly surrounded by playful, friendly seals, who were not even in evidence until the diver came on the scene.

I would like to urge you vigorously to put a stop to this endless campaign to exploit the Children's Pool of La Jolla as a very lucrative income source for extremists.

I assure you that I am as passionate an animal lover as anyone can be. My original field of study was Marine Ecology. My compassion for and delight in animals and especially sea life does not extend to using them as an excuse for excess and abuse.

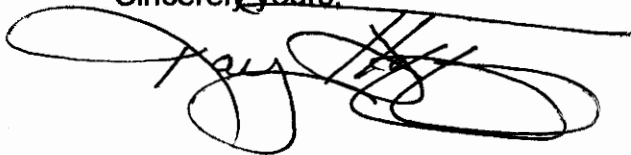
My family owns property in the neighborhood of the Children's Pool. I swam there as a small child in the 1950's, and brought my babies there for their introduction to the wonders of the ocean.

Over the years since the vigilante/extremists came on the scene, our family learned that if we tried to enjoy the beach we would be subjected to taunts, threats, and exposure to behavior inappropriate for families.

The amendment of the Children's Pool Trust and attempt to close the Children's Pool to those for whom it was created by Mrs. Scripps is already having a chilling effect on that segment of society who have traditionally been benefactors to their communities. I have heard discussion of this topic on national radio programs on more than one occasion.

Please do the right thing. Protect the coast and, especially this beach, from extreme interests.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Kay Stafford', written over a horizontal line.

Kay

Stafford

November 27, 2011
Executive Director
Charles Lester
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

RECEIVED

DEC 05 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



Cc: Deborah Lee, district manager (not an ex parte communication)
Melissa Ahrens, San Diego Coastal Program Analyst

Re: Your granting of a waiver to San Diego for a permit prior to local approvals.

This is on the assumption you did grant such a waiver as stated by the San Diego California Coastal Commission Office. You are the only person who can do so under 14 ccr §13053. Such a waiver is to be "for good reason" under the statute, but the local office does not have any written verification of your action. We are requesting a copy of the written grant of waiver per the intent of the California Public Records Act. The granting and the good reason need to be on file with the San Diego office, before they conduct their analysis of a permit request with such an unusual assist around local statutes and procedures.

With its request to cordon off a public trusted beach every day forever, San Diego requested the Commission grant this waiver suggesting the reason: "*We are requesting you review for a waiver since the City has not acted on the SDP.*" The City of San Diego had struggled for 17 months to get a local permit approved when it had jurisdiction, but its inability to grant itself such a permit under its own Coastal Land Use Procedures would be an appalling reason.

You must have had a good reason, in light of the March 21st, 2001 ruling in 6-00-126 against any permanent change, ever, on another public trusted beach adjacent to Children's Pool under an ever weaker trust. In that decision, the Coastal Commission backed its conclusions with communications with the State Lands Commission and Department of Fish and Game and cited Children's Pool specifically as similar. Those agencies have not been consulted this time. This permit is not for a "temporary in perpetuity" permit but every day forever.

A handwritten signature in cursive script, appearing to read "Scott Anderson".

Scott Anderson,
President, San Diego Council of Divers
PO Box 84778
San Diego, CA

92138-4778

MM
Childrens Pool Rope Barrier Permit

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DEC 01 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To whom it may concern,

I would just like to say that I oppose
the implement of a rope barrier at the Children's Pool.
It is a great beach that should be able to be
enjoyed without a rope barrier. It provides a safe and
calm area for divers and snorkelers and there are not
many places like it so please keep it open. Thank
you for reading.

Sincerely,

Pete Julian

YMA
Coastal Commission, c/o Melisa Ahrens,
7575 Metropolitan Drive, Ste 103,
San Diego, CA 92108-4402

RECEIVED

DEC 01 2011

File 6-11-078,
Children's Pool rope barrier permit

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I am writing to appose this permit to install a year round rope barrier at Children's Pool in La Jolla Ca.

The state of California excepted the offer by Ellen Browning Scripps if she would pay for the construction of a break wall to create a pool to protect small children from dangerous rip currants, in turn the state would place in trust to the people of San Diego.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 1 of Chapter 937 of the Statutes of 1931 is amended to read:

Section 1. There is hereby granted to the City of San Diego, County of San Diego, all the right, title, and interest of the State of California, held by said state by virtue of its sovereignty, in and to all that portion of the tide and submerged lands bordering upon and situated below the ordinary high water mark of the Pacific Ocean described as follows:

Beginning at the intersection of the ordinary high water mark of the Pacific Ocean with a line bearing S. 87° 40' W. from the monument marking the intersection of Coast Boulevard south Boulevard South with Jenner Street as said monument, said Coast boulevard south Boulevard South, and said Jenner Street are designated and shown on that certain map entitled "Seaside subdivision number 1712" and filed June 23, 1920, in the office of the county recorder of San Diego County, State of California; thence N. 350', thence E. 300', thence S. 185' more or less to the ordinary high water mark of the Pacific ocean, thence in a general southwesterly direction along the ordinary high water mark of the Pacific Ocean to the point of beginning, all in the Pacific Ocean, State of California, to be forever held by said City of San Diego and its successors in trust for the uses and purposes and upon the express conditions following, to wit:

(a) That said lands shall be devoted exclusively to public park, **marine mammal park for the enjoyment and educational benefit of children**, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incident to, or convenient for the full enjoyment of such purposes ;

(b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.

(c) That there is excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said land, and to the State of California, or persons authorized by the State of California, the right to prospect . . .

In 2010 the state of California amended the trust that is high lighted above in yellow, this was lobbied by the city of San Diego and animal activist special interest groups to get out of a lawsuit.

These animal activist special interest groups have also been lobbying the San Diego council members to close this beach, little by little, first to get a temporary pupping season rope from December 15 to May 15 every year, then a year round rope and soon the closure of the beach from December 15 to May 15 every year and in the future a permanent year round closure will be next , all by a small special interest group who on a daily basses harass and intimidate citizens who try to use a public trusted beach for swimming, diving, fishing or just beach going.

It is the duty of the California Coastal Commission to deny this permit application and any other permit to ban or restrict the public from the uses to which this tidelands grant was created for, THE PEOPLE OF SAN DIEGO for current and future generations.

Attached are 2 photos of some of the activities these animal activist groups do to deny the public's access to the beach, the photos shows yellow caution tape and orange cones to block the stairway down to the beach.

Jean Eis
3163 Palm St.
San Diego, Ca. 92104

A handwritten signature in black ink, appearing to read "Jean Eis", with a long, sweeping horizontal line extending to the right.

WELCOME TO THE CHILDREN'S POOL

Be respectful of the seals in this area

SHARE THE BEACH WITH THE SEALS but keep a safe distance.

The beach and waters are open for public enjoyment. This is also a home and resting place for Harbor Seals. Seals at the water's edge may want to come ashore. Give them a chance by moving back from the water's edge.



STAY BACK
Wild animals can be unpredictable and may bite. Get too close and you may frighten the seals.

MOVE SLOWLY

Sudden movements may cause resting seals to "flush" into the water. This could cause pups to be abandoned. Harassing, disturbing, or flushing seals violates Federal and Local Law and may lead to a citation.



WARNING/ADVISORY

Contact with water may cause illness as bacteria levels exceed California State health standards. Call the San Diego County Department of Environmental Health @ (619) 338-2073 for more information.



San Diego, CA 92161



November 20 2011

WELCOME TO THE CHILDREN'S POOL
The City of Santa Clara
Be respectful of the seals in this area

SHARE THE BEACH WITH THE SEALS but keep a safe distance.

Seals at the beach and water are used for public enjoyment. They are also a source of food for birds and other animals. They may be startled or frightened by loud noises, sudden movements, or touching. They may also be injured by people or dogs. Please do not touch or feed seals. If you see a seal, please do not approach it. If you see a seal that appears to be injured or in distress, please call the Santa Clara County Department of Animal Services at (415) 338-5073 for more information.

STAY BACK
Wild animals can be unpredictable and may bite. Seal pups can be very vulnerable and may die if they are approached or touched. Please do not touch or feed seals. If you see a seal, please do not approach it. If you see a seal that appears to be injured or in distress, please call the Santa Clara County Department of Animal Services at (415) 338-5073 for more information.

MOVE SLOWLY
Seals may be startled or frightened by loud noises, sudden movements, or touching. They may also be injured by people or dogs. Please do not touch or feed seals. If you see a seal, please do not approach it. If you see a seal that appears to be injured or in distress, please call the Santa Clara County Department of Animal Services at (415) 338-5073 for more information.

WARNING/CAUTION
Contact with water may cause seals to become agitated. Please do not touch or feed seals. If you see a seal, please do not approach it. If you see a seal that appears to be injured or in distress, please call the Santa Clara County Department of Animal Services at (415) 338-5073 for more information.

MAINTAIN DISTANCE
Seals are protected by federal laws. Please do not touch or feed seals. If you see a seal, please do not approach it. If you see a seal that appears to be injured or in distress, please call the Santa Clara County Department of Animal Services at (415) 338-5073 for more information.



November 26 2011

RECEIVED
DEC 01 2011
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



To: *Melissa Ahrens*

Fax #: 767-2384

From *Ken Hunrichs* 619 263-8667 (shared line, call first)

Subject: Coastal Commission File 6-11-078, Children's

Please review the attached files for inclusion in CCC File 6-11-078, Children's Pool Rope Barrier Project. The included article is from The Journal of San Diego History, Volume 51, Summer/Fall 2005 by Jeremy Hollins.

From the original State Tidelands Trust:

Section 1 of Chapter 937 of the Statutes of 1931:

(a) That said lands shall be devoted exclusively to public park, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incident to, or convenient for the full enjoyment of such purposes ;

(b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.



Re: California Coastal Commission File 6-11-078, Children's Pool Rope Barrier
Project December 1, 2011

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DEC 01 2011

c/o Melissa Ahrens, Coastal Planner
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

The included article is from The Journal of San Diego History, Volume 51, Summer/Fall 2005 by Jeremy Hollins. This article explains the engineering difficulties during the design and construction of the Children's Pool seawall in La Jolla. It's no wonder this special place has such great appreciation and historical value to the community as a place for people to use and enjoy.

The planning and design of the seawall project started many years before any construction began. Clearly, Ellen Browning Scripps, the State of California and the local community intended to create a safe place for children and novice swimmers to enjoy the beauty and bounty of the Pacific Ocean along the La Jolla coast. If all that was needed was a breakwater structure, Scripps' architects and engineers could have placed a rock jetty to create the sheltered pool but instead placed a sculptural, arching seawall to blend harmoniously with the beauty of the bluffs and ocean. This was no small accomplishment for the time and even with today's construction technology, this would be difficult to replace. Fortunately it appears as if the seawall is holding up fairly well considering the constant pounding it receives from the ocean and the sporadic maintenance by the City of San Diego.

I am asking for the California Coastal Commission reject the City of San Diego's application for a permanent, year round rope barrier across the beautiful beach at Children's Pool. This area was entrusted to the City of San Diego to forever to remain as a public park, recreation area and bathing pool for children.

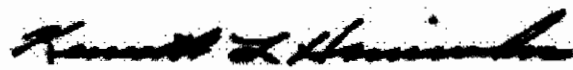
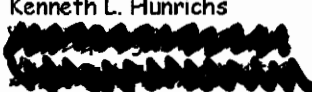
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- (b) *The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.*

This promise to the people of California and future generations must not be ignored. This is a tiny portion of the coast set aside for human use and that use must be protected. The recent illogical inclusion of a "Marine Mammal Park" serves only to diminish the value to the intended beneficiaries of the Tidelands Trust protecting this special place.

Sincerely,


Kenneth L. Hunrichs


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DEC 01 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

"Until Kingdom Come"
The Design and Construction of
La Jolla's Children's Pool

Jeremy Hollins

Winner of the Marc Tarasuck Award

The Children's Pool, located along the rocky bluffs of the Pacific Ocean below the Casa de Mañana, is one of La Jolla's best known structures. Built in 1930, it was one of the many gifts that philanthropist Ellen Browning Scripps gave to the community of La Jolla. Originally heralded a "wonderful improvement" by the press, the concrete breakwater became the setting for controversial debate sixty years after its completion.¹



Swimmers in the La Jolla Children's Pool, July 12, 1953. ©SDHS, UT 84:29642-1, Union Tribune Photograph Collection.

The debate involved a colony of harbor seals that has inhabited the beach since the mid-1990s. In 1999, one hundred seals rested at the beach, causing San Diego Parks and Recreation to install a rope barrier. The barrier gave the seal habitat a boundary and protected the seals from people. People either supported the seal habitat or argued that the seals prevented swimming, diving, and use of

Jeremy Hollins is an architectural historian who has worked for the La Jolla Historical Society, IS Architecture, and URS Corporation. He received an M.A. in history from the University of San Diego and resides in Del Mar, California. He enjoys studying historic structures and vernacular buildings.

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the beach.² Topics discussed in La Jolla and San Diego newspapers included the possibility of removing the breakwater and returning the beach to its natural state, ways to improve water quality by eliminating seal waste, and plans to enforce the Marine Mammal Protection Act to restrict the public's contact with the seals. Meanwhile, advocacy groups like "Save Our Seals" educated the public about the seal colony at the Children's Pool.³

In 2004, the city removed the rope barrier and adopted a "joint use" policy. Joint use allowed members of the public to use the beach recreationally but prevented them from harassing the seals. Volunteers created the "Rake-A-Line" program in order to dissuade the public from crossing a line raked in the sand. That same year, a swimmer filed a lawsuit, claiming that the city violated the terms of a 1931 trust between the State of California and the City of San Diego. The trust required use of the beach as a public park and bathing pool. In August 2005, Superior Court Judge William C. Pate ruled in the lawsuit. He ordered the excavation of the pool and a "return to its pre-seal condition in six months." He intended to lower the beach's bacteria level, which had exceeded state standards since 1997, and to deter the seals from using the site. In September 2005, the city council voted to appeal Judge Pate's ruling. Council members such as Donna Frye felt that the judge had overstepped his authority by ignoring the environmental review process. The city expected it to take a year to complete the environmental studies and obtain permits.⁴

While the controversy has brought increased attention to the Children's Pool, few San Diegans know the origins of the breakwater. Construction of the Children's Pool was an intensive effort that took nearly a decade to complete. Spearheaded by city hydraulic engineer Hiram Newton Savage, architect William Templeton Johnson, and contractor W. M. Ledbetter and Company, the breakwater and pool's lasting design were feats of modern engineering. This study examines the planning, design, construction, and early history of La Jolla's Children's Pool.

"For the Health and Happiness of Children"

Beginning in the 1870s, San Diegans and tourists traveled to La Jolla's coastline for picnics, sunbathing, and afternoons of leisure. Hotels like the Horton House organized day trips to La Jolla, bringing guests and San Diego residents to La Jolla along the dusty, fourteen-mile road. However, many of La Jolla's beaches remained unsafe for swimmers due to the "rapid cross current" that swept through the shore. By 1921, the "Old Ocean" had "taken toll of human life" numerous times and swimming during high tide was prohibited. Signs warned swimmers of the dangers but few people obeyed or even heeded the warnings.⁵

Ellen Browning Scripps (1836-1932), a community resident since 1897, sought a solution to the dangers posed to young swimmers. Scripps devoted much of her time to the welfare and safety of La Jolla's children. An investor and consultant in the newspaper empire run by her brother,



Ellen Browning Scripps devoted much of her time to the welfare and safety of La Jolla's children.
©SDHS, #OP 12423-455-3.

Until Kingdom Come



Engineer Hiram Newton Savage played an important role in San Diego's water resource development, January 30, 1930. ©SDHS, UT 4759, Union Tribune Photograph Collection.

E. W. Scripps, she amassed a considerable fortune before 1890. She founded the Scripps Institution of Oceanography, Scripps College, Scripps Hospital, and Scripps Clinic. She built the La Jolla Women's Club and the La Jolla Public Library. She purchased the pueblo lots that became Torrey Pines State Reserve for use as a public park. She donated money to the San Diego Zoo, provided scholarships to the Bishop's School, and helped to build the Children's Playground and Recreation Center. Scripps explained, "I have always had an innate interest in children, particularly those handicapped in life's game." While the creation of a breakwater would ultimately benefit all visitors to La Jolla's beaches, she wanted "the children to have a primary claim" to such a structure.⁶

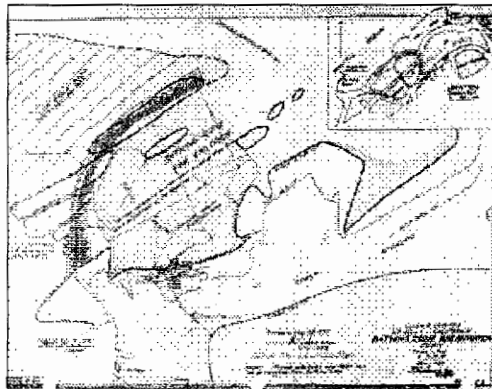
In 1921, Scripps contracted Hiram Newton Savage (1861-1934) to conduct preliminary surveys for the breakwater and to "work out the issue with Old Ocean."⁷ Savage was a hydraulic engineer with a reputation as a tireless worker. Ed Fletcher described him as "positive in his convictions, and would not yield an inch, under any conditions."⁸ He had worked on numerous projects, including the Rio Grande Water Company, before graduating with a degree in civil engineering from Dartmouth College in 1891. In San Diego, he served as Chief Engineer in charge of

THE JOURNAL OF SAN DIEGO HISTORY

construction and maintenance of the Sweetwater Dam. Between 1903 and 1916 he served as Consulting Engineer in the United States Reclamation Service, working on dam and irrigation projects in Montana, North Dakota, and Wyoming. He returned to San Diego to reconstruct and enlarge the Sweetwater Dam, which had been damaged by the record flood of 1916. In 1917, he became Hydraulic Engineer for the City of San Diego. He supervised the design and construction of the Barrett Dam and new Lower Otay Dam, the enlargement of the Morena Dam and extensions to the city's rapid sand filtration plants. Most important, he planned San Diego's future water development, creating detailed plans and estimates for the dams, reservoirs, carrying systems, and purification plants. Scripps hired him for his expertise in water management; she also knew that he had engineered the Zuniga Jetty in San Diego Harbor.⁹

Savage submitted his preliminary findings on March 22, 1923. The preliminary survey looked at the "feasibility, practicability, and estimated cost" of the potential project. His report examined some of the world's "most important breakwaters," including ones in Alaska, Florida, and California.¹⁰ He also made careful notes regarding the geology of the region. His top priority was designing a breakwater that was "durable" and "economical." He was forthright in telling Scripps and the people of La Jolla that he intended to build a structure that was "likely to endure" and remain a lasting edifice on La Jolla's coastline.¹¹

The preliminary survey recommended a site and contained design drawings. Savage chose the crescent-shaped beach area immediately in front of Block 56 of the La Jolla Park subdivision. His drawings predate the construction and design of Coast Boulevard's Casa de Mañana Hotel, completed in 1924. He wanted to build the breakwater in this location for two reasons. First, this beach was "a favorite bathing place, especially for the women and children of the town." Despite the dangerous crosscurrent and undertow, many



Hydraulic engineer Hiram Newton Savage's site plans for the Children's Pool, sketched in December 1922 and modified on May 28, 1930. Note the placement of the breakwater over the natural sandstone reef and the geological contours of the site. Courtesy of the La Jolla Historical Society.

swimmers felt safe here and children enjoyed playing at this location. Second, the natural geology and contour of the site was conducive to building a breakwater. Savage's drawings noted the beach had a "natural barrier reef curving seaward from a bluff." The sandstone reef extended in a series of "parallel ribs almost continuously in a general arc." The proposed breakwater would follow this shape, offering protection from "the prevailing" northwestern waves. The breakwater would be approximately 300.6 feet long with an arc length of 177.8 feet. This was nearly the same length and arc as the barrier reef.¹²

The breakwater embodied several principles of organic architecture. It was harmonious to the environment's natural features and it complimented the existing conditions of the site. The 300-foot arcing breakwater would be composed

Until Kingdom Come

of reinforced concrete. As it extended seaward, 79 percent of the structure would be ten feet high while 21 percent would be sixteen feet high. This created a gradual incline that was devoid of sharp, jagged lines. He planned for "the ocean side having a slope of 10 on 6 to a point 6 feet below the top and an 8 foot radius curved upper portion design to turn the wave back on itself." The pool side of the structure would have a set of steps eighteen inches high and wide. The steps ran the entire length of the pool and their purpose was "to facilitate the children in climbing around...and to also serve as seats." At three evenly spaced points along the pool, he designed pilasters fitted with wrought iron ladder steps. The ladder steps provided access to a four-foot wide walkway on top. The top would also have a set of parallel railings, composed of two-inch galvanized pipes, three-feet high, and supported by vertical posts spaced every eight feet. By unifying the structure's form and function, Savage made sure that the breakwater would not detract from La Jolla's attractive scenery.¹³

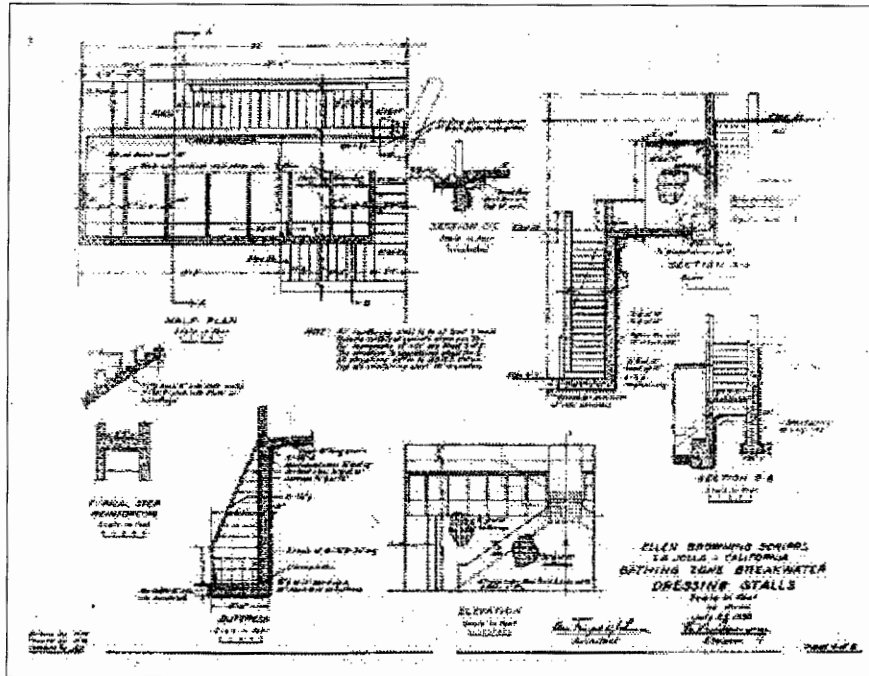
Savage's design was unlike any structure in San Diego. It materialized from the extensive research he conducted and his vast experience in hydrology. To assist the natural removal of sand from the pool's bottom, Savage included plans for four sluiceways, four feet wide by six feet high. The sluiceways were "built thru the shore end of the breakwater." Additionally, Savage proposed building a new sewage drain and catch basins along the Coast Boulevard elevation. The drain and catch basins would "eliminate the ugly washes which have occurred where the drainage has found its way down the bluff toward the beach." Access to the breakwater and walkway would be through a multi-leveled stairway structure set into the face of the bluff. The stairway structure would have a symmetrical rectangular form, with the stairways centered, and angular concrete piers flanked at the sides.¹⁴

"Go Forward With It"

Scripps approved the preliminary survey in 1923 but she did not pursue the project for nearly seven years. The *La Jolla Journal* claimed that other "projects crowded in," and distracted her from the project. In fact, the delay was caused by Savage's disappearance from San Diego after a highly publicized dispute with San Diego officials in 1923. The dispute concerned construction of the Barrett Dam. City officials discharged Savage from the project after "men who wanted to run things clashed with the engineer when he failed to bend his engineering opinion in their views."¹⁵ Savage spent the next several years traveling the world, performing engineering research for private parties. He visited over thirty foreign countries, including Italy, Egypt, the Sudan, Java, the Philippine Islands, China, and Japan, inspecting irrigation and hydroelectric projects and often reporting to President Calvin Coolidge on their technical requirements. In an attempt to find Savage and bring him back to San Diego, "cablegrams and messages raced around the world." In 1928, they caught up with him in Paris. He agreed to return to his post as engineer "only on condition that he would be free from political interference." Once Savage took "hold of the water helm," projects like the Children's Pool could begin to take shape.¹⁶

In May 1930, Scripps commissioned Savage to reexamine the project and to produce updated drawings, revised topographic and geological surveys, and a

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In December 1930, Hiram Newton Savage sketched a more detailed site plan of the Children's Pool which included many of the project's final features. The plan shows walkways, vegetation and landscape elements, specifications for parking, lifeguard buoy shelter boxes, and plans for the breakwater's parapet walls. Courtesy of the La Jolla Historical Society.

new budget. Savage then expected the project to cost \$50,000 although he did not recommend any structural changes from the first surveys he conducted in 1923.¹⁷ Still, Scripps was determined to finish the project. She even had several codicils inserted into her Last Will and Testament: "Plans have been prepared for developing the Pool near my home....if the work is not accomplished during my lifetime, I request...to go forward with it."¹⁸

Scripps retained architect William Templeton Johnson to design the breakwater's parapet walls and dressing stalls. Johnson was a nationally known architect who designed a number of buildings in San Diego, including the private Francis W. Parker School (1912), the La Jolla Public Library (1921), the Fine Arts Gallery (San Diego Museum of Art) (1927), San Diego Trust & Savings Bank (1928), the Junipero Serra Museum (1929), San Diego Natural History Museum (1932) and the United States Post Office on E Street (1932).¹⁹ He favored the "smooth simple lines" of Mission Revival and Spanish Eclectic architecture. Not surprisingly, his proposed design for the Children's Pool was utilitarian, unobtrusive, and consistent with the organic principals found in the breakwater's design. His drawings, dated July 1930, show a horizontal, twenty-five foot, one-story structure that was perpendicular to the pool's two symmetrical stairwells. The dressing stalls, like the breakwater and steps, were made of reinforced concrete and set "below the level of the adjacent street [Coast Boulevard]."²⁰ It had a rectangular footprint, simple in form and shape. The project would not be Johnson's most stylized or ornamented work, but his input on its aesthetic elements was

Until Kingdom Come

indispensable to Savage.

Before completion of the updated survey, Savage had begun obtaining the necessary permits and authority for the work. On June 26, 1930, Johnson mailed applications and formal letters to San Diego's City Council, the Department of Public Works, the Board of Playground Commission, the Board of Park Commission, the U.S. War Department, and the State of California. The City of San Diego and the Department of Public Works jointly approved the project within four days of receipt of the letter through Resolution Number 54177. On July 11, 1930, J. B. Pendleton of the Playground Commission approved the project, and was "happy to cooperate in any and every way possible," including "during construction," and with "maintenance...after it is completed." The Park Commissioners sent Savage an approval letter on July 22, 1930, which showed their support for the project.²¹

The War Department and the State took the longest to sanction the project. Before the War Department would consider the breakwater, Savage had to meet with Major W. H. Lanagan, the district engineer for the U.S. War Department, in Los Angeles. At the meeting, Savage discussed the project goals, the need for the structure, aspects of its construction, and ownership rights. It went well and a month later, on July 22, 1930, William Templeton Johnson invited Colonel Bennett and Major Borden of the U.S. Engineer Office to review the drawings at the site. They were pleased with the design and the "Engineer Officers concluded and announced that provided the breakwater was constructed as designed, it would stay until *Kingdom Come*." Although the officers supported the project, they also planned to "hold the application in suspense" until the State approved the project. On August 30, 1930, Thomas M. Robins of the U.S. Engineer Office sent Scripps a formal letter telling her that his office would offer support under the following conditions: first, the Engineer Office reserved the right to suspend work at any point. Second, the project had to avoid injury to "the navigable channels or the banks of the waterway." The Engineer Office also reserved "full and free use of all navigable waterways adjacent to the project." Another condition gave the U.S. the authority to alter the position or to remove the structure at Scripps' expense "during future operations." They wanted the "permittee" to notify the office after the commencement of the work. Finally, if construction did not start before December 31, 1933, the permit would be "null and void."²² Most of the letter's body came from the War Department's Standard Form Number 96, and was dependent on the State's decision.

On September 2, 1930, Savage finally received formal approval from the State. U.S. Attorney General Webb told Savage that although the project still needed an Act of Legislature, "no action would be taken by the State to prevent the progress of the work prior to...legislative action." Accordingly, Webb told Savage to "go forward with the project" without the Act, and he applauded the "public spirit and splendid ambition of Mrs. Scripps."²³ As Savage had anticipated in July 1930, construction of the breakwater would proceed without legislative authority.

On April 23, 1931, Gov. James Rolph, Jr. finally approved Senate Bill Number 422, *An Act Granting Certain Tide and Submerged Lands of the State of California to the City of San Diego*, which "officially" authorized the project.²⁴ The Senate Bill passed seven months after Savage received approval to begin construction from Webb.

Savage began seeking general contractors in September 1930 while awaiting

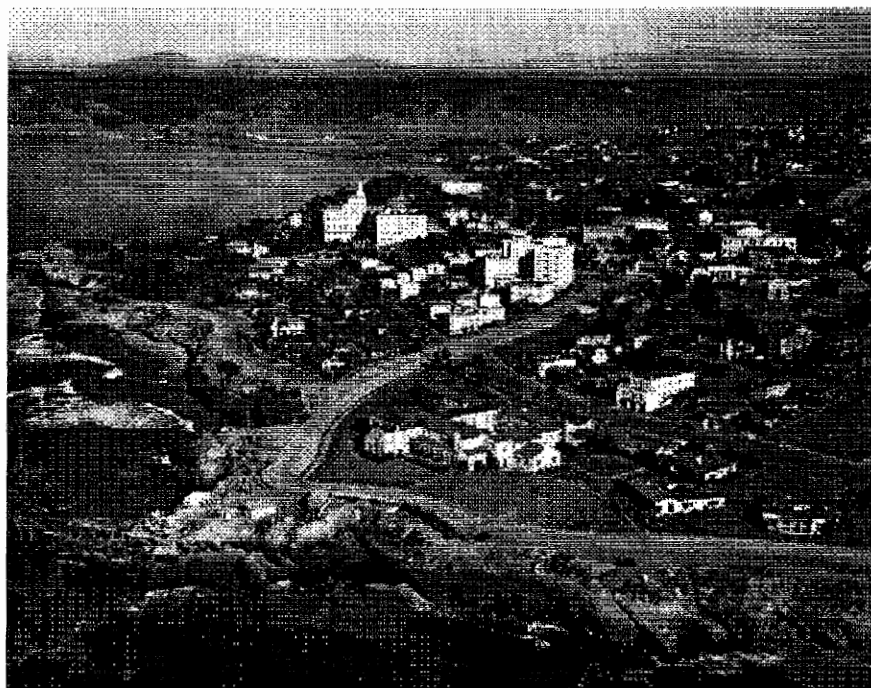
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approval from the State. He sent an informal "invitation to bid" to four contractors who had "experience with this type of marine work": Merritt-Chapman and Scott Corporation of San Pedro, Healy-Tibbitts Construction Company of San Francisco, W. M. Ledbetter and Company of Los Angeles, and Charles Steffgan of San Diego. Savage spent "considerable time" with representatives from each company. He chose the Ledbetter Company, who came in with the lowest bid of \$55,215, despite the fact that they were "not heard from" when invited to meet in San Diego. The bids were due in Savage's office on September 10 and he promised a decision on September 15, 1930. The Ledbetter Company previously constructed the Scripps Institution Pier at La Jolla Shores and a similar breakwater in Newport, California, "under very difficult [and similar] conditions" caused by the "adverse ocean currents." Additionally, the company had erected "falsework causeways" and "concrete piles" for the Mission Bay Bridge in San Diego earlier that year.²⁵

Ledbetter provided Savage with a multi-phased construction plan, and a detailed list of supplies and equipment. On September 16, 1930, Savage issued Ledbetter surety bonds worth \$50,000 and "labor and material man's bonds" worth \$25,000, through the Indemnity Insurance Company.²⁶ After finalizing the contract, construction was finally ready.

"Through the Tides": Construction and Difficulties

On September 17, 1930, "after long discussions and investigations," the way was "clear at last" to begin preliminary construction of the breakwater. Ledbetter



View of La Jolla showing the Children's Pool under construction, ca. 1931. ©SDHS, #90.18138-444-

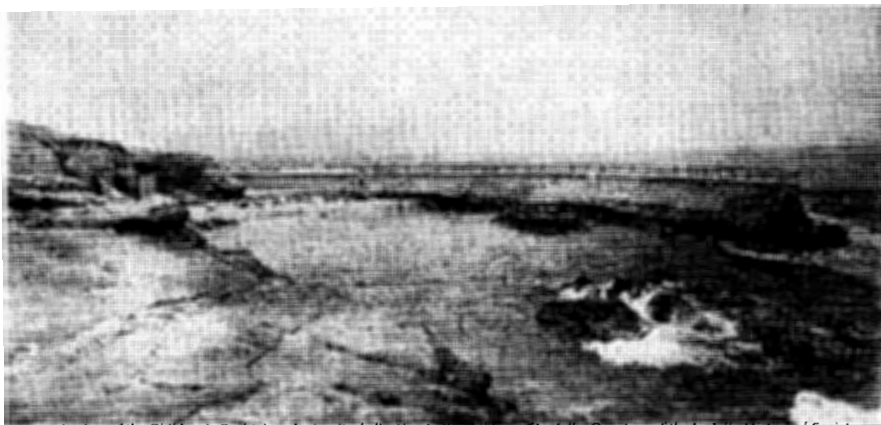
Until Kingdom Come

organized a crew of "twelve men, including [a] carpenter, foreman Sam Neary, and superintendent Carl Gadesburg." The crew brought equipment to the site and erected a "temporary building to house [an] office, blacksmith shop, and tools." Ledbetter laid a water line and fenced off the site. The *La Jolla Journal* recorded the momentous day and excited the public over "this wonderful and valuable improvement."²⁷

The first phase of construction involved the assembly of a timber trestle used as a platform for the workers, construction of a cofferdam, assembly of a pile driver, excavation of a cutoff trench, and the drilling of holes for structural support rails. The workers constructed the trestle outward from the bluff and over the reef. It was the length of the proposed breakwater. After the trestle's construction, the workers next assembled the pile driver. The pile driver was nearly twenty-feet high, and many La Jolla residents found themselves "bewildered by the complex and towering apparatus." The crew drilled twenty-one piles into the bluff and began assembling a cofferdam to protect their work from the shifting sand and rough current. The cofferdam was a massive wooden structure composed of air and watertight timbers that sat below the workers' trestle. On October 9, 1930, they lowered the cofferdam into place at the channel between the bluff and the reef. With the cofferdam and trestle assembled, the crew started excavation of a cutoff trench for the foundation, nicknamed "the Toe."²⁸

Savage recalled, "cutting the cutoff trench was the most interesting and important single thing about the entire project." They placed the cutoff trench in an existing natural trench "previously out in the reef." To assist the excavation of the trench, the workers used a fifty horsepower centrifugal pump to remove the sand through suction. They created the Toe with a pile driver and a twenty-inch drill bit. "The bit pulverized the rock in the trench and the sea removed about half of the muck in the resulting trench." The crew then used pneumatic spades to trim the jagged rocks left in the trench and to break up large boulders. Once the Toe's depth reached ten feet and 328 feet long, the workers smoothed the surface with hand excavations. Then workers washed the trench clean and began drilling holes for the metal upright rails that would support the concrete.²⁹

The digging of the trench took much longer than the anticipated seventy-five



A panoramic view of the Children's Pool taken during its dedication to the children of La Jolla. Courtesy of the La Jolla Historical Society.

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days. Workers dug from October 16 to November 24, 1930. Consequently, the four weeks spent in the Toe was a setback to the schedule. The men lost several "hours through the tides," and drilling the holes for the upright rails could only occur at low tide. Due to the "capricious" ocean, water frequently filled the uprights' holes. Workers had to set wooden plugs wrapped in burlap sacks into the holes to protect them. The men had to drill 1,304.5 feet of holes and, when drilling slowed to a dismal sixty-two feet per eight-hour day, Savage tried to make up time through several measures. First, he had Ledbetter increase the size of the crew from twelve to sixteen men. During preparations for the trench, he had realized the proposed number would not be enough. He quickly learned that a sixteen-man crew was still insufficient for the trench and holes, and he had Ledbetter increase the crew to twenty-five men. To overcome the problems caused by the high tides, the twenty-five-person crew split into two teams and worked night shifts during low tide. Second, Savage ordered Ledbetter to begin laying the concrete and installing the upright railings while the crew simultaneously dug the trench and drilled the holes. The original plans had the concrete and railings installed after completion of the trench. Ledbetter ordered 3,125.5 barrels of Riverside Concrete, which arrived by railroad cars at Pacific Beach siding, and thirty-one tons of rail arrived from Los Angeles by the Shannahan Brothers Company.³⁰

While washing the Toe in late October 1930, the crew placed temporary concrete bulkheads along the channels of the reef to prevent water from reaching the cofferdam. Then they started laying concrete and installed the railings in "section one and two" of the trench (up to the opening of the sluiceways) and finished the two sections before completion of the trench. The workers would construct the breakwater in eight sections, and maintaining steady progress was crucial to the project. By early December, the workers were ready for the next phase of construction, which involved concreting the rest of the breakwater and inserting the railings into the upright holes.

On December 8, 1930, the crew finished concreting and inserting railings in all of section three, and started the foundation work for section four and five. At this point, they were fifty-two percent finished with the concretion. However, "heavy ground swells" and rough seas temporarily stopped their work in late December 1930. On December 11, the "newly poured concrete of section four was badly washed and the inside step forms were demolished, also the outside curved form for section three were demolished." On December 16, "the lower portions of steps of section four were damaged." The workers had to "cut away to a uniform level" and pour a new top to the damaged steps. Water seeped under two of concrete panels on December 23, which ruined the freshly poured concrete. After these events, Ledbetter requested "an extension of time of completion" until January 29, 1931. They expected to finish the breakwater two months later than the date they originally planned.³¹

The difficulty in creating the breakwater caused further deviations from the original plan. Scripps decided to eliminate the dressing stalls after consulting with both Savage and her lawyer. But she continued to employ architect Johnson to advise Savage and Ledbetter on the overall visual quality of the project. He would also design the stairway structure and parapet walls.³²

On December 24, 1930, the workers finally finished installing and grouting the upright railings and the concretion of the eight sections. In addition, they

Until Kingdom Come

completed the four sluiceway holes and were ready to start building the grillages and gates for them. The breakwater began taking shape, and Savage, Ledbetter, and the crew became excited over the promise of the next phase.

The New Year began with the disassembly of the trestle. Workers started the excavation of the stairway structure. Additionally, the crew took advantage of favorable low tides by removing the remaining large boulders that lined the pool's bottom. The site also had two small caves along the south beach and two caves entering into the bluff from the pool side. Phase III of construction required the workers to concrete and seal the caves "to protect the adjacent structures." They used Riverside reinforced concrete and built three eighteen-inch steps into the face of the south beach caves "to facilitate access" to the sand.³³ Once again, Savage had the workers use the site's natural features to enhance the functionality of the breakwater. The use of the concreted caves as small access steps reflected the organic ideas that dominated the plan and design.

As the project seemed to be gaining speed, a significant setback disrupted work for several days on January 2, 1931. The dragline, used to remove the large boulders, fell while being moved into position. It "went off the bluff and landed on its side on the south beach opposite [the] caves." Ledbetter replaced the dragline with a "larger Northwest shovel," and actually used it to salvage the "old dragline." Work did not resume for several days, and Savage's crew felt they "fell short of accomplishment due to...the accident to the dragline."³⁴

On January 13, 1931, Johnson and Savage submitted to Scripps several design modifications to the parapet walls. After they poured the breakwater's walls, the men decided to "change the height and taper the top elevation."³⁵ Johnson and Savage wanted the parapet walls to be eight inches high on either side. They



Visitors walking along the breakwater, 1930s. ©SDHS SOP 6069.

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suggested the change purely for aesthetic value, to accentuate the smooth lines of the breakwater.

By January 19, the workers finished the concretion of the caves and the excavation of the stairway structure. The blacksmith continued assembling the grillages for the sluiceways. During this time, they poured ten feet of concrete for the stairway structure and retaining wall. Still, the workers were quite far from their projected completion date. On January 28, Ledbetter asked Scripps for another extension of time, believing it was "was impossible to complete the work within the allocated time." Scripps agreed and granted Ledbetter another extension until March 15, 1931.³⁶ With the time extension, the workers prepared themselves for the final phase, which involved grouting the walkway's railings, completing the stairway and steps, finishing the parapet walls, and preparing the site for public use.

"Beautiful, Beautiful Lines"

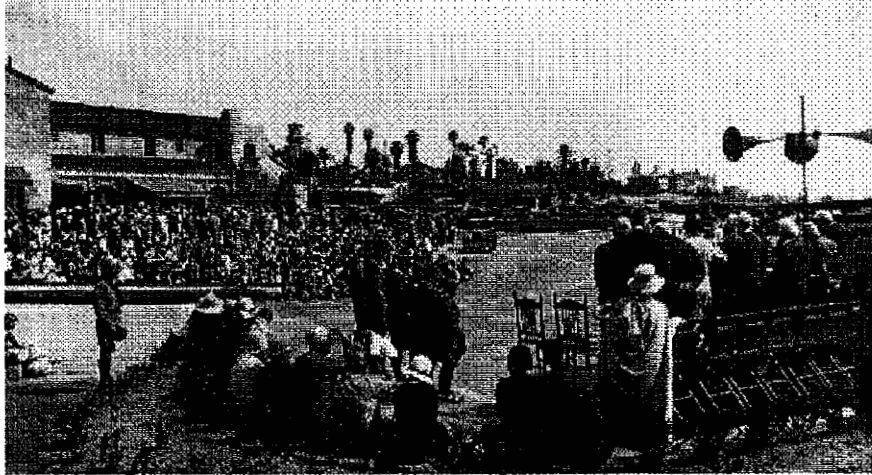
Phase IV of construction was the culmination of a project that began nearly a decade earlier. Work on the last phase commenced the first week of February 1931. The workers began grouting the parallel railings on top of the breakwater and completed them shortly before February 19. After their installation, crewmembers cleaned and painted the railings with two coats of "Hermastic paint." Next, Ledbetter's men completed the stairway structure. They built the stairway structure to an elevation of twenty-eight and one-quarter feet, and concreted the lower landings and steps.³⁷ The following week, the crew finished concreting the eight-inch east and west parapet walls. The only construction work left was the paving and curbing of the parking lot adjacent to Coast Blvd.

After the completion of construction in early March 1931, Savage invited representatives of Scripps to the breakwater to examine the structure. On March 4, the representatives met with Johnson at the site and offered some criticism. They felt the lines in the terrace area were distracting and they criticized the "angularity" of the stairway structure. Additionally, they recommended reducing the height of the parapet walls further and creating an additional step and extending the railing at the first section of the breakwater. The purpose of the step and railing were to provide an easier way for "nurses and those in charge of small children...to get from the walkway" to the "sunny steps."³⁸

Following the meeting, Johnson and Savage began making changes. To fix the distracting lines, Johnson suggested coloring the breakwater's walls. He told Scripps' representatives "he would be glad to get in touch with a man in Los Angeles who is able to tint the concrete walls." Tinting the walls would give it the same appearance as the surrounding soil's color and would "relieve the stark appearance of this section." This would also enhance the organic design of the structure. On March 25, Johnson had Arthur Raitt of Lamens Process Company color the walls, which created a natural algae visual effect and "beautiful, beautiful lines."³⁹

To relieve the "angularity" of the stairway structure, Savage and Johnson added a balustrade along the upper portion of the first flight of stairs. It was a practical addition, since it aided "elderly people" in accessing the beach from the street. Work on reducing the parapet walls several inches began on March 12 and the

Until Kingdom Come



La Jolla residents sat on the grass in front of the Casa de Mañana for the May 31, 1931, dedication and ceremonial opening of the Children's Pool. Courtesy of the La Jolla Historical Society.

workers finished before April 4. Design alterations caused the project to go over deadline and over budget by approximately \$4,000. However, the cosmetic changes clearly added to the visual appeal and safety of the breakwater.⁴⁰

Outside of these slight modifications, Savage encountered only one obstacle during the final phase of construction. He noticed that the sand level of the pool constantly fluctuated with the ebb and flow of the tide. "A strong suction pull caused by the water running into the sluiceways and then receding" made it difficult for the pool to have an even sandbar. To remedy this problem, he decided



Children and adults enjoying a summer day at the Children's Pool in the 1930s. Courtesy of the La Jolla Historical Society.

to close the four wooden grillages. This prevented the sand in the pool from moving west through the sluiceways. On March 27, workers sealed the grillages. The pool's floor immediately lowered one and a half feet. Three days later, a sand beach formed at "the corner between the bluff and the inside of the breakwater,"

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which Savage saw as beneficial "for children bathing in the pool." If it ever seemed desirable to reopen the gates, Savage proposed hand excavating the sluiceways at low tide and raising the frames and gates at low tide. After dealing with these obstacles, work was finally finished on the Children's Pool and it was ready for the public's use.⁴¹

"A Wonderful Improvement"

After extensive planning, a tedious permit/approval process, and construction filled with numerous delays and obstacles, Savage, Johnson, and Ledbetter eventually completed the Children's Pool on April 4, 1931. From the initial survey and design to the final work done by the contractor, the entire project took ten years.

On May 31, a celebration occurred at the breakwater to celebrate the accomplishment. Scripps was too ill to attend the celebration but Savage spoke in her place, reminding the audience of the difficulties involved in constructing the structure and the importance of the breakwater to the people of La Jolla. The ceremony featured speeches, a pantomime performance by La Jolla school children, and a concert by the San Diego Y.M.C.A. band.

The breakwater received tremendous support from members of the community. Judge John Kean described the project as "the most valuable of all Miss Scripps' benefits to La Jolla." Samuel Fox, representative to Mayor Walter Austin, believed that the breakwater would allow children "to enjoy without danger, the Ocean." The community's weekly paper, *La Jolla Journal*, called the idea a "wonderful and valuable improvement," and "a great asset to the community."⁴²

The breakwater reflects the philanthropic legacy of Scripps and the dedication and work ethic of Savage. Its construction was an intensive undertaking that created a safer bathing area for children. It remains a durable and lasting structure on La Jolla's coast.

NOTES

1. The author thanks Dr. Molly McClain and the La Jolla Historical Society for their research assistance. "Work on Children's Swimming Bathing Pool in La Jolla Started," *La Jolla Journal*, September 18, 1930, 1.
2. Terry Rodgers, "Is Their Fate Sealed?" *San Diego Union Tribune*, October 22, 2005. In past years, seals came to the Children's Pool to birth and nurse pups between February and March. Recently, the number of seals has increased and inhabited the beach for longer periods of time. Environmental advocacy groups like the San Diego Sierra Club opposed the removal of the seals from the beach. For more information, see Kristina Hancock, "Turf Wars: The Seals of La Jolla, Public Trust Land and Animal Law," *San Diego Lawyer* (March/April 2006): 22-29; Hany Elwany, Reinhard Flick, Jean Nichols, and Anne-Lise Lindquist, "La Jolla Children's Pool: Beach Management and Water Quality Improvement Project," August 27, 1998, Scripps Institution of Oceanography Technical Report, <http://repositories.cdlib.org/sio/techreport/20/> (accessed March 26, 2006).
3. Jeff Galyardt, letter to the editor, "Seals, Not Humans, Invaded the Children's Pool," *San Diego Union Tribune*, February 1, 2006; Alicia Booth, letter to the editor, "...And An Awful Stench," *San Diego Union Tribune*, March 2, 2006; Rebecca Stanger, letter to the editor, "Pool is for Seals, Not Bratty Adults," *San Diego Union Tribune*, December 8, 2005.
4. Rodgers, "City Council to Appeal Children's Pool Ruling," *San Diego Union Tribune*, September 28, 2005; Rodgers, "Children's Pool Ruling is Delayed," *San Diego Union Tribune*, November 9, 2005;

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Rodgers, "Is Their Fate Sealed?"; Rodgers, "Rope Barrier is Sought for Seals at Children's Pool," *San Diego Union Tribune*, January 25, 2006.

5. *San Diego Union*, February 3, 1875, April 15, 1881, 1; "Young Woman's Presence of Mind Saves Her Life," *La Jolla Journal*, June 18, 1920, 1.

6. "Work on Children's Swimming Bathing Pool in La Jolla Started," 1; "Children's Pool Given to the City," *La Jolla Journal*, 4 June 1931, 1. For more information on Ellen Browning Scripps, see Patricia A. Schaelchlin, *The Newspaper Barons: A Biography of the Scripps Family* (Carlsbad: Kales Press, 2003); Abraham J. Shragge and Kay Dietze, "Character, Vision and Creativity: The Extraordinary Confluence of Forces that Gave Rise to the Scripps Institution of Oceanography," *The Journal of San Diego History* (JSDH) 49, no. 2 (2003): 71-86; Bruce Kameding, "How Ellen Browning Scripps Brought Ancient Egypt to San Diego," *JSDH* 38, no. 2 (1992); Bruce Kameding, "Anna and Albert Valentien: The Arts and Crafts Movement in San Diego," *JSDH* 24, no. 3 (1978): 343-366; Frances Parnell (Keating) Hepner, *Ellen Browning Scripps: Her Life and Times* (San Diego: Friends of the Library, San Diego State College, 1966); Albert Britt, *Ellen Browning Scripps: Journalist and Idealist* (Oxford: Printed for Scripps College at the University Press, 1960); Edward Dessau Clarkson, *Ellen Browning Scripps: A Biography* (La Jolla: private printing, 1958); Robert J. Bernard, "Ellen Browning Scripps, Woman of Vision," *Scripps College Bulletin* 34, no. 1 (1959); Carl H. Heilbron, ed., *History of San Diego County* (San Diego: San Diego Press Club, 1936).

7. "Children's Pool Given to the City," 1.

8. Fletcher wrote about Savage in his memoir, noting that "he entered into my life, touching on so many important problems, in opposition so many times, I could not write my memoirs with any degree of accuracy without bringing him into the picture." Savage had the backing of Melville Klauber, for many years President and Chairman of the Water Committee of the San Diego Chamber of Commerce, and Harry Jones, manager of Byllesby Company, which owned San Diego Gas & Electric Company. He also had the backing of the Spreckels interests. According to Fletcher, "it was that backing that brought Savage to San Diego as San Diego's Hydraulic Engineer." He wrote, "Savage was the most expensive hydraulic engineer San Diego ever had. Savage had a coterie of friends backing him up. He was a big, husky chap who scarcely ever smiled and, when you doubted his judgment and tried to argue, Savage sulked." Ed Fletcher, *Memoirs of Ed Fletcher* (San Diego: private printing, 1952), 389; Henry Love, "H. N. Savage, City Dam Builder, Dies on Duty in San Diego Service," *San Diego Union*, June 25, 1934, 1.

9. Savage served as consulting engineer to the Southern California Mountain Water Company in connection to the Morena, Upper Otay, and Lower Otay Dams (1895). He also worked with the San Diego and Cuyamaca Railway Company, the Coronado Beach Railway Company, the San Diego and La Jolla Railway Company, and the Cuyamaca Water Company (1898-1903). A multi-volume set of papers collected by Savage documents the history of construction of dams at Barrett, El Capitan, Lower Otay, Morena Reservoir and the San Dieguito Project. It is available for consultation in the California Room of the San Diego Public Library and in the Water Resources Center Archives, University of California, Berkeley. Mary Allely, "Local History Materials in the California Room of the San Diego Public Library," *JSDH* 37, no. 3 (1991): 224-225; "Finding Aid to the Hiram Newton Savage Photographs, 1905-1933," Water Resources Center Archives, University of California, Berkeley, <http://www.oac.cdlib.org/findaid/ark:/13030/kt6m3nc11c> (accessed March 26, 2006).

10. Hiram Newton Savage, *Ellen Browning Scripps Bathing Pool for Children at La Jolla, California: Feature History, March 1931* (San Diego, 1931), 7. Savage included copies of letters, plans, estimates, and other materials in this bound typescript, located at the La Jolla Historical Society. Another copy of this document can be found in the Water Resources Center Archives, University of California, Berkeley. The archive also contains nearly fifty photographs of the Children's Pool, WRCA MS 76/16, box 4, folders 80-81.

11. Hiram Newton Savage to Ellen Browning Scripps, September 15, 1930, La Jolla Historical Society (LJHS); "Children's Pool Given to the City."

12. "Work on Children's Swimming Bathing Pool in La Jolla Started," 1; Savage, *Ellen Browning Scripps Bathing Pool*, 5-6, 8, 196.

13. *Ibid.*, 5-6, 202.

14. *Ibid.*, & "Scripps Bathing Pool for Children at La Jolla," June 15, 1931, Children's Pool File, LJHS.

15. Love, "H. N. Savage, City Dam Builder, Dies on Duty in San Diego Service," 1.

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16. "Finding Aid to the Hiram Newton Savage Photographs, 1905-1933," Water Resources Center Archives, University of California, Berkeley, <http://www.oac.cdlib.org/findaid/ark:/13030/kt6m3nc11c> (accessed March 26, 2006). "Children's Pool Given to the City," 1; Love, "H. N. Savage," 1, 3.
17. Savage, *Ellen Browning Scripps Bathing Pool*, 7, 11.
18. Curtis Hillyer and J.C. Harper, *Last Will and Testament of Ellen Browning Scripps* (San Diego: privately printed, 21 October 1922 to 11 August 1932), 30-31, 80, 84-85. Scripps' legal team added and revised three codicils in April 1924, April 1930, and December 1930.
19. See Sarah J. Shaffer, "A Civic Architect for San Diego: The Work of William Templeton Johnson," *JSDH* 45, no. 3 (1999): 166-187; Martin E. Petersen, "William Templeton Johnson: San Diego Architect, 1877-1957," *JSDH* 17, no. 4 (1971): 21-30; Gregg R. Hennessey, "Creating a Monument, Re-Creating History: Junipero Serra Museum and Presidio Park," *JSDH* 45, no. 3 (1999): 137-160. See also the interactive CD-Rom produced by the San Diego Historical Society entitled "From Blueprints to Buildings: San Diego Architecture."
20. "W. T. Johnson Dies, Noted Architect," *San Diego Union*, October 15, 1957, 2-3; Savage, *Ellen Browning Scripps Bathing Pool*, 9, 199; *San Diego Evening Tribune*, September 13, 1930, 1.
21. Savage, *Ellen Browning Scripps Bathing Pool*, 9, 11-18.
22. *Ibid.*, 20-21, 64, 66, 72.
23. *Ibid.*, 23, 77.
24. *Ibid.*, 26.
25. *Ibid.*, 27-28, 33-34, 77; "Work on Children's Swimming Bathing Pool in La Jolla Started"; Charles Steffgen came in at \$57,749.70. Merritt Chapman and Scott came in at \$79,877.80. Healy-Tibbitts made an offer to "furnish equipment and do work at cost plus fifteen percent."
26. "Breakwater in La Jolla," *San Diego Evening Tribune*, September 13, 1930, 1.
27. "Work on Children's Swimming Bathing Pool in La Jolla Started," *La Jolla Journal*, September 18, 1930, 1; Savage, *Ellen Browning Scripps Bathing Pool*, 78.
28. "False Work Built at Bathing Pool," *La Jolla Journal*, October 2, 1930, 1; Savage, *Ellen Browning Scripps Bathing Pool*, 42, 81; "Drilling the 'Toe' at Bathing Pool," *La Jolla Journal*, November 13, 1930, 1.
29. Savage, *Ellen Browning Scripps Bathing Pool*, 45-46.
30. "Old Ocean Favors Pool Improvement," *La Jolla Journal*, 30 October 1930, 1; Savage, *Ellen Browning Scripps Bathing Pool*, 30, 46-47, 82-83.
31. Savage, *Ellen Browning Scripps Bathing Pool*, 52, 82-83, 87, 131, 137.
32. *Ibid.*, 88, 129.
33. *Ibid.*, 54-55, 93.
34. *Ibid.*, 93.
35. *Ibid.*, 129.
36. *Ibid.*, 131-133.
37. *Ibid.*, 98, 131.
38. *Ibid.*, 100, 124-125.
39. *Ibid.*, 104, 124-125.
40. *Ibid.*, 105, 124.
41. *Ibid.*, 116-119.
42. "Children's Pool Given to the City," 1; "Work on Children's Swimming Bathing Pool in La Jolla Started," 1.

December 1, 2011

Re: Coastal Commission File 6-11-078, Children's Pool Rope Barrier Project

c/o Melissa Ahrens, Coastal Planner
California Coastal Commission, San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

The included article is from The Journal of San Diego History, Volume 51, Summer/Fall 2005 by Jeremy Hollins.

This article explains the engineering difficulties during the design and construction of the Children's Pool seawall in La Jolla. It's no wonder this special place has such great appreciation and historical value to the community as a place for people to use and enjoy.

The planning and design of the seawall project started many years before any construction began. Clearly, Ellen Browning Scripps, the State of California and the local community intended to create a safe place for children and novice swimmers to enjoy the beauty and bounty of the Pacific Ocean along the La Jolla coast. If all that was needed was a breakwater structure, Scripps' architects and engineers could have placed a rock jetty to create the sheltered pool but instead placed a sculptural, arching seawall to blend harmoniously with the beauty of the bluffs and ocean. This was no small accomplishment for the time and even with today's construction technology, this would be difficult to replace. Fortunately it appears as if the seawall is holding up fairly well considering the constant pounding it receives from the ocean and the sporadic maintenance by the City of San Diego.

I am asking for the California Coastal Commission reject the City of San Diego's application for a permanent, year round rope barrier across the beautiful beach at Children's Pool. This area was entrusted to the City of San Diego to forever to remain as a public park, recreation area and bathing pool for children.

From the original State Tidelands Trust:
Section 1 of Chapter 937 of the Statutes of 1931:

- (a) That said lands shall be devoted exclusively to public park, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incident to, or convenient for the full enjoyment of such purposes ;*
- (b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.*

This promise to the people of California and future generations must not be ignored. This is a tiny portion of the coast set aside for human use and that use must be protected. The recent illogical inclusion of a "Marine Mammal Park" serves only to diminish the value to the intended beneficiaries of the Tidelands Trust protecting this special place.

Sincerely,



Kenneth L. Hunrichs
6530 Springfield Street
San Diego, CA 92114-1524

6-11-078

Subject: Childrens Pool rope barrier

From: "Joshua Russo" <

>m>

Date: 11/29/2011 2:19

To: <

Hello,

I am opposed to the placement of a rope barrier at Children's Pool and see it as an unnecessary removal of my right to access the water at a public beach, and a beach that was created for that purpose. I was at Children's Pool last Friday and grateful to be able to enjoy the ocean there. I am aware that there are some activist that are making this more than it really is and I'm asking you to protect my rights. No seals are were or ever would be harmed by the absence of this rope.

Thank you for your time,

Josh Russo

2126 Porter Ct. Fairfield, Ca 94533

(707)333-9575

RECEIVED

NOV 30 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

6-11-078

Subject: Children's Pool Update: The extremists are emboldened by the City's neglect.

From: "Kenneth L. Hunrichs"

Date: 11/28/2011 10:36 AM

To: undisclosed-recipients;;



The beach closure extremists are at it again. This was the scene greeting visitors early last Saturday morning at Children's Pool.

The caution tape was quietly removed by City Park staff right away when it was brought to their attention. Unfortunately, there appears to be no investigation into who is doing this. Because of the Summer like weather last weekend, lots of people were at Children's Pool to enjoy the holiday weekend. These kind of tricks pulled on an unknowing public only create more confusion; the true goal of the extremists seeking the closure of a public beach.

The December 15 rope barrier installation is just around the corner and this kind of activity will likely increase as the City surrenders the public's access rights to this beach to a few extremists.

RECEIVED

NOV 30 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

11/29/2011 9:10 AM

Subject: Harrassment at Children's Pool**From:** "Gallina CIV Michael A"

nil>

Date: 11/16/2011 1:47 PM**To:** <|

On Saturday November 12, 2011 my wife and I went to La Jolla to bring my daughter to the museum for a class project. Since we were not interested in touring the museum we decided to walk down to the children's pool to walk the concrete breaker to hear the wave's crash against the wall and look at the seals. After a while we decided to walk down to the beach where the seals were to get a closer look. It was very interesting once we got down to where the seals were. That was, until about 10 minutes later when we could hear someone yelling from the cliff. At first we did not take notice of the women yelling from the cliff. I continued to point out to my wife the interesting things we observed.

As the woman on the cliff got louder my interest peak to what she was saying to the people on the beach. I noticed she was threatening people with \$500 fines. My wife mentioned that there were no signs on the beach nor was access to the beach blocked so this didn't make sense to us. Then she started to berate the people on the beach and again threaten them with 500 dollar fines. After looking up at her and seeing that she was not a Ranger or police officer I started to wonder if she was trying to intimidate everyone on the beach. She proceeded to make random statements more outlandish than the next one. About 5 minutes later she was still yelling at us and the people that were still on the beach. Since it just started to rain I decided to leave since I had no rain gear and was getting wet.

After I left I decided to go on YouTube to see if there were videos regarding protests at children's pool. The first video I open showed me the women who had previously yelled at everyone that day doing the same thing to others. I found out that her name is Andrea E Hahn. Since I saw her with a video camera I figured she would eventually post a video of the event. Sure enough, she posted her video on her Facebook account and then Youtube. What I am really mad about is that fact that she post her video and printed that the people she was videotaping were "social dysfunctional". If I had the ability to hire a lawyer I would have taken legal action against her for printing a lie. I don't understand how the City of San Diego Attorney's office or the people of La Jolla don't get together and bring a civil suit against here.

How can the City of San Diego permit a person who activity violates people's constitutional rights on a daily basis continue to do so. I don't think this type of behavior should be tolerated and should be punished accordingly. I ask that my letter be sent to the City of San Diego City Council so they are aware of this person's behavior towards the citizens of San Diego. I request that they investigate this woman and if applicable, press charges. This woman seems to think that the people she is ridiculing are not protected by the same rights as every other American.

MAG

RECEIVED

NOV 30 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

6-11-078

From: "J. Otis Benton"

Date: 11/23/2011 2:12 PM

To:

Children's Pool year around closure is flat out not fair. As a swimmer I love that beach and so do my daughters.

The current 5 month pupping season rope a dope is fine. Sharing is fine.

The mixed use concept works well. I challenge anyone to produce evidence of seal mortality or injuries caused by humans on the sand. When I watch the seals "take from the beach" due to defensive instinct.

They go in the water swim around a bit and come right back in. Not a big deal.

Of course the screaming and weeping from the ladies who never go in the water does get noisy but we have rights also!

Sincerely,

Otis Benton, lifelong LJ swimmer

J.Otis Benton

6104 Beaumont Ave.

La Jolla, Ca. 92037

858 454-8953

Finish Strong!!

RECEIVED

NOV 30 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: Rope Barrier Permit For Children's Pool,
From: Ryan sweeney <ryan@com>
Date: 11/27/2011 9:39 AM
To:

Dear California Coastal Commission,

It is my understanding that Parks and Rec has submitted its new permit application on Oct 9 regarding the Children's Pool rope barrier in La Jolla. I also understand it was so poorly written that the local office had to put it on hold until P&R could supply fundamental justifications. However a waiver was also requested which is claimed to have been granted, but without written documentation by the Executive Director of the CCC.

I believe that meeting has been scheduled for January in Santa Monica. Are you able to explain why a meeting regarding a San Diego beach would be held in Santa Monica? Doesn't it seem like that will be a skewed strategy to have input from both sides of the Children's Pool perspectives? Or shall I stand corrected because that is exactly the point?

This nonsense down at the Children's pool needs to stop. The pro-seal "organizations" that are harassing people for using the beach legally should not be able to manipulate the system in the way they have been for so many years. It is an embarrassment to our local community and sends a strong message about how eco-protection is being handled in this state. Allow me to clarify... eco-protection in regards to the impending MLPA's and the Children's Pool in La Jolla is a joke. Although a very sad one, in which these supposed eco-protection groups are allowed to lie to the public and skew scientific data to support their agenda. Official city trusts and political structures are ignored to serve your agenda. Meanwhile recreational activities and ocean access are stripped from the tax payers. This is unacceptable and we will stop at nothing to make sure this corruption is aired in a public light. This rope barrier at the Children's Pool has no business becoming a regular installment at this beach. I hope your consideration on this topic is a little more balanced than what these Friends of Seals groups are feeding you.

Best regards,

Ryan Sweeney
Head Honcho - Precision Dive Products
1536 Glenwood Dr.
San Diego, CA 92103
T: 562.397.6424
E: ryan@precisiondiveproducts.com
F: 619.727.4740
skype: ryan-sweeney

RECEIVED

NOV 30 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: How usual is the waiver of municipal approvals

From: John Leek <

Date: 11/22/2011

To: Lee McEachern <

gov>

CC: Stacey LoMedico

gov>, "Daneri, Daniel"

/>

A letter to the City Attorney's office from Deborah Lee, stated "... any potential application for a year-round rope barrier should be submitted to the Coastal Commission **after** it has received any local discretionary approvals from the City". None the less, Parks and Rec submitted a new and different application with a request for a waiver of approvals under City Coastal Land Use statutes. That request was based on an indication from a court decision on a previous permit that had legitimacy only under wrongly assumed City permit jurisdiction. That was an ok for the City concerning that court case, since gone, but was not imperative on the Coastal Commission for a completely new permit under its jurisdiction.

Still, your office seems prepared to save the City and yourselves the trouble of waiting for the City to process through its own statutes and procedure, I am told, in case the permit is rejected and all that bother might be for nothing.

I believe this is most irregular. On what basis would a Coastal Commission office grant a City absolution from its own statutes?

How many other permit applications has your office processed with such a waiver granted? Since this would be done just for convenience of the parties involved and no emergency exists (according to 2 court cases), will your office be prepared to grant waivers to all and any permit requests on tidelands the City makes in the future? How could it not?

And it does not seem to be a measure that will save trouble and expense at all, because it forces the CCC to go through what could be a fruitless exercise if the City fails to get its permits through later, which it has failed to do for over a year now. Risk assessment would seem to favor having the City do its part first, just like everybody else, as Ms Lee required.



Subject: Getting a perpetual rope permit through

From: John Leek <

Date: 11/22/2011

To: Stacey LoMedico

.gov>

CC: "Daneri, Daniel"

v>, "Hasenauer, Kathleen"

o.gov>, Lee McEachern

a.gov>

The Coastal Commission has requested a new permit request for a year round rope in all due haste to schedule it for January out of town. Delay could place the hearing in March in San Diego which everyone seems to want to avoid.

However, the CCC has also requested analysis and purpose and things your department was never involved in. The City Council made a resolution to amend Permit 70163 to be year round on an emergency basis. I do not then believe you have any authority to do otherwise, though the emergency part was deemed unsupportable by the City Attorney. When that amending was blocked by the Planning Commission it was demonstrated that tampering with a City Council request by a lesser body is grounds for a lawsuit. (That lawsuit was never really resolved, but made moot by the jurisdiction change)

You need only amend the old CDP 701673. I have attached that paperwork with suggested updates.

That CDP was pretty much an updated copy of every temporary rope barrier put up since 2006. The SDP from Development Services does not provide the insights needed either, but only states that things like encroachment or restriction of access would not exist because they said so. (The City had jurisdiction then)

If you do more or less than what the City Council stated it wanted, I suggest you need their approval.

For the required analysis and purpose and rational, it would do no good to go to the City Council which made no such determinations before accepting the text presented by the Chair of Natural Resources and Culture Committee. Not only is she no longer around to consult, but she did not craft the plan either. The author was Bryan Pease, who lobbied it in place for months beforehand. He will be with us on December 8th and you can ask him for guidance at that time.

—Attachments:—

previous permit.pdf

1.1 MB



Coastal Commission File 6-11-078

C/O Mellisa Ahrens

7575 Metropolitan Dr. Ste 103

San Diego, CA 92108-4402

11/21/11

RECEIVED

NOV 21 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Coastal Commission,

I am worried about the future of our seal colony at Children's Pool if the City is allowed to cordon off the beach forever. It will focus animosity on the seals instead of the people who stole the beach from the Children of San Diego on behalf of animals that are very good about sharing. People angered by the beach clearing tactics of animal rights demonstrators have asked me how we can get rid of the seals. ("Sorry, that's real unlikely. Give shared use a chance.")

On a warm summer day the beach is empty of seals because they need to stay cool and seek food in the daytime, How will citizens feel about standing behind a rope because the beach has to stay empty for seals to come back to at night?

The only danger our colony ever faced was a court order forcing the City to carry out its own plans made in 1999 to disperse the seals. That was unneeded, because these animals are willing to share even if their self-appointed protectors are not. If the City ever finds the seals cost more than the tourist money they bring, they are in danger. The 1931 trust and the Public Trust Doctrine do not allow simple people removal, but the City has federal permission to disperse the seals any time without asking for a permit.

When the La Jolla Community Planning Association held public hearing on the rope permit it roundly rejected it, predicting it would cause more problems than it would prevent. So far they have been correct, but ignored. Their minutes are attached and a picture of the sort of "protection" the seals never asked for but will be blamed for.

John Leek

3090 Admiral Ave

San Diego, CA 92123

Agenda Item #11: Heard out of sequence, see above.

11. BISHOP SCHOOL LIBRARY & LEARNING CENTER

Pulled from August Consent Agenda

DPR ACTION: Motion that the variance findings can be made for variance of zoning height per Land Development Code Section 113.0270(a)(1) and 113.0270(a)(2) of a maximum of 2.1 ft. or less for no more than an area which is equal to or less than 39% of proposed ground floor area. 7-0-0.

7607 La Jolla Blvd. – Amend existing PDP, CDP, SUP, SDP to increase the maximum building height of the previously approved library structure by 4 feet (as measured by the PDO, project conforms to Prop D) in PDO Zones 5 & 6.

12. CHILDREN'S POOL ROPE

Public testimony will be limited to 2 minutes or less per person depending on turnout and no organized presentations.

Proposal by the City to amend the current Coastal Development Permit, which allows for a "rope" during the pupping season to allow the "rope" to remain in place year round.

Presenter – Dan Daneri, City Park & Rec

Presented: **Mr. Dan Daneri**, City of San Diego District Manager, Park & Recreation Department, presented a history of The Children's Pool. San Diego Park & Recreation has been directed to apply for an amended Coastal Development Permit to permit a year-round "Rope Barrier." Mr. Daneri advocated for a permanent "Rope Barrier."

President LaCava invited Community Members to register their opinions in reference to the advisability of establishing a permanent "Rope Barrier" on The Children's Pool beach. Community Members spoke eloquently and civilly, in opposition to the establishment of a permanent "Rope Barrier." There was unanimous praise for the recently established Park Ranger Program, and consensus in support of the "Joint Use Policy."

Speaking in opposition to the Permanent Rope Barrier: **Mark S. Brown, Doug Burley, Dan Byrnes, Elaine Greco, Richard Guarascio, Ken Hunrichs, Marie Hunrichs, Don Perry, Kay Stafford, Steve Thometz, Mitch Throwel, Portia Wadsworth**, and on behalf of the San Diego Council of Divers: **John Leek**, and on behalf of The Friends of the Children's Pool: **Melinda Merryweather, John Steel, M.D.** Community Members registering their opposition, declining to speak: **Robert F. Clarke, Phyllis Minick, Janie A. Noon, William Robbins, Cindy Thorsen**, and on behalf of the La Jolla Town Council: **Rick Wildman. Anthony Ramirez** registered his opposition by e-mail sent to the LJCPA.

Community Member **Ms. Linda Pearce** registered her position in support of the "Rope Barrier," and declined to speak.

Trustees Addington, Brady, Conboy, Costello, Gabsch, Little, Lucas, and **President LaCava** spoke in opposition to establishing a permanent "Rope Barrier" and spoke in opposition to requesting an amendment to the current Coastal Development Permit. **Trustee Weiss** commented. **Trustee Fitzgerald** spoke in support of establishing a permanent "Rope Barrier."

Voting Record #6

Approved Motion: Motion to deny a "Rope Barrier" to remain in place year round on the Children's Pool Beach because the "Rope Barrier" creates more problems than it resolves and findings cannot be made for a Coastal Development Permit, (Lucas/Addington 10/1/2).

In favor: Addington, Brady, Conboy, Costello, Crisafi, Gabsch, Little, Lucas, Manno, Whittemore.

Oppose: Fitzgerald.

Abstain: LaCava, Weiss.

Voting Record #7

Approved Motion: Motion to reject the City of San Diego's determination that The Children's Pool Beach "Rope Barrier" Project is categorically exempt from CEQA Guidelines, (Costello/Brady 11/0/2).

In favor: Addington, Brady, Conboy, Costello, Crisafi, Gabsch, Little, Lucas, Manno, Weiss, Whittemore.

Abstain: Fitzgerald, LaCava.

13. Adjourn to Next Regular Meeting on October 7, 2010, 6:00 pm



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☒ Process Three Decision - Appeal to Planning Commission
☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☐ Applicant ☒ Officially recognized Planning Committee ☐ "Interested Person" (Per M.C. Sec. 113.0103)

Name
La Jolla Community Planning Association

Address P. O. Box 889 City La Jolla State CA Zip Code 92037 Telephone 858.488.0160 (direct)

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

City of San Diego, Department of Park & Recreation

4. Project Information

Permit/Environmental Determination & Permit/Document No.: ChildrensPoolRope/PN213317/CDP-SDP-CEQA Exemp.	Date of Decision/Determination: September 15, 2010	City Project Manager: Morris Dye
---	---	-------------------------------------

Decision (describe the permit/approval decision):

Hearing Officer approved the Amendment to CDP and SDP, took no action on the appeal of the CEQA Exemption

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error (Process Three and Four decisions only)
☐ Conflict with other matters (Process Three and Four decisions only)
☒ Findings Not Supported (Process Three and Four decisions only)
- ☐ New Information (Process Three and Four decisions only)
☐ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

1. The community planning group voted 10-1-2 to recommend denial of the amendment & 11-0-2 to oppose the CEQA Exemption.
2. Amendment is in conflict with several sections of the Local Coastal Plan dealing with lateral and vertical access to the shoreline.
3. Can not make finding: "The proposed coastal development is in conformity with the certified Local Coastal Program land use plan."
4. Hearing Officer repeated several times that it will be a "...hinderance to people using the beach..."
5. Can not making finding: "The proposed...will not encroach upon any exist physical accessway that is legally used by the public..."
6. Failed to adequately consider the Ranger Program & other options that will meet the stated needs and comply with the LCP.
7. Amendment does not qualify for a CEQA Exemption.
- 7.a. §15304 and §15333 do not apply because those list narrow applications and the project has broader implications.
- 7.b. The project is conflict with the Local Coastal Plan and affects public access to coastal resources.
8. CEQA appeal period not valid since there was no way for the public to know that a Notice had been filed.
9. Other issues that may be raised at hearing.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: Joseph LaCava, President, La Jolla CPA Date: 24 September 2010

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

In favor: Addington, Brady, Costello, Courtney, Crisafi, Fitzgerald, Little, Lucas, Manno, Merten, Salmon, Weiss.
Abstain: LaCava

President LaCava noted: There are 254 LJCPA memberships that will expire February 28, 2010. **President LaCava** urged the community to continue their valuable participation in the LJCPA organization, and reminded the community of the potential problems created by a lack of community involvement and support.

7. Officer's Reports

A. Treasurer – Jim Fitzgerald

Beginning Balance: \$517.65 + Income \$201.04 – (Expenses \$81.93) = Ending Balance: \$636.76.

Expenses: Printing, telephone.

Trustee Fitzgerald commented on the generosity of the Membership and reminded Trustees, Members and guests: LJCPA is a non-profit organization and must rely solely on the generosity of the community and the Trustees. All donations must be in cash to preserve anonymity.

B. Secretary – Nancy Manno

Remarks, prepared by **John Berol**, read by **President LaCava**, for secretary **Nancy Manno**: If you want your attendance recorded today, please sign-in at the back of the room. You are entitled to attend without signing in, but only by providing proof of attendance can you maintain membership or become a Trustee. If you want your attendance recorded without signing-in at the back, then hand to me before the end of the meeting a piece of paper with your printed full name, signature and a statement that you want your attendance recorded. Eligible non-members wishing to join must have recorded attendance for one meeting and must submit an application, which is available at the membership table and on-line.

10.

A. SEWER GROUP 716

CPA: Information Only Item at Jan 8 2009 meeting

Returned at request of Councilmember Sherri Lightner and City Council's NRC

Replacements in the Village (Girard, Wall, Kline), residential west of Torrey Pines Road, some in the Shores (Amalfi, Lookout, Hillside). Project was deemed exempt from CEQA. Work may be in area of sensitive archaeological resources.

President LaCava noted: Projects in La Jolla, involving utility work, are presented to the LJCPA as an information only item, to inform the community of affected streets/street closures. This project, previously presented to the LJCPA, in January 2009, has been returned to the LJCPA at the request of Councilmember Lightner: This project, as originally scaled, did not involve archaeological concerns. The project was later expanded, primarily into the La Jolla Shores area, where there may be archaeological concerns. Councilmember Lightner, concerned there had been no public notice; felt the community should be made aware of these potential issues. In addition, City policy, in this instance, did not require a mitigated negative declaration. The City has developed a monitoring program to identify possible archeological resources that is part of the construction specifications.

Presented by: San Diego City Senior Engineer: **Rania Sars Amen** & San Diego City Senior Planner: **Carrie Purcell**. Trustees **Salmon, Courtney, Crisafi, Costello, Weiss, Little** had questions made comments.

President LaCava thanked the City staff and noted no action was needed.

B. SEWER GROUP 715 – Information Only

Update on sewer work under construction in the Village.

President LaCava noted that this item should not have been placed on the Agenda; there was a misunderstanding; the Project is underway.

11. CHILDREN'S POOL ROPE BARRIER

CPA: Jan-08, Findings cannot be made, 7-2-1.

CPA: Dec-08, Reaffirm previous motion that findings cannot be made, 8-3-1.

Coastal Development Permit (CDP) to erect temporary rope barrier during seal pupping season, Dec 15 through May 30. Unlike previous requests for the upcoming season, this request is for annual placement in perpetuity.

Discussion will be limited to changes, if any, that would support reconsideration of the CPA's previous recommendation that the CDP findings cannot be made.

Project presented by City of San Diego District Manager, Park & Recreation **Dan Danieri**. Trustees **Brady, Costello, Little, Lucas, Merten, Weiss** commented. Community members **Rosina Beaver, Portia Wadsworth, Rodger Wiggans, Fran Zimmerman** commented.

Approved Motion: Motion to reject the Children's Pool Rope Barrier because it would conflict with the public beach vertical access policies of the La Jolla Community Plan and Local Coastal Program. (Merten/Salmon 7/5/1).

In favor: Addington, Brady, Costello, Lucas, Manno, Merten, Salmon.

Opposed: Courtney, Crisafi, Fitzgerald Little, Weiss.

Abstain: LaCava

12. PROSPECT STREET CLOSURE (GIRARD TO HERSCHEL) - JOSE'S COURTROOM EATING CONTEST

T&T Action: To support the proposal as presented, 6-0-0

Dec 6, 8 am to 9 pm. Closure to accommodate outdoor music and food to be followed (post-parade) by Jose's Courtroom Eating Contest. Closure does not interfere with parade route.

President LaCava provided information/clarification regarding planned street closures and specific time of the street closures for both the Christmas Parade and Jose's Courtroom Eating Contest. **Bill McHugh**, representing Jose's Courtroom, presented the proposal: In addition to the Eating Contest there will be a Beer/Margarita Garden, Children's Face Painting, Music. Community participants will be encouraged to donate new, unwrapped toys supporting the "It's All About The Kids" charity. **Trustee Fitzgerald** questioned a possible conflict between Parade music and the Beer Garden music. **Mr. McHugh** responded that at the point where the Parade reaches the area of the Beer Garden the volume of their music would be lowered to insure there will be no disruption of the Parade. **Trustees Addington, Courtney, Little, Lucas, Merten** commented. Community members **John Beaver, Barry Graceman** commented.

Approved Motion: Motion to accept the Traffic & Transportation action and recommend approval of the street closure. (Little/Addington 12/0/1).

In favor: Addington, Brady, Costello, Courtney, Crisafi, Fitzgerald, Little, Lucas, Manno, Merten, Salmon, Weiss.

Abstain: LaCava

8. CONSENT AGENDA – Ratify or Reconsider Committee Action

Consent Agenda allows the Trustees to ratify actions of our joint committees and boards in a single vote with no presentation or debate. The public may comment on consent items. Anyone may request that a consent item be pulled for full discussion.

Items pulled from this Consent Agenda are trailed to the next CPA meeting.

PDO – Planned District Ordinance Committee, Chair Ione Stiegler, 2nd Mon, 4pm

DPR – Development Permit Review Committee, Chair Tony Crisafi, 2nd & 3rd Tues, 4pm

PRC – LJShores Permit Review Committee, Chair Helen Boyden, 4th Tues, 4pm

T&T – Traffic & Transportation Board, Chair Todd Lesser, 4th Thurs, 4pm

PDO – No meeting in October (no projects)

PRC – No meeting in October (lack of quorum)

A. Kearsarge Substantial Conformance

DPR ACTION: Findings can be made for SCR, 8-0-0

1745 Kearsarge Road - Substantial Conformance Review for previous PDP 386484, SDP 386481, and CPD 385449.

Minor changes to exterior design, garage & parking locations, reduction in hardscape & increase in coverage.

Height remains the same. Site located in the RS-1-5 Zone.

B. Anderson Residence

DPR ACTION: Findings can be made for CDP & SDP, 6-0-1

7512 Hillside Drive - Coastal Development Permit & Site Development Permit to amend CDP 11378 & SDP 11379 for access pathway and landscaping improvements for site located in RS-1-1.

C. Neptune Apartments Pulled by Trustee Merten

DPR ACTION: The findings cannot be made for CDP & SDP due to proposed bulk & scale and community character of proposed structure as required by the La Jolla Community Plan, 4-2-0.

6767 Neptune Place - Coastal Development Permit & Site Development Permit to demolish existing buildings and construct 24 residential for rent units on a 0.56 acre site in the RM-3-7 Zone.

D. Bellevue Lot Line Adjustment

DPR ACTION: Findings can be made for CDP and Parcel Map, 5-0-0.

Affirmative votes: Ashley, Gabsch, Lyon, McConkey, McGee, Merten, Morton, Peto, Thiele, Weiss, Whittemore

McGee and McConkey left the meeting.

- 11. CHILDREN'S POOL ROPE BARRIER** *Despite recent Court action, the City of San Diego is continuing to process a permit to place a rope barrier at the Children's Pool while the environmental impact process proceeds for returning the pool for the use specified in the Trust that gave the land to the City.*

There were no representatives from the City in attendance to make a presentation.

Public comment was made in opposition to the installation of a rope by: John Steele, Debbie Beacham, Melinda Merryweather, Jean Perry, Richard Garagio, John Lee, Granger.

Public comment in support of the rope made by: Donata Valley, Eileen Shively

For more detail on the public comment please see the recorded tape of the meeting.

LJCPA approved motion: The La Jolla Community Planning Association recommends the denial of the Coastal Development Permit for the Rope Barrier at the Children's Pool. Findings 1, 2 & 3 cannot be made. (Merten/Morton 7-2)

Affirmative votes: Ashley, Gabsch, Lyon, Merten, Morton, Peto, Thiele

No votes: Weiss, Whittemore

- 13. ROSELAND DRIVE VACATION-** pulled for Full Trustee consideration –

Vacation of a portion of Roseland Drive – Portion before the CPA tonight will be for only the portion NOT in the Torrey Pines Road right of way.

Applicant Matt Peterson and Max Leguarti made a presentation of the proposal.

Edward Doheny representing neighbor Veronica Cushman stated his clients opposition to the Proposal, due to concerns about the public right of way & the lack of a public benefit as currently proposed.

Approved motion: Motion to endorse the full recommendation of the Traffic & Transportation committee, both of its parts: approve the Roseland vacation and deny the Torrey Pines vacation. This is conditioned upon the construction of an all-weather transit path and maintenance of the existing dirt path until the new path is constructed. (Weiss/Peto 8-0-1)

Affirmative votes: Ashley, Lyon, Merten, Morton, Peto, Thiele, Weiss, Whittemore

Abstained: Gabsch

- 14. Meeting adjourned to the next regular meeting, February 7th, 2008**

Submitted by Darcy Ashley 1/29/08



SENSITIVE HARBOR SEALS BEACH CLOSED

NO DOGS OR PEOPLE ON BEACH
750 FEET EITHER SIDE OF PIER



Our local Harbor Seal Colony is one of the
only 4 along the southern California Coast

Seals haul out with their young during the day and night.
Adult Seals leave their young on the beach while fishing.
Adults may abandon their young at the sight
or smell of dogs or people

HELP PROTECT THE SEALS - STAY AWAY!

The Federal Marine Mammal Protection Act & Carpinteria City Code C.M.C. 12.24.090
prohibit disturbing Harbor Seals at any time.

NO DOGS or other ANIMALS ALLOWED on Carpinteria Beaches at any time.



Coastal Commission File 6-11-078

11/21/11

C/O Mellisa Ahrens

7575 Metropolitan Dr. Ste 103

San Diego, CA 92108-4402

Dear Coastal Commission,

Permit request 6-11-078 is purely CCC jurisdiction, but what force made it so? How could our City Attorney and local CCC office not have known for years that real tideland land grant trust boundaries were historical, not present day high tide line? The "discovery" happened when the City needed out of a quagmire it had created under the absent eye of the Coastal Commission.

The very people who had given the City a forever barrier on a public trusted beach to carry out were now suing the City. Attached is their webpage with references to their power to set the City on a costly legal misadventure. The CCC is not blameless. It has historically allowed San Diego to confuse permit jurisdiction with absolute jurisdiction, even in the Coastal Overlay Zone only by the existence of a Local Coastal Plan. This gave San Diego so much implied sovereignty that it could violate the LCP anytime it wanted and suffer no consequence because the CCC allowed its permit jurisdiction to mean none but the holder of the LCP could bring violations to the attention of the CCC. The year round rope is only one instance.

San Diego is so used to this it does not know how to write a valid permit request as we have seen.

The present Temporary in Perpetuity was indeed reviewed by the CCC last year, and so it would be unseemly to rescind it now, but it would be only reasonable for the CCC to request the City supply the same additional justifications for that permit that it failed to provide for this one. Additionally it would be very reasonable for alternate configurations and mitigations the City supplies for the forever rope barrier permit be applied to the 5 month forever permit, even if San Diego never gets its year round permit through.

John Leek

3090 Admiral Ave

San Diego, CA 92123

San Diego Seal Watch

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Latest Seal News and Updates:

Victory in seal case: Judge sends seal rope matter back to Planning Commission

July 16, 2011 – 1:19 pm

July 15,2011

Good news from the court: Judge sends seal rope matter back to Planning Commission

Please read the Union Tribune article below

Environment

San Diego

Judge sends seal rope back to Planning Commission

By Mike Lee

Union-Tribune submitted 1:19 pm, July 16, 2011, updated 1:22 p.m., July 16, 2011

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The seemingly endless debate over a thin guideline rope at the Children's Pool beach in La Jolla is back where it was in December.

Superior Court Judge Lisa Foster on Friday said the city's Planning Commission must revisit its decision from late last year rejecting a year-round rope because there was an "arbitrary Grand Carou" in the record addressing how the board came to its conclusion.

The rope — designed as a guide to separate people from seals at the popular site — was removed from the Children's Pool beach in June after Foster said it should come down to maintain the status quo while the case plays out.



A black and white picture of the seals at Children's Pool beach. The rope barrier stayed off the beach to allow the seals to swim. The rope was removed from the beach in June after Foster said it should come down to maintain the status quo while the case plays out.

Image credit: Jeff Miller

and the La Jolla Light article:

Judge sends seal rope matter back to Planning Commission

By Dave Schwab
Staff Writer

Superior Court Judge Lisa Foster on Friday sent the matter of the rope barrier at La Jolla's Children's Pool back to the city Planning Commission, asking them to clarify what constitutes "encroachment."



With the rope down, families have been on the beach at the children's pool. Photo: Giovanni Moujess

Foster, however, said her decision "does not mean the rope goes back up because there's no permit in place."

Judge Lisa Foster said that the Planning Commission had a "Grand Canyon sized gap" in its analysis when rejecting the City Council's resolution to keep the rope up year round at the seal beach. **The Planning Commission needs to address this gap in their reasoning and comply with the law.**

The judge also said there was other procedural confusion that needs to be clarified as to why the Planning Commission's decision denying the year-round barrier is not appealable to the California Coastal Commission.

The judge's ruling is very important as it shows that the City administrative bodies cannot simply overrule City's elected officials' regulations without proper factual findings as it happened in this case.

Thanks to our attorney, Bryan Pease, who worked very hard (and pro bono) on this litigation, the year round rope guideline can now go up for another review. Our litigation, supported by Congresswoman Susan Davis and four Council members, was successful.

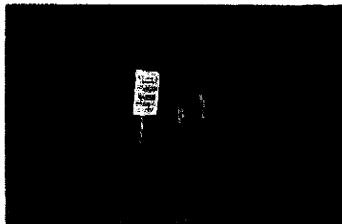
The Planning Commission met last week, but took no action and we are hoping that the matter will be sent directly to the California Coastal Commission:

Coastal Commission staff looking at Children's Pool jurisdiction issue

By Dave Schwab
Staff Writer

The debate over whether the Children's Pool rope barrier should be up year-round has taken another bounce — this time to the California Coastal Commission.

Lee McEachern, district regulatory supervisor for the San Diego Coastal Commission's District Office, confirmed Tuesday that the San Diego City Attorney's office has requested that the state commission's mapping unit do a boundary determination to establish whether Children's Pool falls within its purview. He added the staff is working on the request.



Greys were out early at Children's Pool on Dec. 15 putting a rope barrier up for the seals pupping season. Photo: Dave Schwab

The following government officials should be asked why the seals in La Jolla aren't being protected:

San Diego mayor Jerry Sanders

Phone: (619) 236-6330

Fax: (619) 236-7228

JerrySanders@sandiego.gov

City Council member Sherri Lightner (District 1 including La Jolla)

Phone: (619) 236-6611

From North County:

(858) 484-3808

Fax: (619) 236-6999

sherrilightner@sandiego.gov

Please call National Marine Fisheries office and request their enforcement agent to be present at Casa Beach in La Jolla on weekends to issue citations for violations of the Marine Mammal Protection Act since people who disturb the seals on regular basis are present there in full force with an intent to harass the seals.

Local NMFS San Diego office

(619)557-5494

Long Beach office, Headquarters for the National Marine Fisheries Service's *Southwest Region*

(562) 980-4000

WE ALSO NEED YOUR FINANCIAL HELP IN ORDER TO CONTINUE! PLEASE DONATE TO OUR PROGRAM BY CLICKING ON THE "DONATE" BUTTON ON OUR WEBSITE

**Please make
your **DONATION** to
San Diego Seal Watch
today.**

**Thank you!
Every bit helps!**



going directly to APRL website (please mention SEAL FUND here)

or by sending a check or money order to:

Animal Protection & Rescue League

• Overheard on Twitter

- Judge sends seal rope matter back to Planning Commission: <http://t.co/Qe3oMCY> 127 days ago



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- [Pupping season shut down on weekends](#)
- [Pro-Seal rally and a great Union Tribune article](#)
- [Stand up to the seal haters – come and support the seals next Sunday, April 3rd, 2pm](#)
- [Watch in Awe – Birth of New Life](#)
- [La Jolla seal nursery invaded by the anti-seal mob and another citation](#)
- [Twenty one newborn pups and one citation](#)

© 2011 San Diego Seal Watch | Website: [Visual Rhythm](http://www.savesandiegoseals.com)

Coastal Commission File 6-11-078

11/21/11

C/O Mellisa Ahrens

7575 Metropolitan Dr. Ste 103

San Diego, CA 92108-4402

Dear Coastal Commission,

Permit request 6-11-078 will eventually be refiled by Parks and Rec, but they are not the originator; only the designated applicant in name. Their mandate was made by the City Council on 5/17/10 so only that body should explain or alter its intent. That original resolution was to seek an emergency permit to amend the present 5-month-in-perpetuity rope barrier to be year round forever. A permit request reflecting the mandate the City placed on Parks and Rec was to be exactly the same permit as the last 5, but finally made to be perpetual.

Please find attached Coastal Development Permit 410971 from year 2007 with 2 lines changed in ink as required. That was easy.

Analysis was not really required in a City Permit under City jurisdiction, so in finding #1, the rope barrier is found to not encroach, because they said so. Further statements simply find that negative results of the installation are mitigated by no intention that they happen. That also may need some work.

Also a complete misunderstanding is found in the statement "existing vertical access (concrete stairs) remain unchanged... ". Vertical Access is defined by the Coastal Commission as from the nearest road to the shore. It is not just going up and down, it is reaching the water. Yet if access to the water is not impaired, how can a buffer between the people behind the rope and the seals who stay by the water be created? That remains to be clarified.

If Parks and Rec does not submit a perpetual version of the attached 410971, with the required additional legitimization, please see to it they have authorization from the City Council to do so.

John Leek

3090 Admiral Ave

San Diego, CA 92123

CITY OF SAN DIEGO
RESOLUTION NO.
COASTAL DEVELOPMENT PERMIT NO. 410971
SITE DEVELOPMENT PERMIT NO. 410975
La Jolla Children's Pool Rope Barrier

WHEREAS, the City of San Diego Park and Recreation Department, Owner/Permittee, applied to the City of San Diego for a permit to erect a ~~temporary rope~~ barrier (including support posts and foundations), during seal pupping season, December 15th, 2006 through May 15th, 2007 and **FOREVER**

WHEREAS, the project is located at the La Jolla Children's Pool, west of Coast Boulevard, near Jenner Street, La Jolla, within the Coastal Overlay Zone (Coastal Commission Appeal Jurisdiction) and the La Jolla Community Planning Area; and

WHEREAS, the project is a follow-up to an emergency coastal development permit and emergency authorization to impact environmentally sensitive lands, issued on December 15, 2006, (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 410971 and Site Development Permit No. 410975); NOW, THEREFORE,

BE IT RESOLVED, by the City of San Diego as follows:

That the City of San Diego adopts the following written Findings, dated January 24, 2007.

FINDINGS:

Findings for Coastal Development Permit - Section 126.0708

1. **The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; and**

The project is located on the sand of the La Jolla Children's Pool west of Coast Boulevard, near Jenner Street, in La Jolla. On December 15th, 2006 the City Attorney's Office opined in a Memorandum of Law (Attachment 4) that an emergency existed at the La Jolla Children's Pool and that the emergency necessitated the installation of a rope barrier. The project includes the rope barrier supported by poles, with pole foundations buried in the sand, above the Mean High Tide Line. A rope barrier was erected, and stretches from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on Exhibit "A."

The area above the Children's Pool is identified as a Viewshed area in the La Jolla Community Plan and Local Coastal Program Land Use Plan. The proposed rope was placed at a height not exceeding four feet and not exceeding one half-inch in diameter. Given this height and diameter, the rope does not block any public views as identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan. While the proposed rope barrier provides a buffer between humans and seals during the annual pupping

season, the beach remains open for public use and swimming is allowed. Swimming may not be recommended due to bacteria levels possibly exceeding health standards, but the rope is not intended to prevent access to the sand beach or the ocean. In addition, existing vertical access (concrete stairs) remain unchanged by the project. Given that the sand beach and ocean remain open to the public while the rope is in place and that the rope's location and type of rope used does not block any identified public views at the Children's Pool, the proposed coastal development does not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan, and the coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands; and

The adjacent Coastal Beach and Coastal Bluff are the environmentally sensitive resources potentially affected by the project. The installation of the rope included hand digging small holes (less than 18 inches deep) in the sand, above the Mean High Tide Line, placing the foundation portion of the rope supports in the holes and covering the foundations with sand. The rope does not touch the adjacent Coastal Bluff. Proposed permit conditions require that any debris caused by construction, must be removed from the site and disposed of appropriately. Permit conditions also require that all materials shall be maintained and managed so as to prevent them from entering sensitive areas, including the adjacent coastal waters. Placement is required to be maintained in location identified on Exhibit "A," during the identified time period. In addition, environmental review was performed and an exemption was prepared for the project per Section 15269, Emergency Projects (Attachment 13). As the project involved digging relatively shallow holes in the beach sand above the Mean High Tide Line, permit conditions prohibit any debris or construction materials from entering the ocean, and permit conditions also prohibit the project affecting the adjacent Coastal Bluff, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and

The project includes the rope barrier supported by poles, with the pole foundations buried in the sand above the Mean High Tide Line. The rope barrier stretches from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on Exhibit "A."

The area above the Children's Pool is identified as a Viewshed area in the La Jolla Community Plan and Local Coastal Program Land Use Plan. The rope is placed at a height not exceeding four feet, and not exceeding one half-inch in diameter. Given this height and diameter, the rope does not block any public views as identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan. While the rope barrier provides a buffer between humans and seals during the annual pupping season, the beach remains open for public use and swimming is allowed. Swimming may not be recommended due to bacteria levels possibly exceeding health standards, but the rope is not intended to prevent access to the sand beach or the ocean. In addition, existing vertical access (concrete stairs) remains unchanged by the project. Given that the sand beach and ocean remain open to the public while the rope is in place, and that the rope's location and type of rope used does not block any identified public views at the Children's

Pool, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

4. **For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

Section 30211 of the California Coastal Act requires that no development interfere with the public's right of access to the sea, the use of dry sand and the use of rock coastal beaches up to the first line of terrestrial vegetation. The purpose and intent of Section 30211 is ensure that the public can access the sea and its associated rock coastal beaches. The purpose and intent of the rope barrier is to create a buffer between the public utilizing the sand beach and accessing the sea at the Children's Pool, and the seals, as they are hauled out on the sand during the current seal pupping season. The rope is not intended to keep the public from reaching either the beach or the sea at the Children's Pool. The public is able to enter the sea at the Children's Pool while the rope is in place. In addition, signage that is posted at the Children's Pool indicates that the beach is open to the public. Therefore, the rope would not interfere with the public's right of access to the sea, the use of dry sand and the use of rock coastal beaches up to the first line of terrestrial vegetation as described in Section 30211.

Section 30220 of the California Coastal Act requires that coastal areas suited for water-oriented recreational activities that cannot be provided at inland water areas, be protected for such uses. The rope barrier does not prevent the use of the Children's Pool for recreational activities. The rope is not intended to keep the public from reaching either the beach or the sea at the Children's Pool. The public is able to enter the sea at the Children's Pool, while the rope is in place. In addition, signage that is posted at the Children's Pool indicates that the beach is open for public use.

As the project would not block public access and the beach and ocean would remain open for public recreation, the project is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

1. **The proposed development will not adversely affect the applicable land use plan;**

One of the goals of the Community Facilities, Parks, and Services Element of the LJCP (p. 113) is to, "Ensure that all new and existing public facilities are designed and developed in a manner that will not contribute any adverse impacts to the environmentally sensitive areas of La Jolla." The Children's Pool is located in an area designated as Environmentally Sensitive Lands containing Coastal Beaches and Coastal Bluffs. The rope installation has no significant affect on either of these resources. The rope installation included hand digging holes in the sand (not exceeding 18 inches), placing the foundation portion of the rope supports in the holes and covering the foundations up with sand. Proposed permit conditions require that any debris caused by construction, must be removed from the site and disposed of appropriately, and would also require that all materials shall be maintained and managed so as to prevent them from entering sensitive areas, including the coastal waters. Placement is required to be maintained in location identified on Exhibit "A," during the identified time period. The La Jolla Community Plan

also calls for the protection of public views. The rope is placed at a height not exceeding four feet and does not exceed one half-inch in diameter. Given this height and diameter, the rope does not block any public views. As the project does not have any adverse impacts on the Coastal Beach or the Coastal Bluffs, and the project does not negatively affect any public views, the development does not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The primary objective of the rope installation is to serve as a buffer between humans and seals during the current pupping season. Lifeguards advise beachgoers to avoid unattended seal pups, as a pup's mother may be foraging and conflicts could arise upon a mother's return. Users are also advised not to place themselves between a seal mother and her pup. While the beach is open to public use, and beachgoers may pass the rope to enter the beach, the rope's presence serves as a caution, and allows users to read signage warning them that it is unlawful to harass the seals, and that the water may cause illness due to bacteria levels that may exceed health standards. The signs also inform users that swimming is allowed, but is not recommended, and that the beach is open for public use. As the project is intended to create a safety buffer between humans and seals, and information is provided to the beach-going public regarding potential health hazards, the project is not detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

Land Development Code regulations require that the construction of a project potentially affecting an environmentally sensitive resource, result in minimum disturbance to that resource. The rope installation included digging shallow (not exceeding 18 inches) holes for each post footing and covering them with the sand. Standard, cord (not exceeding one half-inch) was then strung between the posts. Informational signage mounted to the posts provides the public with safety information. In addition, the height of the rope does not exceed four feet, no public views are obstructed, and the project is temporary and removable. As a result, the rope barrier does not disturb the Coastal Beaches or Coastal Bluffs. In addition, environmental review was performed and an exemption was prepared for the project per Section 15269, Emergency Projects (Attachment 13). As such, the proposed development would not create a disturbance of the environmentally sensitive lands, and, therefore, complies with the Land Development Code.

B. Supplemental Findings--Environmentally Sensitive Lands

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;

The project site is the sand at the Children's Pool beach. There is ample sand at the beach to allow the rope support posts to be placed in hand dug holes in the sand, and to cover the post foundations with the sand. Standard, half-inch cord is strung between the posts. Informational signage is mounted to the posts to provide the public with safety information. The installation of the rope barrier at the La Jolla Children's Pool was considered to be the minimum necessary to avert the emergency. The height of the rope does not exceed four feet, and no public views are obstructed. Hand dug holes do not exceed 18 inches, minimizing any effect on the Coastal Beach Resource. The rope barrier does not disturb the

Coastal Beach or Coastal Bluff resources and is temporary and removable. As the site readily accommodates the installation of the rope barrier project with a temporary and minimal change to the Children's Pool beach, and neither the Coastal Beach nor the Coastal Bluff are negatively affected by the project, the site is physically suitable for the design and siting of the proposed development and the development results in a minimum disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;

The rope installation includes digging shallow holes for each post footing and covering them with the sand. The rope is placed above the Mean High Tide Line and, as such, does not create erosional conditions. No geologic forces are expected to be factors with this type of development, and because no structures are included in the project, no flood or fire hazards are anticipated. Therefore, the development minimizes the alteration of natural landforms and does not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;

The installation of the rope includes digging small holes in the sand, placing the foundation portion of the rope supports in the holes and covering the foundations up with sand. The rope is installed in dry sand above the Mean High Tide Line, ensuring the project can be installed and removed with minimal affect on the Coastal Beach and Coastal Bluff. In addition, proposed permit conditions require that any debris caused by construction to be removed from the site and disposed of appropriately. Permit conditions also require that all materials shall be maintained and managed so as to prevent them from entering sensitive areas, including the coastal waters. Placement is required to be maintained in location identified on Exhibit "A," during the identified time period. . In addition, environmental review was performed and an exemption was prepared for the project per Section 15269, Emergency Projects (Attachment 13). Therefore, the proposed development would be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;

The project is not located in or near the Multiple Species Conservation Program (MSCP) Subarea. Therefore, the proposed development is consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and

The rope barrier pole foundations are placed in dry sand above the Mean High Tide Line. As such, the project does not create erosional conditions. Sand removed to hand dig the holes for pole installation, was used to cover the foundations, and therefore, sand was not removed from the Children's Pool Beach as a result of the project. Therefore, the development does not contribute to the erosion of public beaches or adversely impact local shoreline sand supply

6. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.**

No mitigation is required of this project. The project is ~~temporary in nature and is removable~~ ^{NOT EVER}. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 410971 and Site Development Permit No. 410975 are hereby GRANTED by hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Coastal Development Permit No. 410971 and Site Development Permit No. 410975 a copy of which is attached hereto and made a part hereof.

Morris E. Dye
Development Project Manager
Development Services

Adopted on: January 24, 2007

Job Order No. 4900

cc: Legislative Recorder, Planning Department

Coastal Commission File 6-11-078

11/21/11

C/O Mellisa Ahrens

7575 Metropolitan Dr. Ste 103

San Diego, CA 92108-4402

Dear Coastal Commission,

Permit request 6-11-078 will eventually be refiled by Parks and Rec, but they are not the originator but only the designated applicant. The mandate was made by the City Council on 5/17/10 so only that body should explain or alter its intent. That original resolution was to seek an emergency permit to amend the present 5-month-in-perpetuity rope barrier to be year round forever. Though an emergency permit could not be legally supported (City Attorney opinion a month later), the imperative to remake the old permit to permanent remained.

For that reason, it should be assumed Parks and Rec has to take the previous permit and just replace the original dates with "forever". It has no authority to do anything else. Your request to them to submit a technical analysis that supports the need is vexing because the City Council did not have one. The City Council was presented a package from a committee for an up/down vote. That package had similarly been approved in the Natural Resources and Culture Committee on a single issue yes/no vote. It had been given to the Chair of that committee by Animal Protection and Rescue League founder Bryan Pease who had lobbied all the City Council members for months beforehand. Attached is the lobbying permit showing the text of the plan the City Council accepted.

On March 1 of 2010, 10 days before the Temporary in Perpetuity rope barrier was given to the Commission to vote on in Santa Clara, I was in City Hall, in Councilmember Donna Fry's office with Councilmember Lightner and Pease and several of his followers. He stated he already had 5 of the 8 votes needed to make permanent the temporary permit the Commission had not yet seen. He was correct. So the explanation you want is in the head of one man, CEO of a powerful special interest group, who for years has run a sales and donation table on the sidewalk above the beach to solicit money for such lobbying and sometimes lawsuits against the City of San Diego. If Parks and Rec submits an analysis he did not approve then it invented one of whole cloth and not true to the City Council authorization.

John Leek

3090 Admiral Ave

San Diego, CA 92123

Calendar Year

2010

CITY OF SAN DIEGO

ORGANIZATION LOBBYIST
REGISTRATION FORM

[Form EC-602]

For Official Use Only

CITY CLERK'S OFFICE

10 MAR 22 AM 10:36

SAN DIEGO, CALIF.

Type or Print in Ink. File Original with the City Clerk.

☐ Check Box if an Amendment (explain: _____)

Total Number of Pages: 3

Fees Due: \$ 400 paid
CASH 2305**Identify the organization.****Animal Protection and Rescue League**

Name of Organization

Telephone Number

San Diego

CA

92103

Business Address (Number & Street)

(City)

(State)

(Zip)

Schedule A: Organization Disclosure.**Part 1: Description of Organization.** Describe the nature and purpose of the organization.**Part 2: Lobbyist Disclosure.** Identify the individuals authorized to lobby on behalf of the organization.**Schedule B: Municipal Decisions.****Part 1: Number of Contacts.** Identify the number of lobbying contacts within the past 60 calendar days.**Part 2: Description of Decisions.** Describe each municipal decision the organization is currently seeking to influence or has lobbied on during the past 60 calendar days.**Schedule C: Activities Disclosure.** Complete this schedule if any "Yes" boxes are checked.

<input type="checkbox"/> Check box if the organization has information to report regarding the applicable activity. <input type="checkbox"/> Check box if the organization has <u>no</u> information to report regarding the applicable activity.		Check one box for each part of Schedule C.
YES	NO	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 1: Fundraising Activities. Owners, compensated officers, and lobbyists of the organization who fundraised \$1,000 or more for a current elected City Official within the last two years.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 2: Campaign Services. Owners, compensated officers, and lobbyists of the organization who provided compensated campaign services to an elected City Official within the last two years.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Part 3: Contract Services. Owners, compensated officers, and lobbyists of the organization who provided compensated services under a City contract within the last two years.

Schedule D: Deleting Lobbyists (Amendment Only). Complete this schedule if removing lobbyists from your registration (must check the amendment box above).**VERIFICATION**

I have been authorized by the Organization Lobbyist identified above to make this verification. I have reviewed and understand the requirements of the Lobbying Ordinance (San Diego Municipal Code §§ 27.4001-27.4055). I have exercised reasonable diligence in the course of reviewing this Registration Form for completeness and accuracy. I declare under penalty of perjury under the laws of the State of California that the contents of this Registration Form, including all attached schedules, are true, correct, and complete, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on March 18, 2010

at San Diego, CA

By:

Bryan Pease

Director

(Signature)

(Print Name)

(Title)

Email address for a point of contact within the organization (optional):

Bryan@APRL.org

Note: Registration Terminates Every January 5. Annual Re-Registration is Required.



THANK YOU

PLEASE DO NOT PASS THE ROPE
BARRIER AT THE CHILDREN'S POOL!!

*Thank you to all if you DO NOT pass the application to have a permanent rope
barrier at the Children's Pool Beach.
Our family has been going to that Beach for years, including our four kids and
more four grandkids.*

*It's for children, not adults, as it was so named. Please don't give in to this
misguided effort to turn the beach into Marine Memorial
Park.*

*Richard Puck, Barbara Zimonja, Greg Puck, Mary Ann Puck, Kelly Puck,
Justin Zimonja and four grandkids that can't vote.
1238 Cove Street, La Jolla, CA*

SCHEDULE A: ORGANIZATION DISCLOSURE

Name of Organization Lobbyist: Animal Protection and Rescue League

PART 1 – DESCRIPTION OF ORGANIZATION

Describe the nature and purpose of the organization: Non-profit organization that advocates for the humane treatment of all animals.

PART 2 – LOBBYIST DISCLOSURE

Identify the Organization's Lobbyists. List the name of each owner, compensated officer, and employee of the organization who is authorized to lobby City Officials on behalf of the organization.

Name of Individual

Name of individual

✓ Bryan Pease

✓ Dorota Valli

✓ Sara Goldsmith

Comments: _____

☐ If more space is needed, check box and attach continuation sheet(s).

SCHEDULE B: MUNICIPAL DECISIONS

Name of Organization Lobbyist: Animal Protection and Rescue League

PART 1 – NUMBER OF LOBBYING CONTACTS (PRECEDING 60 DAYS)

Identify the total number of lobbying contacts that the owners, compensated officers, and employees of the organization have had with City Officials during the preceding 60 calendar days.

Number of Contacts: 30

PART 2 – DESCRIPTION OF MUNICIPAL DECISIONS (CURRENT & PRECEDING 60 DAYS)

Describe each municipal decision that the organization (a) is currently seeking to influence or (b) lobbied on during the preceding 60 days, and the outcome sought:

Description: Asking the San Diego City Council to accept our proposal to extend full
protection to the harbor seals that live on Casa Beach.

Outcome sought: We are seeking the beach be closed during pupping season, that the
guideline rope be up year round, and the beach deemed a marine mammal park.

Description: _____

Outcome sought: _____

Description: _____

Outcome sought: _____

Description: _____

Outcome sought: _____

Comments: _____

☐ If more space is needed, check box and attach continuation sheet(s).

Form **990-EZ****Short Form**
Return of Organization Exempt From Income Tax

OMB No 1545-1150

2009Department of the Treasury
Internal Revenue Service**Open to Public
Inspection**Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code
(except black lung benefit trust or private foundation)

- ▶ Sponsoring organizations of donor advised funds and controlling organizations as defined in section 512(b)(13) must file Form 990. All other organizations with gross receipts less than \$500,000 and total assets less than \$1,250,000 at the end of the year may use this form.
- ▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

A For the 2009 calendar year, or tax year beginning 03-01-2009, and ending 02-28-2010**B** Check if applicable:

- ☐ Address change
- ☐ Name change
- ☐ Initial return
- ☐ Terminated
- ☐ Amended return
- ☐ Application pending

Please use IRS label or print or type. See Specific Instructions.

C Name of organization

ANIMAL PROTECTION AND RESCUE LEAGUE INC

Number and street (or P.O. box, if mail is not delivered to street address) Room/suite

302 WASHINGTON STREET

City or town, state or country, and ZIP + 4

SAN DIEGO, CA 92103

D Employer identification number

05-0571617

E Telephone number

(619) 236-9514

F Group Exemption Number**Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ).****G** Accounting method ☐ Cash ☒ Accrual
Other (specify) ▶**I Website:** WWW.APRL.ORG**J Tax-Exempt status** (check only one) ☒ 501(c)(3) (insert no.) ☐ 4947(a)(1) or ☐ 527**H** Check ☒ if the organization is **not** required to attach Schedule B (Form 990, 990-EZ, or 990-PF)**K** Check ☐ if the organization is not a section 509(a)(3) supporting organization and its gross receipts are normally **not** more than \$25,000. A Form 990-EZ or Form 990 return is not required, but if the organization chooses to file a return, be sure to file a complete return.

L Add lines 5b, 6b, and 7b, to line 9 to determine gross receipts; if \$500,000 or more, file Form 990 instead of Form 990-EZ ▶ \$ 380,887

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See the instructions for Part I)

Revenue	1	Contributions, gifts, grants, and similar amounts received	1	169,998
	2	Program service revenue including government fees and contracts	2	
	3	Membership dues and assessments	3	
	4	Investment income	4	344
	5a	Gross amount from sale of assets other than inventory	5a	
	5b	Less cost or other basis and sales expenses	5b	0
	5c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)	5c	
	6	Special events and activities (complete applicable parts of Schedule G). If any amount is from gaming, check here <input type="checkbox"/>		
	6a	Gross revenue (not including \$ of contributions reported on line 1)	6a	0
	6b	Less direct expenses other than fundraising expenses	6b	0
6c	Net income or (loss) from special events and activities (Subtract line 6b from line 6a)	6c	0	
7a	Gross sales of inventory, less returns and allowances	7a	210,024	
7b	Less cost of goods sold	7b	0	
7c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c	210,024	
8	Other revenue (describe <input type="checkbox"/>)	8	521	
9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6c, 7c, and 8	9	380,887	
Expenses	10	Grants and similar amounts paid (attach schedule)	10	
	11	Benefits paid to or for members	11	
	12	Salaries, other compensation, and employee benefits	12	130,994
	13	Professional fees and other payments to independent contractors	13	122,593
	14	Occupancy, rent, utilities, and maintenance	14	39,279
	15	Printing, publications, postage, and shipping	15	2,818
	16	Other expenses (describe <input type="checkbox"/>)	16	100,952
	17	Total expenses. Add lines 10 through 16	17	396,636
Net Assets	18	Excess or (deficit) for the year (Subtract line 17 from line 9)	18	-15,749
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19	56,764
	20	Other changes in net assets or fund balances (attach explanation)	20	
	21	Net assets or fund balances at end of year. Combine lines 18 through 20	21	41,015

Part II Balance Sheets—If total assets on line 25, column (B) are \$1,250,000 or more, file Form 990 instead of Form 990-EZ

(See the instructions for Part II)

	(A) Beginning of year	(B) End of year
22 Cash, savings, and investments	45,198	35,187
23 Land and buildings		
24 Other assets (describe <input type="checkbox"/>)	16,662	13,724
25 Total assets	61,860	48,911
26 Total liabilities (describe <input type="checkbox"/>)	5,096	7,896
27 Net assets or fund balances (line 27 of column (B) must agree with line 21)	56,764	41,015

Part III Statement of Program Service Accomplishments (See the instructions for Part III)

What is the organization's primary exempt purpose?

EXPOSING AND ELIMINATING ANIMAL CRUELTY

Describe what was achieved in carrying out the organization's exempt purposes. In a clear and concise manner, describe the services provided, the number of persons benefited, and other relevant information for each program title.

Expenses

(Required for section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts, optional for others)

28 SAFEGUARDED A HARBOR SEAL ROOKERY IN CALIFORNIA WITH MONITORING AND OUTREACH OBTAINED TWO FEDERAL COURT ORDERS PROTECTING THE ROOKERY, AND PASSED STATE LEGISLATION PREVENTING ITS DESTRUCTION

(Grants \$ 115,130)

If this amount includes foreign grants, check here ☐

28a

29 CONVINCED OVER 75 RESTAURANTS TO REMOVE "FOIE GRAS", MADE BY CRUELLY FORCE FEEDING DUCKS LAUNCHED NEW STOPFORCEFEEDING.COM CAMPAIGN SITE THREE CITY COUNCILS PASSED RESOLUTIONS COMMENDING OUR WORK

(Grants \$ 33,247)

If this amount includes foreign grants, check here ☐

29a

30 EDUCATED THE PUBLIC ABOUT ANIMAL CRUELTY IN FACTORY FARMING AND HOW TO SUPPORT HUMANE VEGAN ALTERNATIVES BY HOLDING EVENTS, SPEECHES, COMMUNITY OUTREACH, AND FEED-OUTS. HOSTED SAN DIEGO VEG WEEK, IN WHICH OVER 500 PEOPLE WENT VEG

(Grants \$ 139,582)

If this amount includes foreign grants, check here ☐

30a

31 Other program services (attach schedule)

(Grants \$)

If this amount includes foreign grants, check here . . . ☐

31a

32 Total program service expenses (add lines 28a through 31a)

32

287.959

Part IV **List of Officers, Directors, Trustees, and Key Employees.** List each one even if not compensated (See the instructions for Part IV)

[illegible]

Part V Other Information (Note the statement requirements in the instructions for Part V.)**Yes No**

33	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity	33	No
34	Were any changes made to the organizing or governing documents? If "Yes," attach a conformed copy of the changes	34	No
35	If the organization had income from business activities, such as those reported on lines 2, 6a, and 7a (among others), but not reported on Form 990-T, attach a statement explaining why the organization did not report the income on Form 990-T		
a	Did the organization have unrelated business gross income of \$1,000 or more or was it subject to section 6033 (e) notice, reporting, and proxy tax requirements? Yes	35a	No
b	If "Yes," has it filed a tax return on Form 990-T for this year?	35b	
36	Did the organization undergo a liquidation, dissolution, termination, or significant disposition of net assets during the year? If "Yes," complete applicable parts of Schedule N	36	No
37a	Enter amount of political expenditures, direct or indirect, as described in the instructions 37a 2,000		
b	Did the organization file Form 1120-POL for this year?	37b	No
38a	Did the organization borrow from, or make any loans to, any officer, director, trustee, or key employee or were any such loans made in a prior year and still outstanding at the end of the period covered by this return? . . .	38a	No
b	If "Yes," complete Schedule L, Part II and enter the total amount involved 38b		
39	Section 501(c)(7) organizations. Enter		
a	Initiation fees and capital contributions included on line 9	39a	0
b	Gross receipts, included on line 9, for public use of club facilities	39b	0
40a	Section 501(c)(3) organizations. Enter amount of tax imposed on the organization during the year under section 4911 40a , section 4912 40a , section 4955 40a		
b	Section 501(c)(3) and 501(c)(4) organizations. Did the organization engage in any section 4958 excess benefit transaction during the year or is it aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? If "Yes," complete Schedule L, Part I	40b	No
c	Section 501(c)(3) and 501(c)(4) organizations. Enter amount of tax imposed on organization managers or disqualified persons during the year under sections 4912, 4955, and 4958		
d	Section 501(c)(3) and 501(c)(4) organizations. Enter amount of tax on line 40c reimbursed by the organization		
e	All organizations. At any time during the tax year, was the organization a party to a prohibited tax shelter transaction? If "Yes," complete Form 8886-T	40e	No
41	List the states with which a copy of this return is filed 41		
42a	The organization's books are in care of JODI CEMES Telephone no (727) 237-6223 10263 GANDY BLVD N 507 Located at ST PETERSBURG, FL ZIP + 4 33702		
b	At any time during the calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? If "Yes," enter the name of the foreign country 42b See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.	42b	No
c	At any time during the calendar year, did the organization maintain an office outside of the U S ? If "Yes," enter the name of the foreign country 42c	42c	No
43	Section 4947(a)(1) nonexempt charitable trusts filing Form 990-EZ in lieu of Form 1041 —Check here 43 and enter the amount of tax-exempt interest received or accrued during the tax year		
44	Did the organization maintain any donor advised funds? If "Yes," Form 990 must be completed instead of Form 990-EZ.	44	No
45	Is any related organization a controlled entity of the organization within the meaning of section 512(b)(13)? If "Yes," Form 990 must be completed instead of Form 990-EZ.	45	No

Coastal Commission File 6-11-078
C/O Mellisa Ahrens
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

11/21/11

Dear Coastal Commission,

When San Diego proposed its Temporary in Perpetuity Advisory Rope Barrier across Children's Pool beach in 2010, the title sounded odd, because San Diego was going to so much trouble to avoid a certain word – Permanent.

That was because of a ruling in 2001 against any permanent structure on a public trusted beach. Application 6-11-126 was to make a temporary marine mammal reserve just 120 yards north of Children's Pool into a permanent reserve. In its ruling which is attached here, the Commission found for several reasons that any permanent structure, or a marine mammal reserve would be disallowed on a public trusted beach. It cited the word permanent 38 times in the negative, and specifically described Children's Pool as the same situation.

Now the City of San Diego wants to cordon off Children's Pool beach forever, to make seals more comfortable and welcome to the detriment of public access. They use the terms advisory, and buffer and year-round, still using any name but permanent reserve, which would be the end result. Before granting any permit to allow San Diego to permanently cordon off a public trusted beach, please require an explanation of why it believes the Commission had been in error 10 years ago.

John Leek

3090 Admiral Ave

San Diego, CA 92123

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



Tue 12e

Filed: 1/3/01
49th Day: 2/21/01
180th Day: 7/2/01
Staff: LRO-SD
Staff Report: 3/1/01
Hearing Date: 3/12-16/01

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-00-126

Applicant: City of San Diego, Park and
Recreation Department

Agent: Robin Stribley

Description: Establishment of the "Seal Rock Marine Mammal Reserve" on a permanent basis over 1.35 acres of open coastal waters, prohibiting human access within reserve boundaries except for permitted commercial fishing, emergency access and fishing consistent with the Federal Marine Mammal Protection Act; and, installation of signage for identification purposes and for public education and information.

Site: West of Coast Boulevard, between Children's Pool to the south and Shell Beach to the north and northwest, La Jolla, San Diego, San Diego County.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed marine mammal reserve with a number of special conditions. The proposed project raises the issue of conflicts between public access to the ocean and protection of the harbor seals that use the area as a haul-out location. As proposed, establishment of Seal Rock as a permanent marine mammal reserve will prohibit public access (swimming, scuba diving, tidepooling, etc.) in the water for a large area surrounding the rock and it has not been documented that establishing the area around the rock as a reserve will afford any more protection to the seals than signage and a good docent program. In addition, establishing Seal Rock as a permanent marine mammal reserve would be inconsistent with the state tidelands grant (Chapter 688) which specifically calls for the absolute right of access to the water. Thus, the Commission cannot approve this area as a permanent marine mammal reserve. According to State Lands Commission staff, it is not possible to make this area a permanent reserve without first amending the tidelands grants.

However, if the proposal is modified as recommended by staff, it can be found consistent with both Coastal Act policies and the existing tidelands grant. Special Condition #1 limits the duration of the proposed marine mammal reserve to a period not to exceed five years. During this time, the City may study the area and use by the seals to determine if there is a basis to pursue an amendment to the tidelands grant for making this a permanent reserve. Special Condition #2 requires submittal of sign plans for installation of proposed signage identifying the boundaries of the reserve and for public information/education about the seals. Special Condition #3 requires submittal of final plans which require a reduction in the size of the proposed marine mammal reserve to extend no further than 100 ft. south and east of Seal Rock, thus reducing the potential for disturbance of seals by people in this area. With these conditions, some protection will be afforded to the seals in this area, while minimizing impacts on public access.

Substantive File Documents: City of San Diego Manager's Report dated 7/26/99; City of San Diego Ordinance #18733 dated 12/7/99 for establishment of Seal Rock Marine Mammal Reserve; Behavioral Ecology and Demography of Seals and Sea Lions at the Seal Rock Marine Mammal Reserve by Hubbs-Sea World Research Institute – 1/2/98; CCC CDP's #6-93-26, 6-98-22

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-00-126 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there

are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Permit Limitations. The permitted marine mammal reserve shall expire five years from the date of Commission action. Any future proposal to continue the area as a reserve shall require another coastal development permit.

2. Interpretive/Identification Signage. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director final plans for the proposed identification, information and education signage related to the proposed marine mammal reserve. The proposed signage shall consist monument signs or wall signs, not to exceed eight signs total. No freestanding signs shall be placed on sandy beach at Children's Pool Beach. No tall, free-standing pole or roof signs shall be allowed. Said plans shall be subject to the review and written approval of the Executive Director.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Revised Boundaries for Marine Mammal Reserve. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a revised site plan which includes revisions to the boundaries of the proposed reserve such that the reserve shall extend 100 feet to the east and south of Seal Rock, as identified in Exhibit No. 2 (Site Plan/Revised Boundaries of Seal Rock Marine Mammal Reserve Pursuant to Special Condition No. 3).

The permittee shall undertake the development in accordance with the approved site plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the site plan shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. Proposed is the establishment of a permanent marine mammal reserve called "Seal Rock Marine Mammal Reserve" in the area that was a temporary reserve between 1994 and 1999. The City proposes to re-establish the reserve on a permanent basis which would prohibit human access within the reserve boundaries except for permitted commercial fishing, emergency access and fishing consistent with the federal Marine Mammal Protection Act. Also proposed is the installation of signage to identify the area as a reserve and for public education and information purposes. Project proponents believe that making the area into a reserve will make people more aware of the laws protecting the seals, namely, the Marine Mammal Protection Act, and will afford the seals greater protection than currently exists. The City has indicated they plan to re-evaluate the effectiveness of the reserve in five years.

The project site is located north of Children's Pool and southwest of Shell Beach in the La Jolla community of the City of San Diego. Children's Pool Beach is a sandy pocket beach protected and sheltered by an existing breakwater that was constructed in the 1920's. The top of the breakwater is about four feet wide and consists of a public walkway bordered by handrails on both sides. It is a popular place for the public to walk and view the ocean and the seals. Next to Children's Pool Beach is a lifeguard tower and public restrooms. To the south of the lifeguard station, a walkway slopes down to provide access to the breakwater. There is also a gated, unimproved emergency vehicle ramp that provides pedestrian access down to Children's Pool. To the north of the lifeguard station there is another set of stairs which lead down to Children's Pool Beach. Seal Rock is located approximately 400 feet north of Children's Pool and consists of a large rock which is surrounded by other smaller rock formations which are submerged at moderate to high tides and exposed at low tides (ref. Exhibit No. 1). At low tides, tidepools are exposed in the area immediately east of Seal Rock that extend to the toe of the steep coastal bluffs. Above these bluffs is a public walkway and Coast Boulevard, the first public roadway. East and northeast of Seal Rock is Shell Beach, a small sandy pocket beach. A set of stairs leads down to this beach from the public sidewalk at the top of the coastal bluffs.

Seal Rock is located about 120-135 feet west of the toe of the coastal bluff in this area. The proposed boundary for the reserve is roughly a square-shaped area that encompasses Seal Rock and adjacent rock formations to the south. Commencing at the toe of the bluffs which is the northeast corner of the proposed reserve, the proposed boundary would extend approx. 210 feet due west, then 262 feet south, then 235 feet east back to the toe of the bluffs. The eastern boundary then follows the toe of the bluffs approx. 200+ feet north to the point of beginning. In relationship to Seal Rock itself, the western boundary of the proposed reserve is 20 feet to the west; the southern boundary is 180 feet to the south; and the northern boundary is 30 feet north of Seal Rock (ref. Exhibit No. 2).

As noted above, the proposed reserve is the site of a former temporary reserve approved by the Coastal Commission pursuant to CDP #6-93-26 on 11/18/93. In this action, the Commission authorized the establishment of a temporary 1.35. acre marine mammal reserve consisting of open

coastal waters (and Seal Rock) extending easterly to the toe of the coastal bluffs including installation of buoys, and signage to prohibit public entrance into the reserve area. Special conditions of the permit required the applicant to submit annual monitoring reports regarding education and/or research activities related to the proposed marine mammal reserve. In addition, a final report at the end of the five year period was required to summarize the findings of the research and present any conclusions regarding harbor seal usage of Seal Rock. Although signage was installed in the area, the buoys were never placed in the water.

In September of 1999 the term of the coastal development permit ended and the reserve status lapsed, returning the surrounding waters around the Seal Rock to unrestricted use by the public for swimming, diving, tidepooling, etc. Since that time, the City considered alternatives to making Seal Rock a reserve. Two months after the reserve lapsed the City Council directed the City staff to pursue making the reserve permanent. However, the City staff first consulted with other resource agencies. This process took longer than expected. In the meantime, the existing signage identifying the reserve remained in place in the vicinity of the reserve. The City has indicated it wanted to await the result of their request before the Coastal Commission for a permanent reserve before removing the signage. Even though the signs are still there identifying the area as a reserve, the lifeguards are not enforcing the reserve boundaries. The City Council subsequently recommended that the area that was the former temporary marine mammal reserve be made into a permanent reserve, without any changes to its boundaries.

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. As such, the standard of review is the Chapter 3 policies of the Coastal Act.

2. Public Access/Marine Resources. The following sections of the Coastal Act are applicable to the subject project.

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30240 (b)

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The seals use Seal Rock as a haul-out (resting area) location. Seal Rock and vicinity (i.e., Children's Pool Beach) is the only known regularly used haul-out site on the mainland south of Point Magu in Santa Barbara along California's coast. Seals must get out of the water or "haul-out" for a certain period of time every day. They must haul-out for longer periods of time during the "pupping" (birth of young) and "molting" (shedding of skin and hair) seasons. The pupping season is typically during the months of February through July.

It has also been reported in the past that seals have used a reef located approximately 50 feet directly west of the breakwater at Children's Pool, as a haul-out also, but to a much lesser degree than Seal Rock itself. The reef is not within the area of the proposed reserve. In 1993 when the Commission was reviewing the original request to make Seal Rock into a reserve, there were also reports then that seals had hauled-out at Children's Pool the summer of 1993 which at that time was noted as being unusual. At that time, portions of Children's Pool were roped off to keep people from getting too close to the seals.

A local citizen group originally initiated the idea to make the area into a reserve in 1993. The main purpose was to prevent the disturbance by humans. At low tide conditions, there are tidepool areas and low submerged rocks that become exposed. The public has used this area in the past for tidepooling and sometimes they disturb the seals by approaching too closely.

When the Commission approved the former temporary reserve for a period of five years, the purpose of the reserve was to prohibit public use of the area to avoid disturbance of

the seals by human presence in the area. During this time, studies were to be conducted to determine 1) whether or not the site was a rookery and 2) whether or not the presence of people in the area had adversely affected the breeding habits or overall behavior of the seals. At that time, the City had indicated that if the site was determined to be a rookery, it would support the permanent delineation of the area as a marine mammal reserve to create a safe habitat area for the harbor seals to breed and pup. If it was determined that it was not a rookery, the City would consider whether or not the presence of people in the area was significantly altering the behavior of the seals or otherwise disturbing them to such a degree that would warrant the area being made into a permanent marine mammal reserve.

A) Results of Two-Year Study/City Review . Hubbs-Sea World Research Institute conducted a two-year study of the Seal Rock Marine Mammal Reserve at the request of the City of San Diego from October, 1995 to September, 1997 (ref. Exhibit No. 3). The study did not reach any conclusions but instead included: characterization of pinniped use of Seal Rock Marine Mammal Reserve (SRMMR) (e.g., haul-out vs. rookery); demography of pinnipeds at SRMMR (e.g., site fidelity, seasonal abundance); diurnal and seasonal variation in haul-out patterns of pinnipeds at SRMMR; and impact of human activities on pinnipeds at SRMMR (e.g., effectiveness of docents). The last category studied is most relevant. The report indicated that humans and birds were the primary source of disturbance to pinnipeds at SRMMR. Other minor sources of disturbances included loud noises. It is further stated in the report:

“Our subjective evaluation is that seals were disturbed less often and approached less closely by humans when docents were present. The docent program did not last long enough to allow us to quantitatively compare disturbances before and after its implementation. Signs installed by the City, rope barriers placed by lifeguards across Children’s Pool Beach, and presence of lifeguards and researchers were also effective deterrents to disturbance at SRMMR and other haul-outs in the vicinity.”

It was also stated in the study that the rocks within the boundaries of the reserve were used as a regular haul-out and molting site. However, it was not determined that pups were being born within the reserve and thus, Seal Rock was not proven to be a rookery.

Based on the Hubbs report, the City of San Diego Manager’s Report, dated 7/26/99 (ref. Exhibit No. 4), recommended that the City allow the reserve to lapse and instead implement measures which have been effective in reducing instances of people disturbing seals. In making this recommendation, the Manager’s Report concluded that:

There is no evidence that the Reserve designation at Seal Rock has achieved its objective of reducing instances of humans disturbing seals. The three actions which appear to have reduced seal disturbances are: educational signs, a docent program, and barricades on the beach at Children’s Pool. Therefore, the Seal Rock Marine Mammal Reserve should be allowed to sunset on September 16, 1999, and the City should continue to: 1) provide educational signs about seals, the Federal Marine Mammal Protection Act, and warning that seals bite; 2) endorse a privately funded

and managed harbor seal document program in the area; and 3) keep people away from the seals hauled out on the beach at Children's Pool.

B. Relationship of Seal Rock Marine Mammal Reserve to Occurrences at Children's Pool. Children's Pool is not part of the proposed marine mammal reserve. However, as noted previously, seals are now using Children's Pool as a haul-out area in addition to Seal Rock. Also, other significant changes to seal behavior and access to the water at Children's Pool have recently occurred which are relevant to the proposed project. They are described in detail in the subsequent findings:

a) Children's Pool Posted by County Health Department. Approximately one-and-a-half years ago, Commission staff received reports that a barricade had been installed at Children's Pool Beach to the south of Seal Rock. At the time Commission staff discussed the matter with City staff, the City stated that the barrier had been installed to keep people out of the water at Children's Pool because the water had become contaminated as a result of seal feces. The County Health Department had posted Children's Pool as unsafe for humans. Section 409.5 of the City's Penal Code allows the City to take such measures in the interest of public safety. At the time, it was explained that the County would continue to test the water quality on a regular basis with the idea that once the water was safe again for humans, the barricade would be removed. However, the barricade has remained in place since that time and access to the water closed to the public due to contamination.

The City has indicated that the County Health Department informed the City that even though water samples and testing may at times indicate that the water is safe for human contact, as long as the source of the contamination was still in the area (namely, the seals), the site would remain posted indefinitely because it poses a continuing public health threat which requires avoidance of the water by humans. County Health Services also informed the City that potentially harmful bacteria and viruses coming from the seal feces are always present in the water to some degree and that humans coming in contact with those bacteria and viruses could become sick. Commission staff contacted the County Health Department to find out if there had been any change to the direction previously given to the City. County Health confirmed that as long as seals continue to use the area, Children's Pool will remain closed to human contact. This is because even if weekly water quality samples indicated that water quality had returned to acceptable limits, the source of the contamination remains in the area (i.e., the seals).

County Health also indicated that it was their understanding the barrier at Children's Pool Beach had been installed to keep the people away from the seals and not to keep people out of the contaminated water and that such a barrier was not required by the County Health Department. It is possible that the barrier was installed to serve both purposes. The City first placed the barrier on the beach as a temporary measure to address a public health threat. However, since that time, it has become a permanent barrier comprised of steel poles and rope. When asked if the barrier is necessary to reduce harassment of the seals, the National Marine Fisheries Service (NMFS) has indicated that it does not know whether harassment of seals has been reduced as a result of the barrier or the docent

program. In any case, the placement of the barrier on the beach was not required by the County Health Department to keep people out of the water as result of the water being contaminated.

b. Placement of Barrier at Children's Pool Beach without a Coastal Development Permit. As noted in a previous finding, the placement of a barrier at Children's Pool Beach was either to keep people out of the water or to keep people away from the seals, or both. Regardless of why the barrier was installed, it is a permanent structure on the beach and results in a change of intensity of use, in this case, a change in public access to the ocean. Furthermore, whether it is justified or not for public safety purposes, the installation of a permanent barrier on the beach requires a coastal development permit and, thus, the City's action to leave the barrier in place permanently absent a coastal development permit is a violation of the Coastal Act. The City has also indicated that they are unable to incorporate the retention of the barrier on a permanent basis into the subject coastal development permit application because it would require City Council action. As such, this matter will be pursued as a separate enforcement action.

c) More Seals Begin Using Children's Pool as a Haulout. Another significant change that has occurred at Children's Pool since establishment of the former reserve is that the harbor seals have begun to haul out on the adjacent Children Pool Beach. While they still also haul out at Seal Rock, there appears to be a larger number of seals that now haul out on Children's Pool Beach. In fact, so many seals hauled out on the beach that problems started to occur and more incidents of seal disturbance were being reported. However, no matter how many signs were installed in the vicinity warning people of the existing laws protecting seals and discouraging people from disturbing the seals, human nature is such that people tended to get as close to the seals as possible. Commission staff visited Children's Pool Beach on several occasions before a barrier was installed on the beach and observed that people would actually pet the seals and get as close as possible to the seals. Some people even walked in the middle of a group of seals for a picture.

There was much controversy at the time (i.e., beginning in March, 1999) about how the seals who had apparently "taken over" Children's Pool Beach. Members of the public, particularly divers that used this area to access the ocean, were concerned that they would be prohibited from entering Children's Pool for dives. The divers stated that there is a rip current at the end of the breakwater that they like to catch to easily get out to the ocean for scuba diving. They indicate that it is the best access point to get a "ride" out to the ocean in the entire area. This group of recreational users were most vocal, along with swimmers, back when the Commission originally reviewed the first proposal to make Seal Rock a marine mammal reserve. However, once the County posted Children's Pool as contaminated, they were no longer permitted to go into the water.

d) City's Efforts to Restore Tidal Flushing at Children's Pool and Encourage Shared-Use Between Swimmers and Seals. As a result of complaints from the public who were concerned regarding the loss of public access to Children's Pool, the City explored alternatives for a shared-use concept of Children's Pool Beach which included

review of several alternatives to improve the water quality at this location. City staff consulted experts and evaluated various options to restore the water quality to acceptable levels (safe for human contact) such that Children's Pool could be used by both seals and humans. Based on their review, City believed that the best alternative to address the problem was a proposal to dredge the sand from Children's Pool to restore it to its 1920 conditions. It was hoped that this would result in more tidal flushing of the area which would consequently result in reducing the high fecal counts and public access to the water would be restored. The City subsequently submitted a coastal development permit application (CDP #6-98-22) for this proposal. However, it was at this time that the County informed the City of their position that even if the water quality testing determined the water was safe for human contact, as long as the seals were in the area it would still consider the area to be contaminated. The City decided that its plans to attempt to lower the pollution counts at Children's Pool so that people could regain access to the ocean were pointless. Thus, the City withdrew its coastal development permit application for the dredging project.

e) Children's Pool Becomes a Rookery. Of significance is that in 1999, it was officially documented that the first seal pup was born at Children's Pool Beach; thus, making it an established rookery, as confirmed by the NMFS. The NMFS indicated they do not like to refer to this as being "designated" a rookery because this implies a reserve status and Children's Pool is not an ecological or biological reserve. As has been noted in earlier reports regarding the former marine mammal reserve, Seal Rock did not qualify for State ecological reserve status for the harbor seal because the seals are neither endangered nor threatened and do not depend on the habitat of Seal Rock for its survival. Children's Pool becoming a rookery did however change the method by which this haul-out site is managed. Before it was a rookery, if a seal pup or adult pinniped were found injured or sick on the beach or in the water, humans could intervene to rescue and care for the seals. However, once a site becomes a rookery, the NMFS manages it as a natural area where humans cannot intervene. In other words, nature is allowed to take its course the same way that it does in the wild. Human intervention is allowed only if it can be documented that the seals are injured as a result of human activity.

Today, according to the NMFS, it is not known if there are two different groups of seals--those who use the rock for hauling out and those who use the beach for hauling out. In any case, the number of seals in both areas have increased dramatically since 1993.

It should also be noted that in the last year and a half, a volunteer docent program has been in effect at Children's Pool. The group is known as the La Jolla Friends of the Seals. According to the NMFS, the incidents of seal harassment reports have been reduced almost 100% in the last year and a half. NMFS believes this is either as a result of the installation of the barrier at Children's Pool or as a result of the presence of the docent program or both. However, they do indicate that the barrier itself was a very effective means of reducing seal harassment. The La Jolla Friends of the Seals would like the entire area to become a reserve (Seal Rock and Children's Pool) because they believe that it would afford the seals more protection and make people more aware of the laws protecting marine mammals. Although their docent program operates only on

weekends, they have indicated that they would like to expand their program to weekdays later.

C. Resource Agency Input. Upon review of all the above facts, it is clear that the two main concerns that were to be addressed through monitoring of the former temporary reserve pursuant to CDP #6-93-26 (whether the site was a rookery and what were the affects of human disturbances on seals) have not been documented. Based on the limited research and monitoring conducted during the five year period this area was a temporary marine mammal reserve, Seal Rock has not been documented to be a rookery and seal disturbances by humans have been reduced significantly. In addition, the seal population seems to be increasing in this area which would seem to indicate that the seals are not being disturbed by humans to such a degree that it is discouraging their use of the area as a haul-out location. As such, it appears that no benefit would be gained by making the area into a reserve at this time. In order to further assess this matter, Commission staff consulted with several other resource agencies including the State Lands Commission (SLC), NMFS and the California Department of Fish and Game (DFG). Written opinions from these agencies were also submitted to the City when the City was considering making the area into a reserve again (ref. Exhibit No. 5).

Essentially, two of the agencies indicated in writing that installation of signage and implementation of a docent program and education program for the public would be effective at managing the area and reducing incidents of seal harassment. DFG staff indicated that the City has no authority to create a seal reserve from granted tidelands that would generally prohibit public access across its boundaries. SLC staff expressed concerns with regard to the area being closed to public access and its conflicts with the legislative land grants. NMFS stated that they are not designating Children's Pool Beach as a refuge, reserve, or sanctuary and that this type of designation is up to the City to make, if it chose to do. To discuss these opinions further, Commission staff conducted a phone conference with all three agencies.

In discussions with these agencies, it was stated that the City's proposal to make the area into a permanent reserve would be inconsistent with the legislative land grants. There are two land grants in the subject area. One is applicable only to Children's Pool (Chapter 937) which was granted in 1931 granting tide and submerged lands to the City of San Diego (Ref. No. 6). Specifically, the grant states, in part:

- (a) That said lands shall be devoted exclusively to public park, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incident to, or convenient for the full enjoyment of, such purposes;
- (b) The absolute right to fish in the waters of the Pacific ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.

Although Children's Pool is not the subject of this coastal development permit application, it should be noted that SLC staff has indicated that because the existing statute specifically talks about public access and recreational use of the area, a permanent barrier on the beach which blocks access to the ocean is inappropriate. This particular land grant is more specific than the broader state land grants because it specifically calls for the area being devoted to a bathing pool for children. This is the only grant to the City that has these specific requirements in it. The City should be doing everything possible to protect public access in this area and to alleviate the health concerns. However, if the City believes that protecting the seals is a higher public need than public access to the waters, then they should seek a change to the law. SLC staff has also indicated that if the barrier is only temporary, however, and is needed for health and water quality reasons, such a barrier is not inconsistent with the grant language. Furthermore, all agencies agree that if the water is contaminated, that access to the water should not be allowed to assure public health and safety. As noted previously, the issues associated with Children's Pool and the barrier will be dealt with separately.

With regard to the proposed Seal Rock Marine Mammal Reserve, SLC staff and DFG staff both expressed their reservations about the area being made into a permanent reserve. SLC staff refer to a separate grant, Chapter 688, a Legislative Grant dated 6/5/33 which essentially turned over a three mile area of submerged lands under the ocean to the City. The language of that grant cites a much broader use that the lands can be used for. This statute is clearly applicable to Seal Rock and the proposed boundaries of the reserve (ref. Exhibit No. 7). The grant provides that the tidelands shall be used for the establishment, improvement and conduct of harbors and construction of bulkheads or breakwaters for the protection of lands within its boundaries, and the like. In addition, the last subsection of the grant specifically states:

"...(d) There is hereby reserved, however, in the people of the State of California the absolute right to the public use of said tidelands and to fish in the waters thereof, with the right of access to said waters over said tidelands for said purpose."
[Emphasis added]

Therefore, the City's action to exclude public access to the water on a permanent basis is inconsistent with the above land grant. SLC staff further stated that making the reserve "temporary" for purposes of conducting a study, etc., could be found consistent with the land grant but that a permanent reserve would clearly be inconsistent and could not be permitted unless the City sought and received approval of an amendment to the grant to specifically prohibit the public from access to the open coastal waters. DFG staff also stated that they had sent a letter to the City indicating that they did not believe the City had the legal authority under their tidelands grant to exercise resource management of this area.

With regard to whether or not making the area a reserve would afford the seals more protection, NMFS staff stated that if the seals could not use Seal Rock, it would not significantly harm the seals at this location. However, this would not be the case if they were pupping on the rock. In addition, the existing Marine Mammal Protection Act

(MMPA) is applicable to the seals at Children's Pool Beach and Seal Rock regardless whether these areas are afforded reserve status or not. As noted previously, essentially the MMPA states that if anyone changes the behavior of the seals, it is a violation of the Act. When people disturb the seals it also disrupts their resting period. The only difference a reserve status would make is that it would allow the City to enforce keeping people away from the rock and may result in less likelihood of seal disturbances by humans.

The NMFS staff indicated that from a biological perspective, if the area is ever made into a permanent reserve, it would make sense to incorporate both Children's Pool and Seal Rock because the entire area is their habitat area. However, from an enforcement perspective, if the area were not made into a reserve, it could become a potential enforcement problem because NMFS could become inundated with phone calls and reports of seal disturbances. There is only one NMFS enforcement officer in San Diego County to respond to reports of seal harassment. Although the agency receives reports of harassment occasionally, it is rare that there is a need to actually cite someone as a result of violation of the MMPA. The enforcement officer usually responds to such reports and gives verbal warnings to people who are disturbing the seals, which up to this time appears to be sufficient to deter the offenders. No citations have been issued to date. The City noted one incident where the enforcement officer had to respond to a report of a group of inebriated youths on Children's Pool Beach at night who were making noise. However, as has been noted, the incidents of seal harassment are almost non-existent at this time, largely due to the barrier and/or the docent program. NMFS staff also indicated that whether or not they would receive a lot of reports of seal disturbances by humans largely depends on how well the public adheres to the existing signage in the area. If they stay away from the seals, not making it into a reserve might not be a problem. However, if they do not adhere to the signs and begin to try to get as close to the seals as they can, this could pose a serious problem.

According to the City Department of Parks and Recreation, the City lifeguards have indicated that since the reserve status has lapsed, there has been use of the area by swimmers and divers off of Shell Beach and the water area around Seal Rock, as well as the tidepool area east of Seal Rock. City Parks and Recreation Department staff state that the lifeguards still ask people not to climb on the rock as so doing could violate the MMPA. Federal law preempts state law which means that the Marine Mammal Protection Act preempts state and local laws regarding protection of seals or establishment of reserves, etc. The lifeguards and NMFS enforce the MMPA at Children's Pool and the former reserve area. In addition, when the reserve was in effect, the lifeguards at Children's Pool also had the ability to cite people for violation of the City's ordinance to enter the boundaries of the reserve area because it prohibits public access to the water. They would maintain this authority if the reserve were to be re-instituted. However, according to City staff, the lifeguards' primary responsibility is to ensure the public safety of those swimming in the ocean and they only intervene in seal disturbances if a potential violator is trying to harm a seal.

It should be noted, however, that since the reserve has lapsed, there does not appear to have been any increase in seal disturbance. In fact, by all accounts, seal harassment is almost non-existent. However, some people believe it is because people still think that the area is a reserve and therefore do not enter the water or disturb the seals. This may be partially true, but the public does enter the waters surrounding the rock, especially at low tide conditions and as documented by the lifeguard service noted above. Commission staff observed at least 30 people tidepooling in the area of the submerged rocks between Seal Rock and the toe of the coastal bluffs on the Sunday of the Thanksgiving holiday weekend of 2000. At this time, there were no seals on Seal Rock itself. Instead, all of the seals were hauled out on Children's Pool Beach. Almost no one walked down onto the beach at Children's Pool. Everyone was observing the seals from either the breakwater or from the public walkways above that overlook Children's Pool Beach and Seal Rock. At such tide conditions, the presence of people in this area does not appear to be detrimental to the seals or interfere with their resting habits. As noted previously, another potential reason harassment has decreased is due to the installation of the barrier at Children's Pool and the presence of docents in the area.

D. Modifications to Reserve. The proposed project raises conflicts between the two competing uses of public access and protection of the seals. In this particular case, the Commission must weigh the protection of each resource, that on balance, is the most protective of coastal resources. As stated previously, based upon the Hubbs-Sea World Report, the City thoroughly addressed other alternatives to making Seal Rock a permanent marine mammal reserve. In addition, it has been acknowledged that the former temporary reserve had not achieved its desired purpose of reducing disturbances of seals by people. Other alternatives such as implementation of a docent program, installation of interpretive signage and separation of people from the seals at Children's Pool Beach were considered to be most effective at reducing seal disturbances in the area. Therefore, to make the area into a permanent reserve which would preclude the public from having access to this area entirely cannot be found consistent with the Chapter 3 policies of the Coastal Act addressing public access and recreation.

Additionally, the project raises concerns with regard to consistency with the legislative land grants cited previously. Upon review of all this information, it appears that making the area into a permanent reserve is inconsistent with the above-cited state tideland grants. As stated in the previous findings, both SLC staff and DFG staff believe that a permanent reserve status for any of the granted tidelands at this location is inconsistent with the grant language. Further, the Commission finds that given the information that is available today, making the area into a permanent reserve is not supportable. If the City conducts additional studies or obtains additional information that would support a change in the land grants, the City always has the option of going before the legislature to seek an amendment to the land grant.

In the interim, however, the Commission finds that there may be some benefit in permitting another temporary reserve for five years which will allow the City time to re-evaluate the effectiveness of the reserve and to decide it wants to eventually make the area into a permanent reserve. Furthermore, making the area into another temporary

reserve for five years will protect Seal Rock itself such that people will not be allowed to climb onto it or approach it too closely, thus disturbing the seals. Without a temporary reserve, the public could potentially disturb the seals. Because the City is proposing the reserve as a permanent reserve, Special Condition #1 specifies the time limits such that the proposed marine mammal reserve shall be temporary only for a period of five years.

However, as noted above, evidence indicates that there is less disturbance presently occurring to the seals as a result of the barrier at Children's Pool and also the presence of a docent program, etc. As such, it appears that the boundaries of the proposed reserve are larger than necessary and result in impacts to public access opportunities in the area. Therefore, the Commission finds that in order to find the proposal consistent with Coastal Act policies, the boundaries of the reserve must be reduced. NMFS staff has indicated that a buffer of 50-100 feet is adequate to keep people away to avoid disturbance to the seals on the rock. This will result in a smaller reserve area to the south and east of the rock and allow for some limited use of the area for recreation such as allowing scuba divers into the area, swimmers or tidepoolers.

A reduction in the size of the marine mammal reserve will still afford protection of the marine mammals, particularly around Seal Rock itself, and will achieve a balance between protection of public access and protection of marine resources, namely, the harbor seals at this location. Furthermore, restricting public access to this area on a temporary basis will also render the project consistent with the above-cited legislative land grants. In any case, commercial fishing will still be permitted within the boundaries of the reserve because it is expressly provided for as a permitted use pursuant to the above-cited land grants.

Special Condition #3 requires the City to submit a final site plan documenting revisions to the boundaries of the permitted reserve such that the size of the reserve is reduced to no more than 100 ft. south and east of Seal Rock, with the boundaries to the north and west remaining unchanged. Special Condition #2 requires the City to submit a sign plan for any proposed installation of signs in the area identifying the boundaries of the reserve and for education and information purposes regarding the harbor seals. No more than eight signs total shall be permitted and shall consist only of monument or wall signs. No freestanding, pole or roof signs shall be permitted on the sandy beach area of Children's Pool Beach.

The Coastal Act also calls for the protection of marine resources and that special protection shall be given to areas and species of special biological significance. The Act further provides that uses of the marine environment shall be done in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes. In this particular case, evidence does not support the need to make Seal Rock a permanent marine mammal reserve to protect seals in this area. As noted previously, the harbor seals are thriving at this location (Children's Pool Beach as well as Seal Rock). In addition, they are neither an endangered or threatened species which would afford special protection pursuant to the

Coastal Act. However, the Commission finds that permitting another temporary reserve for five years (although reduced in size) will afford some benefit to the seals at this haul-out site by helping to reduce the potential for disturbance by humans. Such a reserve will also allow the City and/or others to study the effectiveness of the reserve for scientific or educational purposes, consistent with the Coastal Act. As noted above, a reduction in the size of the reserve boundaries; however, will also open up an area south and east of the reserve that may be used by divers, swimmers, tidepoolers, etc. Thus, protection of both public access and marine resources can be achieved in this area.

In summary, although seals are currently using Seal Rock to haul out, they are also using the adjacent Children's Pool Beach to the south. To date, Seal Rock has not been documented as a rookery or as an area necessary to support the seal population in this area. Nonetheless, the City is proposing to make the rock and surrounding area a permanent marine mammal reserve. This is inconsistent with the public access and recreation policies of the Coastal Act. In addition, delineation of Seal Rock as a permanent marine mammal reserve is inconsistent with the state tidelands grant. Thus, a permanent reserve is not an option. However, approval of a temporary reserve is consistent with the grant and allows time for further study to determine the impacts of Seal Rock to the local harbor seal population; however, only if the reserve area is reduced to minimize impacts on public access. Special conditions proposed will limit the reserve to a temporary five year term and reduce the reserve area. Therefore, the Commission finds the proposal consistent with all applicable sections of the Coastal Act.

3. No Waiver of Violation. The proposed development involves the establishment of a temporary marine mammal reserve. The City has installed a permanent barrier to the south of the reserve boundaries on Children's Pool Beach absent a coastal development permit. Although development has taken place prior to the submission of this permit request, consideration of the request by the Commission has been based solely upon Chapter 3 policies of the Coastal Act. Commission action upon the permit does not constitute a waiver of any legal action with regard to the alleged violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

4. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. The subject permit, as conditioned, would create a temporary marine mammal reserve in open coastal waters. The project, as conditioned, is consistent with the certified LCP and all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the La Jolla community.

5. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the public access policies of the Coastal Act. Mitigation measures, including conditions addressing permit time limitations, signage and boundaries of the proposed marine mammal reserve, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Coastal Commission File 6-11-078
C/O Mellisa Ahrens
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402

11/21/11

Dear Coastal Commission,

When San Diego (Parks and Rec) submitted its permit request now called 6-11-078, for "proof of title" it submitted the 1931 Children's Pool Trust as amended 2009. This trust was an act of the legislature, not an agreement between individuals or corporations or such. It is State law, and everybody in the state must uphold it.

The trust was amended after a decision by the State Lands Commission that it could be done by action of the legislature. I have attached it, and a court ruling upholding a previous ruling that the rope barrier served as a violation of the trust. The SLC never looked at the modification of the trust that it permitted, assuming the legislature would do the right thing.

The matter that had produced the amendment ruling was a court order for the City to carry out its own 1999 plan (seal dispersal) to make the water at Children's Pool acceptable to County Health test standards at the time. The City tried to put up its rope barrier while negotiating the permits for restoration of the Children's Pool, producing this ruling.

All of this was stopped when the trust was altered to introduce a marine mammal park to the trust terms, which ended the seal dispersal order, but left the rest of the trust and its terms intact. Neither San Diego nor the Coastal Commission can disregard any of the trust stipulations. They are all equal, as previous court rulings had held. Somehow they must all be accommodated. Before the Coastal Commission grants any permanent barrier across the Children's Pool Beach it should expect San Diego to produce an approval from the State Lands Commission which still holds authority for the administration of this trust through Public Trust Doctrine.

John Leek

3090 Admiral Ave

San Diego, CA 92123

THE TRUST

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1 of Chapter 937 of the Statutes of 1931 is amended to read:

Section 1. There is hereby granted to the ~~city~~ City of San Diego, ~~county~~ County of San Diego, all the right, title, and interest of the State of California, held by said state by virtue of its sovereignty, in and to all that portion of the tide and submerged lands bordering upon and situated below the ordinary high water mark of the Pacific ~~ocean~~ Ocean described as follows:

Beginning at the intersection of the ordinary high water mark of the Pacific ~~ocean~~ Ocean with a line bearing S. 87° 40' W. from the monument marking the intersection of Coast ~~boulevard south~~ Boulevard South with Jenner ~~street~~ Street as said monument, said Coast ~~boulevard south~~ Boulevard South, and said Jenner ~~street~~ Street are designated and shown on that certain map entitled "Seaside subdivision number 1712" and filed June 23, 1920, in the office of the county recorder of San Diego ~~county~~ County, State of California; thence N. 350', thence E. 300', thence S. 185' more or less to the ordinary high water mark of the Pacific ocean, thence in a general southwesterly direction along the ordinary high water mark of the Pacific ~~ocean~~ Ocean to the point of beginning, all in the Pacific ~~ocean~~ Ocean, State of California, to be forever held by said ~~city~~ City of San Diego and its successors in trust for the uses and purpose upon the express conditions following, to wit:

(a) That said lands shall be devoted exclusively to public park, *marine mammal park for the enjoyment and educational benefit of children*, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incident to, or convenient for the enjoyment of such purposes ;

(b) The absolute right to fish in the waters of the Pacific ~~ocean~~ Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.

(c) That there is excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said land.

These 11 added words were the only substantive change, leaving the previous public access stipulations intact.

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
HALL OF JUSTICE
TENTATIVE RULINGS - January 03, 2008

EVENT DATE: 01/04/2008

EVENT TIME: 10:30:00 AM

DEPT.: C-60

JUDICIAL OFFICER: Yuri Hofmann

CASE NO.: GIC826918

CASE TITLE: O'SULLIVAN VS CITY OF SAN DIEGO

CASE CATEGORY: Civil-Unlimited

CASE TYPE: Misc Complaints - Other

EVENT TYPE: Motion Hearing (Civil)

CAUSAL DOCUMENT Motion - Other, 12/12/2007

/DATE FILED:

Defendant City of San Diego's "Motion to Clarify the Court's Injunction" is DENIED.

The Court is wary of ruling on the instant Motion, as it appears to seek something akin to an advisory opinion before the controverted issue is ripe. On the other hand, the City appears to be asking the Court to re-analyze an issue which has already been addressed and determined by this Court and the Court of Appeal. Specifically, the "rope issue" was discussed in both this Court's and the Court of Appeal's final rulings in favor of Plaintiff and against the City. Ultimately, **both Courts found that the placement of a "rope barrier cutting off public access to the Pool," along with other various restrictions, "served to deter the public, beneficiaries of the trust grant, from using the beach,"** which resulted in the City's breach of its obligations as trustee under the subject Trust. (See Court of Appeal Ruling, pp. 12-13, quoting portions of the Trial Court's Statement of Decision.) More specifically, the Trial Court stated in its lengthy Statement of Decision:

The next biggest cause of actual or constructive closure of the Children's Pool was the City's decision to erect a rope barrier cutting off public access to the Pool. On March 29, 1999, the City Council . . . voted to rope off the Pool. *In doing so, the City breached its obligations under the Trust, as trustee of the Children's Pool.* Instead of returning the Pool to its original and safer configuration and also rectifying the unhealthy condition of the water and sand at the Pool, the City barred the use of the Children's Pool as a "public park, bathing pool for children, . . . and [use for] playground and recreational purposes," as expressly required by the 1931 Trust. The rope remained up from March 1999 until September 17, 2004.

(8/26/05 Statement of Decision, p. 24, ls. 3-14, emphasis added.)

In the instant Motion, the City asks the Court to reconsider the rope issue in the context of new evidence not proffered at trial. The Court declines to do so. As noted above, the relevant issue has been considered and decided, and the Court's directives to the City are clear and unambiguous.

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10 CITY OF SAN DIEGO; RICHARD MURPHY, In his official capacity as Mayor of San Diego;
11 and COUNCILMEMBERS SCOTT PETERS, MICHAEL ZUCCHET, TONI ATKINS, TONY
12 YOUNG, BRIAN MAIENSCHIN, DONNA FRYE, JIM MADAFFER, AND RALPH
13 INZUNZA in their official capacity as members of the City Council of San Diego

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF SAN DIEGO, CENTRAL DIVISION

16 THE HUMANE SOCIETY OF THE UNITED)
17 STATES, JAMES HENRY NATT HUDNALL)
18 JR., REBECCA CARY, FLORENCE)
19 LAMBERT, and ANGELA ANDRE,)

20 Plaintiffs,

21 v.

22 CITY OF SAN DIEGO; RICHARD MURPHY,)
23 In his official capacity as Mayor of San Diego;)
24 and COUNCILMEMBERS SCOTT PETERS,)
25 MICHAEL ZUCCHET, TONI ATKINS, TONY)
26 YOUNG, BRIAN MAIENSCHIN, DONNA)
27 FRYE, JIM MADAFFER, and RALPH)
28 INZUNZA, in their official capacity as Members)
of the City Council of San Diego,

Defendants.

Case No. GIC 843343

**DECLARATION OF DOYLE A.
HANAN, PH.D. IN OPPOSITION TO
PLAINTIFFS' MOTION FOR A
TEMPORARY RESTRAINING
ORDER**

Date: May 4, 2005
Time: 10:00 a.m.
Dept.: 71
I/C Judge: Hon. Ronald S. Prager
Cmplt. Filed: 2/25/05
Trial: Not Set

21 I, Doyle A. Hanan, Ph.D., declare that I am competent to testify about the following facts,
22 of which I have personal knowledge:

23 1. I have over 35 years of experience as a research biologist, project leader,
24 supervisor, and educator, specializing in marine mammals and harbor seals. Currently, I am self-
25 employed as a private consultant and Chief Scientist for Hanan & Associates, Inc. Prior to this
26 position, I worked for the California Department of Fish and Game from 1974 to 2000. In 1984, I
27 became the California Department of Fish and Game Associate Marine Biologist in charge of
28 marine mammals, and in 1993 I became the Senior Marine Biologist, Supervisor. As Senior

1 Marine Biologist, I was responsible for research and management of sport and commercial
2 fisheries and marine mammals.

3 2. I earned my Masters Degree in Marine Biology in 1976 from California State
4 University Long Beach and earned my Doctorate Degree in Biology in 1996 from the University
5 of California, Los Angeles.

6 3. I am a member of the Pacific Scientific Review Group, which advises the
7 National Marine Fisheries Service (NMFS) on marine mammals in the Pacific Ocean. In this
8 capacity, I review and make recommendations on NMFS' research and stock assessments on
9 marine mammals in the Pacific Ocean and make recommendations as to any needed
10 modifications to its reports. Additionally, I reviewed and contributed to the 1994 amendments to
11 the Marine Mammal Protection Act. I am also a member of the Society for Marine Mammology.
12 I have testified before Congress on issues related to marine mammals. I served on the task force
13 to evaluate the scientific information on the impacts of California sea lions and harbor seals on
14 salmonids and on the coastal ecosystems of Washington, Oregon, and California.

15 4. I have personally observed and studied harbor seals and other pinnipeds along the
16 West Coast of the United States since 1979. Included in this work, I completed fifteen years of
17 aerial survey of harbor seals along the West Coast. I have researched and drafted numerous
18 reports on the behavior of harbor seals, and have first-hand expertise in the behavior patterns of
19 harbor seals. My dissertation was entitled, "Dynamics of abundance and distribution in the
20 Pacific harbor seal, *Phoca vitulina richardsi*, on the coast of California," which included tagging
21 harbor seals and observing their behavior from 1982-1995.

22 5. From October 2003 to March 2004, I worked under contract for the City of San
23 Diego observing and recording harbor seal behavior and hauling patterns at the La Jolla
24 Children's Pool (also known as Casa Beach) as a part of the City of San Diego's preparation to
25 apply for an Incidental Harassment Permit from NMFS for construction to the lifeguard tower.

26 6. I maintain a neutral position on the presence of harbor seals at the Children's
27 Pool. The purpose of this declaration is to provide information regarding harbor seals at
28 Children's Pool that is within my professional and personal expertise.

1 7. A copy of my curriculum vitae is attached as Exhibit 1.

2 8. I have personally visited Children's Pool both before and after the advisory rope
3 was removed.

4 9. Since the 1920's, the population of harbor seals on the West Coast and Southern
5 California has steadily increased. Harbor seals are currently near their Optimum Sustainable
6 Population level (OSP) in California and are approaching carrying capacity. They are one of the
7 most commonly seen marine mammals along the West Coast of North America. In California,
8 there are at least 1000 hauling sites. My most recent research has shown that the number of
9 harbor seals in California has likely been under-estimated. Harbor seals have been documented
10 to be present at Children's Pool since at least 1979.

11 10. Harbor seals in California are not endangered or threatened under the Endangered
12 Species Act, nor a strategic population under the Marine Mammal Protection Act (MMPA).

13 11. Based upon my personal observation of numerous seal colonies along the West
14 Coast, I have observed that the harbor seals located at Children's Pool are unusually tolerant to
15 human contact. Generally, harbor seals are skittish and have the tendency to react or flush into
16 the water at the slightest movement or sound. In my personal observations of the harbor seals at
17 Children's Pool, I observed that the harbor seals there did not react to human behavior that
18 normally would disturb harbor seals (such as laughing, clapping, stomping, climbing, snorkeling,
19 swimming, and wading).

20 12. At Children's Pool, harbor seal pupping season is approximately from January
21 through April, with some births possibly occurring in December and May. The pupping season
22 likely peaks in February or March. When a pup is born on land, the birthing female usually
23 encourages the pup into the water within an hour of its birth.

24 13. It is normal for there to be some premature harbor seal pup births and pup
25 abandonment. There are many possible reasons for these occurrences. For example, a female
26 may reject a pup if something is biologically wrong with the pup. Based upon my experience
27 tagging seals, during pupping season, it is my professional opinion that interaction with humans
28 is not likely to be a significant cause of seal pup abandonment.

14. As the population of harbor seals increases towards carrying capacity, it would be expected that the harbor seal and pup mortality rate would increase. It would also be expected that the number of pup abandonments would increase.

15. There are many rookery sites (where harbor seal pups are born) other than Children's Pool in Southern California, and all along the West Coast. If the harbor seals were to abandon the Children's Pool site, they would likely move to another site and continue to survive and give birth to pups.

16. In my professional opinion, the continued use of Children's Pool by harbor seals is not critical for the survival of the harbor seals present at Children's Pool or the harbor seal population as a whole.

17. In my professional opinion, the presence of the advisory rope is not critical to the survival of the harbor seals present at Children's Pool or the harbor seal population as a whole.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to my own personal knowledge.

Executed this 18th day of May, 2005, at San Diego, California.

DOYLE A. HANAN, Ph.D.

NMFS. 1997. Investigation of scientific information on the impacts of California sea lions and harbor seals on salmonids and on the coastal ecosystems of Washington, Oregon, and California. U.S. Department of Commerce. NOAA Tech. Memo. NMFS/NWFSC-28, 172 Pages.

MA

George Greer
34221 San Simeon St.
Temecula, CA 92592-5593
858-231-5455
ggreer4@yahoo.com

RECEIVED

NOV 28 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

November 21, 2011

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

RE: La Jolla Childrens Pool

Dear Commissioners:

Penipeds and children have coexisted at the Childrens Pool in La Jolla since its construction.

The seals have multiple places to haul out including the rocks near the pool, the Channel Islands (especially San Miguel, home to about a quarter million of there relatives) and other beaches not accessible by humans.

The pool is one of the few beaches where children can bath in the ocean and learn to swim without being threatened by large waves.

There is no rational explanation for a change.

Do not let politics and money sway your good judgment.

Sincerely,



George Greer

4A

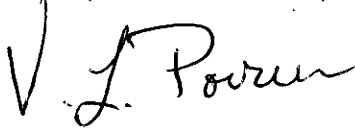
RECEIVED
NOV 28 2011
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Ahrens:

I am a resident in San Diego and love to take my kids to the beach at the Childrens Pool in La Jolla. I believe that it is very unfair for a rope to be put up on the beach to stop or at least deter me and my kids from using the beach. Of course, we never disturb any animals who are there, but in the summer the seals are usually all out in the water because of the sun and heat on the beach. They need the cool water in the summer time. We love the beach and do not want any rope put up which would keep us from it. We have been harassed by folks who think that it is not lawful at any time to use this public beach.

Please support citizens rights to use a public beach. It is not private, it is public. Any restrictions from using it is offensive and against the law.

Sincerely,



Vanda de Castro Lins Poirier

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NOV 28 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

November 23, 2011

Melissa Ahrens, coastal Planner

California coastal commission

San Diego Coast District

7575 Metropolitan Drive, Suite 103

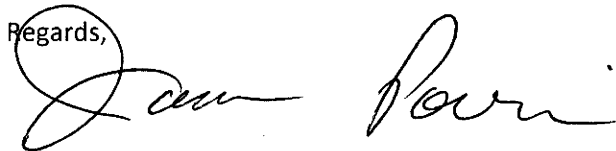
San Diego, CA 92108

Dear Ms Ahrens:

I am strongly opposed to a rope going up to restrict access to the Childrens' Pool in La Jolla. It is against the law to deter or stop citizens from using a public beach. I swim regularly there and use the beach with my family and would find it outrageous to be kept from using the water. I respect all marine life and was a marine science teacher for many years in my teaching career.

Please respect the right of citizens to use the beach. Thank you very much for your support!

Regards,



James Poirier

DISPUTE OF BARRIER AT THE CHILDREN'S POOL

As a citizen of the United States of America, state of California and City of San Diego, I humbly address you – officers of the California Coastal Commission – as my protectors.

I trust each of you to protect my right of coastal access. If you will not, who will?

To install the year-round permanent barrier at the La Jolla Children' Pool, as requested here, turns a residential area and coastal park into an unsafe, overcrowded public zoo.

Granting this permit would destroy all legal safeguards of public access to coastal beaches in the name of harbor seals that need no protection. Their reproduction rate in the 2011 pupping season was highest ever recorded at this site. The seals are not on any endangered species list worldwide.

State and City law, precedent and the Local Coastal Program Land Use Plan of Feb 2004 absolutely prohibit installation of any such barrier.

The Children's Pool as an open-access – shared use beach is an unqualified **SUCCESS**. Please use your power to protect my right to this beach and these waters –
the only other world most of us will ever know.

The State of California Constitution, Article 10 states, "No individual, partnership or corporation, claiming . . . tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State shall be permitted to exclude the right of entry to such water whenever it is required for any public purpose."

The California Coastal Act [Sections 30210 - 30213, 30220, 30221] and the City's own Local Coastal Program forbid any barrier that restricts coastal access, when such barriers violate citizen's right to use public beaches.

The California Coastal Act itself has designated La Jolla as a "special community" of regional and state-wide significance. La Jolla is named as a prime visitor destination, a status reinforced by the approval of special grants to conserve and enhance its special character.

The stated goal in the San Diego City Land Use document for La Jolla, specifically at Coast Blvd where the rope barrier is proposed (consistently referred to as "the Children's Pool"), is to "enhance existing public access to . . . facilitate greater public use and enjoyment."

Management is to occur in a manner that protects these resources, encourages sensitive development, retains biodiversity and interconnected habitats and maximizes physical and visual public access to and along the shoreline to benefit residents and visitors.

Although these measures are codified in City documents, the area of the Children's Pool and adjacent Coast Blvd now appears to be accepted as Coastal Commission jurisdiction. As such, this area is subject to all regulations barring violations of improper signage and obstruction of view sites. (Heritage Resources p. 129)

The California Coastal Act of 1976 (Appendix B) mandates that all designated areas develop a Local Coastal Program which is consistent with [the foregoing] state-wide goals and objectives. You, the Coastal Commissioners, are the guardians of these laws!

From: Phyllis Minick, Treasurer, La Jolla Parks & Beaches, Inc. 11/2011 pminick@aol.com

*Submitted @
11/4/11 Comm. mtg.*



NOV 28 2011

San CI

To: *Melissa Ahrens*

Fax #: 767-2384

From *Ken Hunrichs* 619 263-8667 (shared line, call first)

Subject: Project file number 6-11-078.

Please include this letter to the Coastal Commission for project file number 6-11-078.



Coastal Commission File 6-11-078
c/o Melissa Ahrens, Coastal Planner
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

November 23, 2011

NOV 28 2011

Your office seems prepared to spare the City and the Coastal Commission the trouble of waiting for the City to process a coastal development permit application through its own statutes and procedures. Is this special waiver just to avoid the inconvenience in case the permit is rejected by the Commission and all that local effort might be for nothing? This application raises several questions.

- On what basis would a local Coastal Commission office grant a City absolution from its own statutes?
- Is the Children's Pool rope barrier becoming a project of the Coastal Commission and not just the City of San Diego?
- How many other legitimate permit applications have the Coastal Commission processed with such a waiver granted?
- Is this is being done just for the convenience of the parties involved where no emergency exists? (Not an emergency according to two San Diego Superior Court rulings)
- Is your office prepared to grant waivers to any and all permit requests on tidelands the City makes in the future? How could this special arrangement be denied in the future after this project is given such special consideration?
- Is there some kind of timesharing arrangement for jurisdiction on the same tidelands to issue coastal development permits between the Commission and San Diego? How is that arrangement defined and justified?

It's nice to share but maybe not what was intended under the Coastal Act. I believe the requested procedural waiver to be most irregular and improper.

A letter to the City Attorney's office from District Manager Deborah Lee on August 19th, 2011, stated "... any potential application for a year-round rope barrier should be submitted to the Coastal Commission **after** it has received any local discretionary approvals from the City." None the less, San Diego Park and Recreation went ahead and submitted a new and different application with a request for a waiver bypassing approvals under San Diego Coastal Land Use statutes. That request was based on a court decision about a previous permit that had legitimacy only under wrongly assumed City permit jurisdiction, (temporary pupping season rope barrier). The procedure was beneficial to the City concerning the court case but was not imperative on the Coastal Commission for a completely new permit under its jurisdiction.

This does not seem to be a process that will save trouble and expense at all. It just rearranges the order this project will be reviewed. It forces the Coastal Commission to go through what could be a fruitless exercise if the City fails to get its permits approved locally just as it has failed to do for over a year now. Adherence to the Coastal Act would seem to favor having the City do its part first, just like anyone else with a legitimate permit application, as District Manager Lee requested from the City.



Kenneth L. Hunrichs
6530 Springfield Street
San Diego, CA 92114-1524

MA
Melissa Ahrens
Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive Suite 103 San Diego, CA 92108-4402

Nov. 18, 2011

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NOV 23 2011

Subject, to deny applications for a rope barrier at Children's Pool

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

This letter is being written in response to a application from the city of San Diego to Install and maintain year-round, in perpetuity a rope barrier at Children's Pool in La Jolla Ca.

I am submitting a copy of a declaration of scientific and biological opinions from Doyle A. Hanan, Ph.D. that was used by the city of San Diego against plaintiff's motion for a temporary restraining order on May 4 2005

Number 17 in Dr. Hanan's declaration he states that "In my professional opinion, the presence of the advisory rope is not critical to the survival of the harbor seals present at Children's Pool or the harbor seal population as a whole."

Any such rope barrier would inhibit the use of this man made public beach that was primarily created as a bathing pool for children and the absolute right to fish over this trusted tideland

SECTION (b) Children's Pool Tidelands Trust, Chapter 937 of the Statutes of 1931
The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby reserved to the people of the State of California.

I trust that the California Coastal Commission will deny any applications to install a rope barrier that will inhibit the rights of the people of the state of California to conveniently access the ocean on this beach.

David Pierce
9344 Leticia drive
Santee, Ca. 92071
(619) 448-1578



MICHAEL J. AGUIRRE, City Attorney
LESLIE A. FITZGERALD, Deputy (CSB No. 149373)
DEBORAH M. SMITH, Deputy (CSB No. 208960)
Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, California 92101-4100
Telephone: (619) 533-5800
Facsimile: (619) 533-5856

Attorneys for Defendants

CITY OF SAN DIEGO; RICHARD MURPHY, In his official capacity as Mayor of San Diego;
and COUNCILMEMBERS SCOTT PETERS, MICHAEL ZUCCHET, TONI ATKINS, TONY
YOUNG, BRIAN MAIENSCHIN, DONNA FRYE, JIM MADAFFER, AND RALPH
INZUNZA in their official capacity as members of the City Council of San Diego

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

THE HUMANE SOCIETY OF THE UNITED
STATES, JAMES HENRY NATT HUDNALL
JR., REBECCA CARY, FLORENCE
LAMBERT, and ANGELA ANDRE,

Plaintiffs,

v.

CITY OF SAN DIEGO; RICHARD MURPHY,
In his official capacity as Mayor of San Diego;
and COUNCILMEMBERS SCOTT PETERS,
MICHAEL ZUCCHET, TONI ATKINS, TONY
YOUNG, BRIAN MAIENSCHIN, DONNA
FRYE, JIM MADAFFER, and RALPH
INZUNZA, in their official capacity as Members
of the City Council of San Diego,

Defendants.

Case No. GIC 843343

**DECLARATION OF DOYLE A.
HANAN, PH.D. IN OPPOSITION TO
PLAINTIFFS' MOTION FOR A
TEMPORARY RESTRAINING
ORDER**

Date: May 4, 2005
Time: 10:00 a.m.
Dept.: 71
I/C Judge: Hon. Ronald S. Prager
Cmplt. Filed: 2/25/05
Trial: Not Set

I, Doyle A. Hanan, Ph.D., declare that I am competent to testify about the following facts,
of which I have personal knowledge:

1. I have over 35 years of experience as a research biologist, project leader,
supervisor, and educator, specializing in marine mammals and harbor seals. Currently, I am self-
employed as a private consultant and Chief Scientist for Hanan & Associates, Inc. Prior to this
position, I worked for the California Department of Fish and Game from 1974 to 2000. In 1984, I
became the California Department of Fish and Game Associate Marine Biologist in charge of
marine mammals, and in 1993 I became the Senior Marine Biologist, Supervisor. As Senior

1 7. A copy of my curriculum vitae is attached as Exhibit 1.

2 8. I have personally visited Children's Pool both before and after the advisory rope
3 was removed.

4 9. Since the 1920's, the population of harbor seals on the West Coast and Southern
5 California has steadily increased. Harbor seals are currently near their Optimum Sustainable
6 Population level (OSP) in California and are approaching carrying capacity. They are one of the
7 most commonly seen marine mammals along the West Coast of North America. In California,
8 there are at least 1000 hauling sites. My most recent research has shown that the number of
9 harbor seals in California has likely been under-estimated. Harbor seals have been documented
10 to be present at Children's Pool since at least 1979.

11 10. Harbor seals in California are not endangered or threatened under the Endangered
12 Species Act, nor a strategic population under the Marine Mammal Protection Act (MMPA).

13 11. Based upon my personal observation of numerous seal colonies along the West
14 Coast, I have observed that the harbor seals located at Children's Pool are unusually tolerant to
15 human contact. Generally, harbor seals are skittish and have the tendency to react or flush into
16 the water at the slightest movement or sound. In my personal observations of the harbor seals at
17 Children's Pool, I observed that the harbor seals there did not react to human behavior that
18 normally would disturb harbor seals (such as laughing, clapping, stomping, climbing, snorkeling,
19 swimming, and wading).

20 12. At Children's Pool, harbor seal pupping season is approximately from January
21 through April, with some births possibly occurring in December and May. The pupping season
22 likely peaks in February or March. When a pup is born on land, the birthing female usually
23 encourages the pup into the water within an hour of its birth.

24 13. It is normal for there to be some premature harbor seal pup births and pup
25 abandonment. There are many possible reasons for these occurrences. For example, a female
26 may reject a pup if something is biologically wrong with the pup. Based upon my experience
27 tagging seals, during pupping season, it is my professional opinion that interaction with humans
28 is not likely to be a significant cause of seal pup abandonment.

14. As the population of harbor seals increases towards carrying capacity, it would be expected that the harbor seal and pup mortality rate would increase. It would also be expected that the number of pup abandonments would increase.

15. There are many rookery sites (where harbor seal pups are born) other than Children's Pool in Southern California, and all along the West Coast. ~~If the harbor seals were to~~ abandon the Children's Pool site, they would likely move to another site and continue to survive and give birth to pups.

16. In my professional opinion, the continued use of Children's Pool by harbor seals is not critical for the survival of the harbor seals present at Children's Pool or the harbor seal population as a whole.

17. In my professional opinion, the presence of the advisory rope is not critical to the survival of the harbor seals present at Children's Pool or the harbor seal population as a whole.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to my own personal knowledge.

Executed this 18th day of May, 2005, at San Diego, California.

DOYLE A. HANAN, Ph.D.

NMFS. 1997. Investigation of scientific information on the impacts of California sea lions and harbor seals on salmonids and on the coastal ecosystems of Washington, Oregon, and California. U.S. Department of Commerce. NOAA Tech. Memo. NMFS/NWFSC-28, 172 Pages.

Petition to the California Coastal Commission and San Diego City Council: Preserve human access and enjoyment of the Children's Pool in La Jolla, CA



Petition
summary
and
background

Eco-groups and "friends of the seals" have orchestrated a campaign of harassment and intimidation against divers, fishermen and the beach-going public for over a decade now. Actions such as throwing rocks, spitting, stealing, vandalizing, punching, shoving, yelling profanity and even assaults with a stun gun perpetrated by animal-extremists against beach-goers and tourists are commonplace and often ignored by the police and the City of San Diego. Additionally, despite court orders and in violation of state law, the City of San Diego has continuously ignored its obligations to the citizens of the State of California and residents of San Diego. These obligations are set-out in the so-called Children's Pool Trust and the State Constitution. Among these obligations is the guaranteed right of "convenient access" to the Children's Pool beach for fishermen. Despite this constitutional right to access, the City has, in the past, closed this beach and continues to post rope barriers and warnings across the beach. The City has even sought to outright close the beach and pool for part of the year in violation of State law and the Constitution.

Unfortunately, what was once recognized as a true San Diego treasure and originally built primarily for a Children's bathing pool and playground has been neglected and virtually destroyed. Hollywood once shot movies there. Detroit shot a car commercial at the Children's Pool. The first permanent San Diego lifeguard station was constructed there. National Geographic once wrote of the Children's Pool: "Ever since Alice, fresh from Wonderland, would have gasped at the landscape spread below me". However, we have a lifeguard station which has been condemned. We have "port-a potties" on the sidewalk. The sea wall and stairs are literally crumbling. The cliff-side has collapsed onto the beach and undermined the sidewalk. Extremists populate the sidewalk shouting obscenities at anyone with the temerity to step foot on the beach. The City Police Department has a special "policy" not to enforce many City codes and ordinances at the Children's Pool. The sand is polluted with seal feces. This San Diego treasure has nearly been lost.

A proposal to either close the beach and/or further encroach on public access is before the Coastal Commission and San Diego City Council.

Action
petitioned for

We respectfully petition that the rights of the citizens of the State of California be recognized and the Children's Pool beach remain open and be quickly restored to its original condition. Please do not allow this treasure entrusted to us from previous generations to be destroyed and sold to environmental activists. Keep the Children's Pool open! Do not approve any proposal to close or limit access at the Children's Pool beach.

NOTICE TO THE PUBLIC THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

21 Pages of signatures to this
petition were received

LETTERS OF SUPPORT

W10D

6-11-068

RECEIVED

MAY 24 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Bob Filner
1281 9th Ave
San Diego, CA 92101

RE: File 6-11-078
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

May 15, 2012

RE: File 6-11-078, In Favor of the Year-Round Rope at Children's Pool Beach

Dear Commissioners,

I urge you to approve the City of San Diego's permit application for the year-round rope at Children's Pool Beach in La Jolla.

The rope works.

It serves as a guideline to the public by indicating the City's recommended safe viewing distance from the seals.

Thank you for supporting the City of San Diego by approving their permit application.

Sincerely,



Bob Filner

Member of Congress (CA-51)

Rec'd 1121 TOTAL Form Letters



JUN 01 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Dr., Suite 103
San Diego, CA. 92108-4402

May 30, 2012

Re: File 6-11-078, Year-Round Rope at Children's Pool Beach

Dear Commission Members,

I am providing the following comments to you on behalf of the more than 11 million members and constituents of the Humane Society of the United States (The HSUS), including our more than 1.2 million constituents in California, of whom nearly 100,000 reside in the greater San Diego area. We are writing to support the City of San Diego's Coast Development Permit Application that would provide a year-round "guideline rope" at Children's Pool Beach in La Jolla to serve as a visual reminder to the public to maintain a safe distance from seals using the beach to rest.

In 2009, the state legislature passed SB 428 which became effective in 2010. The bill allowed the city to establish a marine mammal park “for the education and enjoyment of children” as a compatible use for the property known as Children’s pool. The bill recognized that the unique presence of seals in this key rookery provides an opportunity to educate children and their families about species not often seen in such close proximity. In 2010, the City Council passed a resolution that allowed establishment of a rope to help separate the public from the seals. The rope barrier helps discourage well-meaning humans from approaching seals too closely. It also helps protect the harbor seals who use the beach as a haul out area and as an important natal rookery. At this time, a rope is up from December 15- May 15, when most pups are born and still dependent. While this is obviously the most crucial time to provide at least some limited protection from harassment for mothers and their pups; we believe that there is value to a year-round rope to help discourage close approaches by the public while seals are resting on the beach throughout the remainder of the year.

The HSUS and its members and constituents support exposing the public to wildlife in their natural habitats in a responsible manner. This beach has been a key pupping area for harbor seals for close to two decades and their year-round use of this area as is widely appreciated by the public which flocks there year after year to view seals resting along the shore. The seals and their young on Casa Beach provide a unique opportunity for the public to learn about these fascinating animals and to develop a respect for wildlife. A rope that defines the higher use areas for seals allows proximity but also provides a visual and physical reminder that wild animals should not be approached too closely, both for the protection of the animals and that of the public.

Comments of The HSUS Re File 6-11-078, Year-Round Rope at Children's Pool Beach

While it may be that a small and vocal minority wish to have unfettered access to the beach, there are many nearby areas that can serve the same recreational purposes; the same cannot be said for the seals. This rookery serves a key biological need, allowing them to rest and warm after time spent foraging in the nearby waters of San Diego. The Children's Pool Beach is the furthest south of any harbor seal natal rookery, with no other mainland coastal areas serving as harbor seal rookeries south of Carpinteria. It is vital to protect this area for the seals.

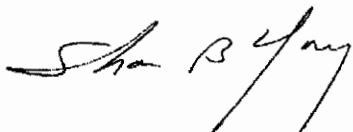
A 2005 study at Children's Pool Beach by Yochem documented the use of the area at all hours of the day and at all tides except when the entire beach was awash (Yochem, 2005). During monitoring from September through December (outside of the pupping season), 100 or more harbor seals could be observed hauled out on the Beach at one time. People on the beach who approached the seals during the study caused responses ranging from alerting postures to a "flush" that resulted in multiple animals rushing into the water (*ibid.*).

A recent study in Denmark found that seals were often disturbed by pedestrian traffic and recommended that reserve boundaries should prevent approaches of closer than 425 meters from the haul out area. While disturbance caused flight in any season, harbor seals were most likely to flee from disturbance when they did *not* have pups with them who could not as easily flee the disturbance as the adults (Andersen, *et al.*, 2011). This may make it appear that they are not disturbed even though the authors found that they are in fact adversely impacted even if they do not flee. This study reinforces the need for protection of crucial resting times in La Jolla in the seasons when pups are not present; the very times that the rope is not currently in place.

I have visited Children's Pool/Casa Beach and have seen firsthand that, without a rope, the public routinely approaches seals closely. Their approach and/or noise sometimes caused a frantic rush into the water by individuals or, at times, all the seals resting on the beach. The Marine Mammal Protection Act expressly prohibits harassment which is defined as an action that "has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering..." [16 U.S.C. 1362 §3 (18)(A)(2)]. There is no question in my mind, or that of most observers, that disturbing their rest is harassment. In fact, the National Marine Fisheries Service has twice issued "tickets" to beach goers for harassing seals by intentionally playing sports in their vicinity and causing the animals to flee.

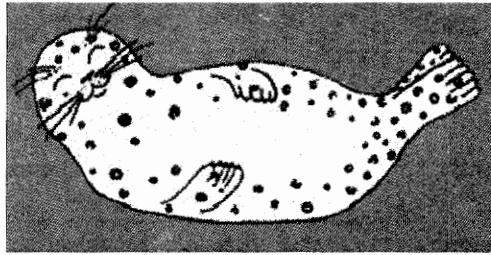
The year-round use of a rope may help identify seal resting areas and suggest more appropriate public use areas, thus minimizing the likelihood of harassment of animals. We strongly encourage you to give favorable consideration to the City's request for a year-round guideline rope at the Children's Pool Beach.

Sincerely,



Sharon B. Young
Marine Issues Field Director
The Humane Society of the U.S.
syoung@humanesociety.org

Save Our Seals



P.O. Box 2016
La Jolla, CA 92038

Marissa McEver
2847 Polo Club Rd
Nashville, TN 37221

May 22, 2012

Dear Marissa,

Thank you for supporting the seals at Children's Pool Beach (aka Casa Beach) in La Jolla, California.

I am personally writing to ask you to help the seals again. The City of San Diego's 50 foot guideline rope during pupping season, erected December 15 to May 15 every year, encourages people to maintain this distance from the seals. I am writing to you on May 22, 2012, one week after the rope was taken down. Without the rope guideline, uninformed visitors to the Children's Pool Beach approach within 3 feet or less of the seals.

The City of San Diego currently has a permit application before the California Coastal Commission to keep the same guideline rope up year-round. Your support of the City of San Diego's permit application is essential to the year-round well-being of the harbor seal rookery at Children's Pool Beach in La Jolla.

Please sign the enclosed letter to the California Coastal Commission today in support of the year-round rope. We have provided a pre-addressed, stamped envelope. Please, sign the enclosed letter and use the pre-addressed, stamped envelope to mail it to the California Coastal Commission today. These letters must be received by the California Coastal Commission by June 4, 2012. The Coastal Commission only accepts comments sent via U.S. Mail - emails won't help.

Time is of the essence! Please mail your letter to the California Coastal Commission in support of the year-round rope at Children's Pool Beach today! Remember, all letters must be received by June 4, so, for the sake of the seals, don't delay!

Sincerely,

Jane Reldan, M.D.

SUSAN A. DAVIS
53RD DISTRICT, CALIFORNIA

WASHINGTON OFFICE:
1526 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2040

SAN DIEGO OFFICE:
2700 ADAMS AVENUE, SUITE 102
SAN DIEGO, CA 92116
(619) 280-5353

Congress of the United States
House of Representatives
Washington, DC 20515-0553

May 29, 2012

California Coastal Commission
7575 Metropolitan Drive
San Diego, Ca 92108-4402

Dear Commissioners,

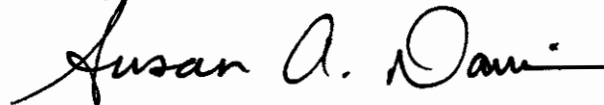
I am writing in support of the City of San Diego's Coast Development Permit Application #701673 for the year-round rope at Children's Pool Beach in La Jolla.

The issue regarding the Children's Pool and seals in La Jolla has been of great concern to San Diego and its residents for over a decade. I feel that a guideline rope would provide a good visual cue to visitors and tourists unfamiliar with seal behavior by encouraging them to keep a safe distance away from the seals and their pups. In addition, the guideline rope will help protect the seals from being "flushed" off the beach into the water.

As a member of Congress and a resident of San Diego, I have seen how heated this issue has become. Because of the ongoing controversy on this matter and because the issues raised are of such public importance and interest to San Diego, I hope that the Coastal Commission will take the opportunity to give this application full and fair consideration consistent with all applicable laws.

Thank you for giving me the opportunity to share my thoughts on this important issue. If you have any questions or concerns about this request, please contact Ricardo Flores of my staff at (619) 280-5353.

Sincerely,



SUSAN A. DAVIS
Member of Congress

COMMITTEES:

ARMED SERVICES

SUBCOMMITTEES:

MILITARY PERSONNEL, RANKING MEMBER

SEAPOWERS AND PROJECTION FORCES

EMERGING THREATS AND CAPABILITIES

EDUCATION AND THE WORKFORCE

SUBCOMMITTEES:

EARLY CHILDHOOD, ELEMENTARY AND

SECONDARY EDUCATION

HIGHER EDUCATION
AND WORKFORCE TRAINING

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MAY 30 2012

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SAN DIEGO COAST DISTRICT

WILDCOAST
COSTASALVAJE

www.wildcoast.net

www.costasalvaje.com

California Coastal Commission
7575 Metropolitan Drive
San Diego, CA 92108-4402

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MAY 29 2012

May 23, 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: In Favor of a Year-round Rope Established at Children's Pool Beach: File 6-11-078

Dear Commissioners:

WILDCOAST has a vested interest in protecting wildlife and coastal habitat in San Diego County. Harbor seals that call San Diego County their home should the greatest protections possible, especially in the newly designated Matlahuayl State Marine Reserve, and as such, we urge you to vote yes on the City of San Diego's permit application # 701673 for the establishment of a year-round rope at Children's Pool Beach in La Jolla.

This rope works as a tool for the public (residents and tourists alike) by indicating a recommended safe viewing distance from the harbor seals. Enforcing the MMPA is difficult with limited staffing. The National Marine Fisheries Service recommends a 100-foot separation of people from marine mammals; the rope assists in delineating the separation for the estimated 149,000 visitors/month. Further, the rope has been effective in unnecessary flushing of the seals by beach visitors. A bounty of beaches exist in San Diego County for humans to recreate and swim; this beach should be dedicated as a safe habitat for harbor seals.

Thank you for taking public comments. Please contact me for any questions you may have.

Sincerely,



Andrew J. Schneller, Ph.D.
Coastal and Marine Conservation Program Manager
WILDCOAST
925 Seacoast Dr.
Imperial Beach, CA 91932

U S A 925 Seacoast Drive, Imperial Beach, CA, 91932 USA • Tel: 619.423.8665 Fax: 619.423.8488

M E X I C O Las Dunas #160 Desp. 101 Ensenada, Baja California, Mexico C.P. 22880 • Tel: 52.646.1829053 Fax: 52.646.1521731

♻️ Printed on recycled paper with vegetable based inks.

Anti-public access and the La Jolla seals *An editorial from the former Commissioners
one of many letters received and while they were active Commissioners*
Given even the smallest opportunity, nature has an incredible ability to recover and reclaim what man
has destroyed. In the case of Casa Beach in La Jolla, what was once just another beach is now home to
a thriving colony of harbor seals. As the location of the only mainland harbor seal rookery south of Santa
Barbara, this is much more than a "haul-out" site for the seals — it is the site where a population of seals
breed, give birth and raise their pups.

Some argue that this beach should be returned to the "children" of San Diego and that the seals should
go elsewhere. We ask: Where would that be? The seals have chosen this beach for their home for a
reason. We have no way of knowing what that reason is, but we must insure they have a home
somewhere.

Does this mean we don't care about the children? Of course we do, but what could be more educational
than a trip to visit the rookery, the only one available to the children of San Diego. But this is precisely
the problem. This is not about the seals vs. the "children." This is about wealthy homeowners who live
near the beach and who want to prevent the public from coming to see the seals. They don't like the
traffic and frankly, they apparently don't care about children either.

Tourists flock to this beach. We were both struck by that when we visited this lovely cove. It is obvious
— get rid of the seals, get rid of the people, and the children as well! This is a fight about public access,
and members of the public should be outraged that they will lose their ability to see this slice of nature's
wonders. Coastal access is a cornerstone of the Coastal Act and essential to coastal protection.

As members of the California Coastal Commission, we strongly encourage the city to establish clear
guidelines for the preservation of the seal rookery at Casa Beach in La Jolla and for public access to the
area — doing so will demonstrate strong economic and environmental judgment, and at no cost.



RECEIVED

JAN 25 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

SARA WAN PATRICK KRUER
Malibu La Jolla

MS
Marilies Schoepflin, Ph.D.
6902 Paseo Laredo • La Jolla, California 92037

RECEIVED
MAY 14 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
Sand Diego District
7575, Metropolitan Drive, Suite 103
San Diego, Ca 92108-4402

05/09/2012

File # 6-11-078

In favor of the year round rope.

Dear Commissioners,

Originally from Europe, I am a La Jolla resident for over 35 years.

I'm writing you in support of the year round rope on casa beach.

For years I have enjoyed to watch the seals in the 'wild'- but so close - here in la Jolla.

Every year I have numerous visitors from all over Europe and the world. Most of them know about the seals before they come. To visit them is usually the first thing they want to do. There is no other place in S-California to experience this. Especially the children are fascinated by it. It is such a wonderful and educational thing for them.

Besides all of that casa beach is not safe for children to swim. It drops off very fast and there is a strong rip current.

over/.

1/14
November 28, 2011

RECEIVED
DEC 01 2011

File 6-11-078

c/o Melisa Ahrens, Coastal Commission
7575 Metropolitan Drive, Ste 103
San Diego, CA 92108-4402

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To the Coastal Commission:

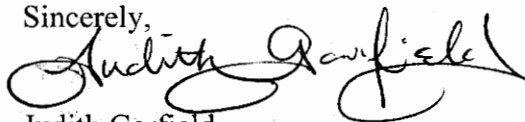
Please support the City of San Diego in its desire to extend the permit for a 5-month yearly rope to a year-round forever rope. Federal laws (already in place regarding marine mammals) are being stomped on daily. I speak from experience, having authored two marine life natural history books about the San Diego-La Jolla Underwater Park Ecological Reserve, writing an ongoing column, "Tide Lines," in the La Jolla Village News, and having more than 30 years experience scuba diving, swimming, and snorkeling along La Jolla's coastline. My views are based on observing and interacting with locals and visitors. For a long time now, I can no longer bear to walk by the Children's Pool because it upsets me to see the seals flushed into the water or cowering on a small corner of sand while those brandishing cameras step closer and closer.

I've attached a sample list describing transgressions at the Children's Pool. This is an iota of what I've seen. I emailed Sherri Lightner's office last year with this sampling but received no response. Shortly thereafter, I sent an email to her office about a separate issue and received a prompt response and promise to look into the matter. Why wasn't I afforded equal courtesy regarding the former email? Why aren't the federal laws put in place to protect them being enforced?

The only sane way to alter the seals present behavior is to remove the seawall. Otherwise, the corralling of and otherwise inhumane (and illegal!) treatment of the seals must be stopped. Most people are too far removed from nature to have a clue how to interact safely and peaceably with wildlife. And implementing year-round protection may offer benefits beyond protecting the seals. A number of scientist friends at Scripps have told me they want nothing to do with the situation, it being an emotional—not scientific—issue, though they are saddened by the treatment of the seals.

Protecting the seals year round would serve a great many more people—not only children—by providing a connection to wildlife rarely found in an urban area but at a safe distance. And if the future holds interpretive displays and volunteer docents, viewers would not only learn about seals but about ocean stewardship, which may transfer to how they behave toward wildlife in future situations. Furthermore, marine mammal researchers may be encouraged to study the seal colony, not only to learn about its movements but as a link to us. Because seals straddle land and sea, they are like canaries in a coal mine of sorts, reflections of the overall health of the coastal environment. In other words, take the long view about the Children's Pool. Please help the City of San Diego to protect the colony of shy, quiet harbor seals, now and into the future.

Sincerely,



Judith Garfield
jgarfield@ucsd.edu

Children's Pool seal harassment data

June, 2010, La Jolla Light

In June, Mayor Jerry Sanders denied a request from the San Diego City Council seeking a declaration that an emergency exists so the rope barrier can be immediately put up at the beach, and kept up year-round. A lawsuit was filed to reverse this action. After the hearing, city attorney Jan Goldsmith issued a statement: "Judge Jeffrey Barton found, based on the evidence presented, the mayor did not abuse his discretion in refusing to declare an emergency for an emergency permit to put up the rope barrier at the Children's Pool. We will continue to aggressively defend the City from such frivolous lawsuits," he added. (<http://www.lajollalight.com/news/271442-judge-rejects-request-to-erect-rope-barrier-at-childrens-pool>)

July 3, 2010 email to Judith Garfield

FR: Howard Tennenbaum howietenebaum@gmail.com

Judith,

I was walking Beju tonight and saw there were people on the beach using flash and getting REALLY close to the seals... I think I was able to shoe them off, but it got me to wondering..... is there a number to report violations of the Marine Mammals Act? are there set fines? Tried calling you, but not until 945pm....

hope all is well for you!

ht

August 12, 2010, La Jolla Village News: "Guest Commentary"

Children's Pool ranger faces host of limitations

My wife and I frequently visit the Children's Pool beach in La Jolla to observe the harbor seals and talk to others about them. In our opinion, this has been the worst summer for seal harassment since we moved to La Jolla eight years ago. Lots of visitors enthusiastically view and snap photos of seals at the Children's Pool. However, dangers lurk of which many seem unaware.

The [newly-implemented] ranger system is not working for the following reasons:

The ranger cannot be at Casa Beach all the time or be everywhere simultaneously. So far, it appears the ranger has been present just a few hours a week.

A rope barrier is essential to show the public what a "safe distance" from the seals is. A rope will make the ranger's job much easier. A rope also has the advantage of being present 24/7.

Adequate signage is also needed on Casa Beach to inform the public of the potential dangers.

We illustrate our points from recent personal observations.

For instance, on Wednesday, July 21 at about 2:30 p.m., we saw about a dozen people just a few feet from two large seals resting on the rocky ledge below the seawall. One approached a seal to take a picture and lost her balance on the rock. This prompted the seal to quickly snap and growl at her. Fortunately, [the woman] backed away in time. Most people ran off the rock.

The rocky ledge is also slippery. We saw clear evidence of this on Friday, July 30. Two young men slipped on the rock and injured themselves. One injured his toe and knee and was sure he had sprained his ankle. He needed help getting off the beach. The other slipped and nearly fell in the

water. He also injured his knee and needed help getting off the rock.

Parents also need to be aware of the potential risks to their children when playing in sand packed with seal feces. We frequently see children throw sand at one another. The city's signs do not mention the danger of seal feces in the sand.

On Sunday, Aug. 1, we visited the Pool twice. At 1:45 p.m., we saw several dozen people on the beach, but the ranger was not present. We returned at 4:30 p.m. and saw the ranger, along with about 75 people on the beach. The ranger appeared to be having a difficult time keeping the people a safe distance from a seal on the beach. In fact, some people were just a few feet from it. A girl about 2 years old ran in back of the seal, inches away, without the ranger seeing her.

An accident is waiting to happen. The city needs to install sufficient prominent signs on the beach clearly disclosing the dangers. A rope barrier is also essential to indicate what a "safe distance" is. By himself, the ranger cannot possibly do an adequate job at all hours of the day and night.

— Albert J. Fredman is a resident of La Jolla

August 19, 2010, La Jolla Light: "Letters to the Editor"

Not coming back to LJ

I have visited La Jolla many times in the past 20 years. (On August 15) I returned with my kids and my brother who visited from Europe, promising them to see hundreds of seals in the "Children's Pool" and my kids eyes were glowing with excitement and anticipation. But when we arrived, all we saw as a beach filled with people and a few scared seals in the water that didn't dare to gather on "their" beach anymore. When we got closer, we saw activists with petitions and signs that read:

"This is your beach, use it, don't let those animal lovers bully you away. Make use of your right to use the beach."

Needless to say, we will not return to La Jolla to see seals anymore. I don't know of another beach in this area that the seals can use. While I will take my kids now to Laguna Beach to swim, I wonder where the seals will go to breed. We hope that San Diego wakes up before my favorite attraction has disappeared.

Toby Gad, Studio City

Aug. 20, 2010 personal communication from Judith Garfield

When I got out of the water this morning by Vallecitos St., I saw a familiar face in a Park & Rec maintenance worker who used to work at La Jolla Shores. I chatted him up for a minute, and he told me he's been working at the Children's Pool. I asked him how things were going with the seals. He said it's really bad. There is a woman who shows up some mornings (about 6:30 am) with her dog (off leash). The seals flush into the water. Spectators are calling her to leash her dog but she shrugged her shoulders in an "I'll do as I please" motion. He said the seals don't return except to perch on rocks protruding from the water. He also said that the anti-seal people camp out on the sand for the day to make sure the seals won't return. He told me that the warden who is supposed to monitor the situation is only there for a few days a week...and then for limited hours.

From: Mike Davis [mailto:mikedavis2@gmail.com]
Sent: Monday, April 30, 2012 6:41 PM
To: McEachern, Lee@Coastal
Cc: La Jolla Friends of Seals
Subject: Please approve the Children's (Casa) Beach closure during pupping season!

Mr. McEachern and Members of the California Coastal Commission,

I urge you in the strongest possible terms to approve the beach closure during pupping season of Children's (Casa) Beach in La Jolla. This is the bare minimum that should be done to protect the harbor seal colony there.

To my mind, the shared use policy of the City of San Diego at that beach has been an unmitigated disaster. It is wholly unworkable. It is a policy that completely ignores the clear and unambiguous Federal law protecting the seals, the MMPA. And surely it is a well established principal that Federal law trumps any law at any lower level of government. The shared use policy is even a violation of the City's own law protecting wildlife from harassment.

Ultimately, Children's Beach will be and must be made into a marine mammal sanctuary, closed to the public 24/7, every day of every year.

Kindest regards,
Mike Davis

--

Mike Davis
Escondido, CA 92025
cell: 858 945-2046

RECEIVED
MAY 01 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

KB
California Coastal Commission

Attn: Kanani Brown

7575 Metropolitan Drive, Ste. 103

San Diego, CA 92108-4402

Re: In Favor of Year Round Rope at Children's Pool Beach, File 6-11-078

Dear Ms. Brown:

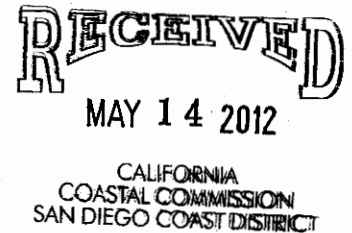
I was a docent at the Children's Pool Beach for several months during the past two years. During that period I personally witnessed harm and threatened harm to the seals that have made that beach their permanent home and rookery.

Some of the harm and harassment was deliberate and ongoing by individuals and groups determined to remove the resident seals from Children's Pool Beach/Casa Beach permanently. Some of the harm and inadvertent harassment was due to visitors who, lacking a barrier, would not only come close to the seals, but actually touch or attempt to place their young children directly on the seals.

Insofar as marine mammals are protected under the Marine Mammal Protection Law, I urge your Commission to do everything in your power to ensure that protection is meaningful and enforced.

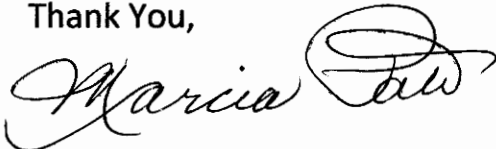
Therefore I am asking that your Commission vote to keep the rope that is now up just for pupping season, for the entire year to ensure the safety of the seals and the continued education and enjoyment of the public in a policy decision that will be a win-win for the seals and the public, especially for those visitors who come not only from the San Diego area, but from across the U.S. and overseas.

There are over 70 beaches listed in the San Diego Parks and Recreation online site. Residents of San Diego County and visitors to our area can swim safely and freely at most of them, several of which are adjacent to or in proximity to the Children's Pool/Casa Beach. However, there is only one beach and rookery that



the seals have chosen as their home south of San Juan Capistrano – and that is Children's Pool/Casa Beach. In your capacity as stewards and protectors of our coastline and the sealife that call it home, I hope you will decide for our treasured seals.

Thank You,

A handwritten signature in cursive script, reading "Marcia Patt". The signature is fluid and elegant, with the first name "Marcia" written in a larger, more prominent script than the last name "Patt".

Marcia Patt, M.S.W.

3511 Park Blvd., #3

San Diego, CA 92103

619-501-1031

Lisa McDermott
3858 43rd St.
San Diego, CA. 92105
May 11, 2012

RECEIVED
MAY 15 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
7575 Metropolitan Dr. Ste 103
San Diego, CA. 92108

To Whom It May Concern:

My name is Lisa McDermott. I am sending you this letter today to voice my total support for the year round rope line that the city of San Diego has applied for to protect the harbor seals at Casa Beach. What a beautiful site to see these animals raising their young and being wild the nature intended. How incredibly special it is to have this right in our own back yard. It is truly refreshing to be able to witness wild animals who pose no threat without having to view them in an aquarium or zoo. Casa beach is an excellent place to bring children to observe wildlife in its natural environment. I remember when I planned my vacation years ago to come to San Diego, visiting the seals was on the top of my list. I came with a friend and two children and it was an incredible experience to see the joy on a 7 and 9 years old face when they watched the seals. They still talk about that experience today.

That is why I am sending you this letter. I am now a resident of San Diego. I have been to Casa Beach to see the harbor seals many times and each time it still makes me smile. I feel like it is my duty to send you this letter of my support for them and the year round rope line. I know there is opposition to this and quite frankly I just do not get it. The harbor seals are protected by the Marine Mammal Protection Act and no one is enforcing it. I cannot wrap my mind around people opposing such special animals in their natural habitat. They belong there. The beach belongs to them more than it does us. Viewing the seals is more important than people using the beach. It's a place of beauty because they are there. It supports multiplicity and ethnicity. It's outdoors, it's recreational and it's free! I see many foreigners out there visiting the seals so it actually brings people from all over the world. It is truly something to be proud of.

At a time in our world where so many species natural habitats are being destroyed at the hands of humans, it is pivotal that we all start doing what we can to keep places like this and animals like this protected. If we can't protect them and their environment, how can we expect to protect anything on this earth?

"The greatness of a nation and its moral progress can be judged by the way in which its animals are treated." (Mahatma Gandhi)

Sincerely,

Lisa McDermott

Nancy Sunday
8247 Phyllis Place
San Diego, CA 92123

RECEIVED
MAY 18 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: File 6-11-078
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

May 11, 2012

RE: File 6-11-078, In Favor of the Year-Round Rope at Children's Pool Beach

Dear Commissioners,

I urge you to approve the City of San Diego's permit application for the year-round rope at Children's Pool Beach in La Jolla.

The rope works.

It serves as a guideline to the public by indicating the City's recommended safe viewing distance from the seals.

Thank you for supporting the City of San Diego by approving their permit application.

Sincerely,


Nancy Sunday

I am a retired teacher who recently took a group of children on a field trip to see the seals. They were amazed and delighted to be able to see them in the wild. They were shocked to hear that some people didn't want them there. One said, "We can swim at the other beaches - let them have this one." Listen to the children.

5/17/2012

Kanani Brown,

This letter is regarding my request in **Favor of the Year Round Rope Barrier at the Children's Pool** in La Jolla, CA (**File 6-11-078**). The rope is a useful guideline showing the safe distance from the seals and it does not prohibit the public from using the beach. Although I personally think the beach should be completely closed off to the public and allow the seals a safe place to rest and deliver their pups.

Sincerely,
Shannon Davis

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MAY 24 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: File 6-11-078

Calif. Coastal Commission

7575 Metropolitan Dr. Suite 103

San Diego, CA 92108-4402

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MAY 24 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 21, 2012

RE: File 6-11-078, In favor of Year-Round Rope
at Children's Pool Beach

Dear Commissioners,

I strongly urge you to approve the City of San Diego's permit application for the year round rope at Children's Pool Beach in La Jolla. I go down to the beach with my children whenever I can. I see firsthand how the rope protects the seals from gawkers and it keeps people at a safe distance from the seals. It is a simple yet perfect means of keeping both the people and the seals safe.

Thank you,

Liza Clifton

2026 Catalina Blvd.

San Diego, CA 92107

Re: File 6-11-078
California Coastal Commission
7575 Metropolitan Dr. Suite 103
San Diego, CA 92108-4402

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MAY 24 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 21, 2012

RE: File 6-11-078, In favor of Year-Round Rope at
Children's Pool Beach

Dear Comissioners,

My name is Kyle. I am six years old.
I think we should let the seals stay there.
I have been to see them three or four times.
The rope works. Let's keep it.

Signed,

Kyle (6 yrs.)

2026 Catalina Blvd.
San Diego, CA 92107



SIERRA
CLUB
FOUNDED 1892

San Diego Chapter

Serving the Environment in San Diego and Imperial Counties

RECEIVED

MAY 25 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
7575 Metropolitan Drive
San Diego, CA 92108-4402

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Commissioners:

The San Diego Chapter of the Sierra Club urges you to vote yes on the City of San Diego's permit application # 701673 for the year round rope at Children's Pool Beach in La Jolla. .

The rope will help enforce the Marine Mammal Protection Act, which clearly defines levels of harassment, including that it is against the law to disturb marine mammals. The National Marine Fisheries Service recommends a 100-foot separation of people from marine mammals. Too often, without this visual cue, visitors to the Children's Pool step too close to the animals and have repeatedly frightened the animals back into the water, shortening their needed rest periods.

The City of San Diego has repeatedly found no evidence that the rope denies people access to the beach. People may go around the rope and enter the water at will. The rope, however, separates those visitors who have come to enjoy the animals from those who desire to use the beach or for access to the water. Without the rope, there are inadequate indicators to provide some level of awareness that the animals have a rightful place on the beach and a need for a spatial separation from humans.

Thank you for your serious consideration to approve the permit application.

Sincerely,

Mollie Bigger
Chair, Conservation Committee
Sierra Club, San Diego Chapter

8304 Clairemont Mesa Blvd., Ste. 101, San Diego, CA 92111
858-569-6005

<http://sandiego.sierraclub.org>



May 23, 2012

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

RECEIVED

MAY 25 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

I'm writing in support of maintaining a rope line at Casa Beach on a year-round basis. It is good that there is a rope line during pupping season to protect both pregnant seals and the moms and pups. However, many visitors come during the summer and use the beach. There are so many other beaches along the coast in the San Diego area, but Casa Beach is the one where a large number of seals haul out. Although seals spend a great deal of time in the water when the sand is hot, they generally come ashore to rest later in the afternoon.

Many visitors to the beach are not aware of seal behavior or their need to rest. A year-round rope line would be an excellent visual reminder that they should stay a safe distance from the seals. Often in the summer and other times of the year, I've seen people walk up and actually touch the seals or throw sand and other objects at them. Seals are wild animals and for the safety of the public (seals can bite) and to protect the seals, people's behavior must change. The year-round rope line would also be in keeping with the letter of the law. The Marine Mammal Protection Act states that it's against the law to harass and disturb marine mammals.

Then there are others who live locally who for years have maintained that people have priority in using the beach even though the seals have made this small beach their home. There have been too many instances of these people deliberately flushing the seals and disregarding their physiological needs. This is a total disregard of the MMPA and a terrible way to treat wild animals. Almost all of the public enjoy seeing these marine mammals in a natural setting and are so disappointed when they arrive to find the seals have been flushed into the water when they are trying to rest. In a time when so many children suffer from a nature deficit disorder, there is so much these children (and adults as well) can learn about seal behavior and nature in general.

With your help, San Diego can remain one of the nation's finest cities and provide a richer outdoor educational experience at this beach for the thousands of visitors and locals. Thank you so much for taking my letter into serious consideration.

Sincerely,

C. Benner

Cindy Benner
Former President La Jolla Friends of the Seals

3737 Kingsley St.
San Diego CA 92106



La Jolla Friends of the Seals

RECEIVED

MAY 25 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 23, 2012

California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, California 92108

RE: In favor of a year round rope at Children's Pool application. File No. 6-11-078

Dear Commissioners;

The La Jolla Friends of the Seals is in favor of passage of the Children's Pool Beach year-round rope proposal to be decided in July 2012 by the Commission. Enumerated below are many aspects to consider in favor for the year-round rope proposal:

1.) Various governmental agencies have communicated to the city that they are in favor of the rope at this location. Some of these reports have dealt with the rope during pupping season. Other reports mention a year round rope as providing needed protections for the seal colony.

Re: Donald Masters, Office of Law Enforcement, NMFS, March 21, 2006, "The rope barrier will provide a clear message to those that have a sincere desire to respect the marine mammals on the beach{It} will also aid in informing humans when they are more likely to be in violation of the MMPA and potentially cited."

Re: The city's own Development Services laid out significant findings relating to the application for the coastal development permits and Site Development Permits for the La Jolla Children's Rope Barrier, dated January 24, 2007. They answered questions relating to the Local Coastal Program and found negative impacts on physical access, view sheds, environmentally sensitive lands, public recreation policies of the California Coastal Act., and that it would not be a detriment to the public health and safety. In the final paragraph, the staff state that the Coastal Development and Site Development permits are hereby granted.

Re: Rodney McInnis, Regional Administrator, NMFS, May 14, 2010, "...NMFS supports establishing the guideline rope year round, as it would allow at least some measure of public awareness and protection to the harbor seals hauled out on the sand.

Re: San Diego City Resolution Number R-305837, Final Passage dated June 03, 2010, wherein it is stated ..."Be it resolved by the Council of the City of San Diego, that a coastal emergency exists requiring the immediate year round placement of the rope barrier...." Signed by Mayor Jerry Sanders.

2.) Several sections of the California Coastal Act support the viability of a decision in favor of the rope. They include:

(a.) Sections 30233 and 30240 contain the heart of the Coastal Act as it pertains to the protection of habitat and species. The language-protecting habitat is the strongest of any environmental law in the nation. It states that environmentally sensitive habitat area shall be protected against any significant disruption of habitat values, and only uses dependant on those resources shall be allowed within those areas." The rope fits these criteria. It is a clear, visual cue to visitors at the beach that the seals have selected this beach as a vital, life-sustaining haul out site. They need to exit the water for molting, nurturing their young, regulating their body temperature, resting and socializing.

(b.) Section 30250 (c) states that "visitor-serving facilities...shall be located in existing developed areas or at selected points of attraction for visitors." The seals attract over 100,000 visitors every month, and the beach is flanked by a lifeguard station. The rope is a safety aid informing visitors that wild animals are present and offers a buffer for public safety. Absent the rope, both the animals and uninformed visitors may inadvertently suffer injury from edging too close for the animals comfort.

The project received an Environmental Exemption from CEQA issued on January 8, 2007, Coastal Development/Site Development Permit Application, for Project 119757, to erect a temporary rope barrier during the seal pupping season. The exemption was based on following considerations: Categorical Exemption, Section 4 - paragraph 15304- Minor Alterations to Land, and Statutory Exemption, Section 15333-Small Habitat Restoration Project. If the exemptions are valid for pupping season, they must also be valid during the non-pupping season.

3.) According to SealWatch, which has an almost daily presence at the CPB, although the number of seals varies per tides/weather conditions and time of year, the seal count this year has been over-all down, compared to previous years. Instead of 150-250 seals on the beach during the day, there may be counts ranging from none up to 120. Contributing to this decline has been an escalation of disturbance from an anti-seal group placing an "Open (beach)" sign, umbrellas and beach chairs close to the water line on week-ends and holidays. Tactics such as encouraging visitors to ignore the rope and approach the animals up-close has contributed to the disruption of the seals presence round the clock.

4.) The City of San Diego's beaches website <http://www.a-zsandiegobeaches.com/lajollachildrenspool.htm> encourages people to use the beach to enjoy viewing the wildlife while remaining safe:

"Although swimming is now discouraged at the beach, the Children's Pool is still a beautiful spot to enjoy viewing wild marine mammals up close and personal. Diving and snorkeling are legally allowed but not encouraged since the seals and sea lions are protected from harassment by federal law."

In the same vein, a commercial publicity site, San Diego ASAP (<http://www.sandiegoasap.com/la-jolla-childrens-beach.html>), recommends that,

"Observing the seals from the top of Children's Beach or walking on the seawall is the safest way to see the seals. It is an amazing experience, particularly for the children."

Since safety is of paramount importance, it is difficult to understand why the state and city would not want to employ every possible way to insure this. The year-round rope is the one measure, short of closing the beach from the foot of the stairs, to achieve that goal.

5.) Some members of the San Diego Planning Commission, during their December 9, 2010 session, were of the mistaken opinion that the Children's Pool Ranger along with a city-sanctioned volunteer docent program was providing all the protections needed for people and seals at the Children's Pool. On the basis of this erroneous conception, the recommendation for the year-round rope by the city council and supported by the advisory staff, was disapproved. As a result, because of the city's inability to come to internal agreements, the issue was bumped up to a state agency, the California Coastal Commission.

The Ranger began his duties on July 12, 2010. The job description was provided by SD Park and Recreation and the District 1 City Council representative, Ms Sherri Lightner. Ms Lightner is a known opponent of the harbor seal colony. The Ranger's duties are described as:

Full-time Park Ranger whose primary responsibility is to patrol Children's Pool and to create and lead a volunteer docent program.

- Ensure visitors to the Children's Pool have a safe and enjoyable time
- Ensure visitors are provided information about seals, including behavior, etc/Ensure visitors are respectful of the seals
- Ensure visitors are educated about the City's policies and follow such policies /are informed of and follow all laws governing their conduct at the Pool
- Provide a visible presence to deter any unlawful acts at the Pool
- Create an interpretive program (e.g. signs, brochures) about the wildlife in LJ and Children's Pool

To this date (May, 2012), the rangers (there have been three) have consistently allowed the public to approach the seals at will.. In fact, the actual hours of the ranger's presence on the beach have included long lapses of absence. The volunteer docent program is yet to be advertised, nor has one docent has been recruited. An explanation given by one of the rangers is that the city does not want to put docents at the beach as long as the controversy exists.

6.) The people of San Diego, including many from La Jolla, have re-iterated in many surveys, polls and opinion letters that they are in favor of more protections for the seal colony at Casa Beach. In 2007, a La Jolla elementary school student polled fellow students in La Jolla's lower grades. She received overwhelming support for the Children's Pool to be used as a place to view seals as opposed to the beach being used as a swimming pool. A Zogby poll, that same year, revealed that nearly 80 percent of the 602 respondents supported a year round rope.

Surveys that are more recent continue to show strong public support for greater seal protections, even to the possibility of creating a marine park.

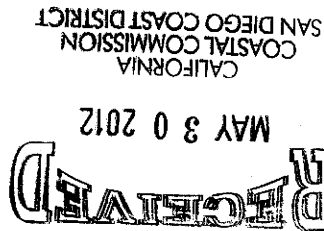
7.) The seal colony has been the center of a multitude of educational projects from elementary schools field trips to university studies. Topics have varied from studies on the habitat itself, marine life, disturbances during pupping season, identification of markings to distinguish individuals, the species feeding habits, opportunities for ecotourism, and as art and writing projects. The loss or endangerment of this colony without at least the protection a visible rope gives during the off-pupping season would be a major loss for the thousands of residents of San Diego and the many visitors from around the world.

For these any many other reasons, approval of the year-round rope is the most responsible decision for the California Coastal Commission to take. If indeed, you are responsible to oversee the coastal resources and to make use of them in the most responsible manner for all the public interests, there is no possible action other than to approve this permit application.

Thank you.



Ellen Shively
La Jolla Friends of the Seals
PO box 2016
La Jolla, California 92037



Chair Shallenberger
California Coastal Commission
7575 Metropolitan Drive
San Diego, Ca 92108-4402

RE: LCVSD Support For Year-Round Rope at Children's Pool Beach, File 6-11-078

May 29, 2012

Dear Commissioners:

Please accept this letter on behalf of League of Conservation Voters, San Diego Chapter (LCVSD). LCVSD is a chapter of the California League of Conservation Voters (CLCV), which seeks to protect the environmental quality of the state by working to elect environmentally responsible candidates and hold them accountable to the conservation agenda. By being an "on the ground" voice in the San Diego community, LCVSD provides an opportunity for environmental activists to directly impact the local electoral process while promoting environmental candidates.

LCVSD strongly urges a yes vote on the City of San Diego's permit application No. 701673 for the year round rope at Children's Pool Beach in La Jolla. The rope is an essential means of protection for the seals, and has proven to be effective. It serves as a guideline to the public by indicating the recommended safe viewing distance from the seals. To that end, the rope would help enforce the Marine Mammal Protection Act. Indeed, the National Marine Fisheries Service recommends a *100 foot separation* of people from marine mammals.

In addition, recent surveys indicate the majority of San Diegans want the seals protected. Because the year-round rope is the best option for the seals and for San Diegans, we strongly support approval of the application.

Thank you for your consideration of our comments.

Sincerely,

Livia Borak
President, League of Conservation Voters San Diego

Brown, Kanani@Coastal

From: Livia Borak [livia@coastlawgroup.com]
Sent: Wednesday, May 30, 2012 11:30 AM
To: Brown, Kanani@Coastal
Subject: Support for Year-round rope at Casa Beach in La Jolla
Attachments: LCVSD Letter in Support of Year-round Rope.pdf

Hi Kanani,

Please find attached a letter of support for the year-round rope at Casa Beach (File 6-11-078) on behalf of League of Conservation Voters San Diego.

Thank you!

~Livia



Livia Borak
livia@coastlawgroup.com

Coast Law Group LLP
1140 South Coast Highway 101
Encinitas, California 92024
tel. 760.942.8505 x118
fax 760.942.8515

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To ensure compliance with requirements imposed by the IRS, we inform you that (a) any U.S. tax advice in this communication (including attachments) is limited to the one or more U.S. tax issues addressed herein; (b) additional issues may exist that could affect the U.S. tax treatment of the matter addressed below; (c) this advice does not consider or provide a conclusion with respect to any such additional issues; (d) any U.S. tax advice contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of promoting, marketing or recommending to another party any transaction or matter addressed herein, and (e) with respect to any U.S. tax issues outside the limited scope of this advice, and U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding tax-related penalties under the Internal Revenue Code.

5/30/2012

RECEIVED

MAY 30 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

RE: In favor of a year-round rope at Children's Pool Beach application. File No. 6-11-078

May 29, 2012

Dear California Coastal Commissioners:

I want to state to you my 100% agreement with an excellent letter supporting the year-round rope you received earlier in May 2012 from Ms. Ellen Shively, president of La Jolla Friends of the Seals. I think the details she cites will be extremely useful to you in making your decision.

For your convenience, I have included her comments below. Emphasis is mine.

----- Beginning of Ellen Shively's comments

The La Jolla Friends of the Seals is in favor of passage of the Children's Pool Beach year-round rope proposal to be decided in July 2012 by the Commission. Enumerated below are many reports citing favor for the year-round rope proposed:

1.) The City of San Diego's various departments have written numerous times in their reports to appropriate committees that they are in favor of the rope at this location. Some of these reports have dealt with the rope during pupping season. Other reports mention a year round rope as providing needed protections for the seal colony.

2.) Several sections of the California Coastal Act support the viability of a decision in favor of the rope:

Section 30240 states that environmentally sensitive habitat area shall be protected against any significant disruption of habitat values, and only uses dependant on those resources shall be allowed within those areas." The rope fits these criteria. It is a clear, visual cue to visitors at the beach that the seals have selected this beach as a vital, life sustaining haul out site. They need to exit the water for molting, nurturing their young, oxygenating, regulating their body temperature, resting and socializing.

Section 30250 (c) states that "visitor-serving facilities...shall be located in existing developed areas or at selected points of attraction for visitors." The seals attract over 100,000 visitors every month, and the beach is flanked by a lifeguard station. The rope is a safety aid in informing

visitors that wild animals are present and offers an alternative buffer which benefits people's safety. Absent the rope, both the animals and uninformed visitors may inadvertently suffer injury from too close encounters.

The project received an Environmental Exemption from CEQA issued on January 8, 2007, Coastal Development/Site Development Permit Application, for Project 119757, when the proposed project was to erect a temporary rope barrier during the seal pupping season. The decision was based on following considerations: Categorical Exemption, Section 4 - paragraph 15304- Minor Alterations to Land, and Statutory, Exemption Section 15333-Small Habitat Restoration Project. **If the exemptions are valid for pupping season, they must also be valid during the non-pupping season.**

3.) According to SealWatch, which has an almost daily presence at the CPB, although the number of seals varies per tides/weather conditions/time of year, the seal count this year has been over-all down, compared to previous years. Instead of 150-250 seals on the beach during the day, we may see numbers ranging from none or up to 120. Contributing to this downturn is an escalation of disturbance from an anti-seal group placing an "Open" sign, umbrellas and beach chairs close to the water line on week-ends and holidays. Tactics such as encouraging visitors to ignore the rope and approach the animals up-closer has contributed to the disruption of seals present round the clock.

4.) The City of San Diego's beaches website

<http://www.a-zsandiegobeaches.com/lajollachildrenspool.htm>

encourages people to use the beach to enjoy viewing the wildlife while remaining safe:

"Although swimming is now discouraged at the beach, the Children's Pool is still a beautiful spot to enjoy viewing wild marine mammals up close and personal. Diving and snorkeling are legally allowed but **not encouraged** since the seals and sea lions are protected from harassment by federal law."

In the same vein, a commercial publicity site, San Diego ASAP,

<http://www.sandiegoasap.com/la-jolla-childrens-beach.html>

recommends that

"Observing the seals from the top of Children's Beach or walking on the seawall is the safest way to see the seals. It is an amazing experience, particularly for the children."

7.) The seal colony has been the center of a multitude of educational projects from elementary schools field trips to university studies. Topics have varied from studies on the habitat itself, marine life, disturbances during pupping season, identification clues of the species, feeding habits of the seals, opportunities for ecotourism, and as art and writing projects. The loss or endangerment of this colony, without at least the protection a visible rope gives during the off-pupping season, would be a major loss for the city of San Diego.

For these and many other reasons, approval of the year-round rope is the most responsible decision for the California Coastal Commission to take. If indeed, you are responsible to oversee the coast to make it used in the most responsible manner for all the public interests, please consider an affirmation of this proposal.

----- End of Ellen Shively's comments

I would like to add that the rope is a useful guideline showing the safe distance from the seals and that it **does not prohibit the public from using the beach.**

Thank you.

A handwritten signature in black ink that reads "M. Davis". The signature is written in a cursive, flowing style.

Michael Davis
Escondido, CA 92025
mikedavis2@gmail.com

2463 Dulzura Avenue
San Diego, Ca 92104

RECEIVED

MAY 30 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

Dear Kanani Brown,

The mixture of seals and people at the Children's Cove has been an on going problem. This is one of the few places the seals can reproduce along the Southern California coast and has been a great crowd pleaser for people who want to see the seals in nature. It would be safer for both the people and the seals if the roped off area could be established year round. People who get too close are likely to get hurt. The seals need time out of the water in order to rest and warm up. The use of the rope would help enforce the Marine Mammal Protection Act. Therefore I ask that you take an active part in keeping the guideline rope in place all year long.

Sincerely,

Betty Ball
Steve Ball

Betty Ball
Steve Ball

1433 Park Row
La Jolla, CA 92037
May 28, 2012

RECEIVED

MAY 30 2012

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Commission Members:

As a La Jolla property owner, I request that you approve the Year-Round Rope permit request for Children's Pool Beach, La Jolla, California. Installation of a guideline rope across Children's Pool Beach ("CPB") in its current "pupping season" location, but with said rope extended further toward the eastern bluff than last season's placement in order to provide a guideline across the entire beach, will serve both the harbor seals and our public well. Consider the following:

Harbor Seal Facts:

1. Harbor seals haul out on the sands of CPB every 24-hour day of the year, with the time of day/night for maximum population haul-out varying according to the season.
2. Harbor seals are a "shy" species, the individuals of which tends to panic-flush off the beach and in to the water when approached closely by aggressor species such as humans and dogs.
3. While on the beach, resting and reoxygenating their blood as is required for this particular species, harbor seals defecate wherever they happen to be. Most if not all seal defecation takes place seaward of the existing "pupping season" guideline rope. San Diego County Health Authority has deemed seal fecal coliform bacteria levels to be high at CPB, thus requiring a warning that human use of CPB sand and adjacent inshore water may be deleterious to one's health.
4. According to the oldest maps of La Jolla (1887 & 1894) and the USGS topographic map (1966), "Seal Rock" lies under the current seawall structure at CPB rather than offshore between CPB and Shell Beach as some individuals believe, indicating that mapmakers from the earliest time in La Jolla's recorded history have attached seal significance to the immediate vicinity of CPB.
4. Our human public recreationally enjoys watching hauled-out harbor seals as the seals exhibit their normal wild behaviors at CPB. Recreational seal watching has become a widely accepted and very popular human activity at CPB.
5. The presence of a harbor seal rookery at CPB enriches the nearshore and beach ecosystem through the transfer of offshore nutrients to beach and inshore waters, due to the fact that a large percentage of harbor seal feeding is done well offshore (according to a Masters Thesis study conducted at CPB) while much defecation (I.e. small-particle nutrients release) takes place inshore.

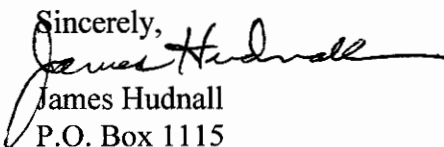
Benefits of a year-round guideline rope: Law Encouragement, Safety, Ecological Enrichment, Recreational/educational Opportunity:

1. The presence of a year-round guideline rope will serve throughout the year to indicate the minimum distance our public should approach hauled-out harbor seals in the rookery area. For those members of our public who choose to respect and stay landward of the rope, multiple benefits will exist:

- (a) Hauled-out seals will remain undisturbed (as required by Federal law).
- (b.) Our public will be warned by the rope's presence about that part of the beach (seaward of the rope) which contains seal coliform levels potentially deleterious to human health, whether seals are hauled out or off the beach in the moment. For concerned parents, especially those with small children, the adequacy of a year-round rope guideline will be especially appreciated. Safety will extend to the prevention of seal bites which could occur with a too-close approach to resting seals.
- (c.) Hauled-out seals will continue to enrich the beach and nearshore waters ecologically.
- (d.) The maximum opportunity for recreational seal watching will be maintained. This offers educational as well as entertainment value to the public.
- (e.) The historical presence of seals in the immediate vicinity of CPB will be maintained. (It should be noted here that seals were missing from CPB for many years due to being hunted almost to extinction in the California Bight after 1900 and prior to the inception of the Marine Mammal Protection Act in 1972.)

Evidence that presence of a guideline rope functions properly and easily to separate humans from the seal rookery area consists of observations over many years of the public's behavior when the guideline rope is in place. Most people visiting CPB understand the guideline rope's educational value and respect its presence. For those few humans who intentionally violate the guideline and enter the rookery area to conduct activities, their efforts seem to be either to encourage unsuspecting visitors into the rookery, exposing them to high seal coliform bacteria levels, or to flush the seals off the beach.

Sincerely,



James Hudnall

P.O. Box 1115

Port Angeles, WA 98362

360-417-6630

May 28, 2012

RECEIVED California Coastal Commission
Att: Karani Brown
MAY 30 2012

Re: In favor of year-round
Rope at Children's Pool Beach
File 6-11-078

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I have resided in La Jolla, CA for approximately 35 years. Many years ago I enjoyed Casa Beach (Children's Pool) for sunbathing and swimming, but more recently in the last 15 years have enjoyed observing the seals who inhabit this beach. I also enjoy seeing the pleasure "seal watching" brings to so many visitors, children and adults alike, year round.

Living in near proximity to this beach has given me the opportunity to visit this beach often. Without a doubt, I would estimate that most visitors will stay behind the guideline rope, thus providing a guide to keeping people and seals a safe distance apart.

The harbor seals use this beach all year. Although they are not on the beach as much during the summer, they still use this beach and need it to "haul out" and rest.

I have personally witnessed much unnecessary harassment of these seals when the rope is not in place (a when visitors are encouraged by a few to go beyond the rope and get too close to the seals). I believe that the guideline rope works - and is necessary to provide safety for both seals and people.

Sincerely,

Barbara Sutter
1433 Park Row

La Jolla CA 8584563869



La Jolla Friends of the Seals

RECEIVED

MAY 30 2012

May 23, 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, California 92108

RE: In favor of a year round rope at Children's Pool application. File No. 6-11-078

Dear Commissioners;

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(b.) Section 30250 (c) states that "visitor-serving facilities...shall be located in existing developed areas or at selected points of attraction for visitors." The seals attract over 100,000 visitors every month, and the beach is flanked by a lifeguard station. The rope is a safety aid informing visitors that wild animals are present and offers a buffer for public safety. Absent the rope, both the animals and uninformed visitors may inadvertently suffer injury from edging too close for the animals comfort.

The project received an Environmental Exemption from CEQA issued on January 8, 2007, Coastal Development/Site Development Permit Application, for Project 119757, to erect a temporary rope barrier during the seal pupping season. The exemption was based on following considerations: Categorical Exemption, Section 4 - paragraph 15304- Minor Alterations to Land, and Statutory Exemption, Section 15333-Small Habitat Restoration Project. If the exemptions are valid for pupping season, they must also be valid during the non-pupping season.

3.) According to SealWatch, which has an almost daily presence at the CPB, although the number of seals varies per tides/weather conditions and time of year, the seal count this year has been over-all down, compared to previous years. Instead of 150-250 seals on the beach during the day, there may be counts ranging from none up to 120. Contributing to this decline has been an escalation of disturbance from an anti-seal group placing an "Open (beach)" sign, umbrellas and beach chairs close to the water line on week-ends and holidays. Tactics such as encouraging visitors to ignore the rope and approach the animals up-close has contributed to the disruption of the seals presence round the clock.

4.) The City of San Diego's beaches website <http://www.asandiegobeaches.com/lajollachildrenspool.htm> encourages people to use the beach to enjoy viewing the wildlife while remaining safe:

"Although swimming is now discouraged at the beach, the Children's Pool is still a beautiful spot to enjoy viewing wild marine mammals up close and personal. Diving and snorkeling are legally allowed but not encouraged since the seals and sea lions are protected from harassment by federal law."

In the same vein, a commercial publicity site, San Diego ASAP (<http://www.sandiegoasap.com/la-jolla-childrens-beach.html>), recommends that,

"Observing the seals from the top of Children's Beach or walking on the seawall is the safest way to see the seals. It is an amazing experience, particularly for the children."

Since safety is of paramount importance, it is difficult to understand why the state and city would not want to employ every possible way to insure this. The year-round rope is the one measure, short of closing the beach from the foot of the stairs, to achieve that goal.

5.) Some members of the San Diego Planning Commission, during their December 9, 2010 session, were of the mistaken opinion that the Children's Pool Ranger along with a city-sanctioned volunteer docent program was providing all the protections needed for people and seals at the Children's Pool. On the basis of this erroneous conception, the recommendation for the year-round rope by the city council and supported by the advisory staff, was disapproved. As a result, because of the city's inability to come to internal agreements, the issue was bumped up to a state agency, the California Coastal Commission.

The Ranger began his duties on July 12, 2010. The job description was provided by SD Park and Recreation and the District 1 City Council representative, Ms Sherri Lightner. Ms Lightner is a known opponent of the harbor seal colony. The Ranger's duties are described as:

Full-time Park Ranger whose primary responsibility is to patrol Children's Pool and to create and lead a volunteer docent program.

- Ensure visitors to the Children's Pool have a safe and enjoyable time
- Ensure visitors are provided information about seals, including behavior, etc/Ensure visitors are respectful of the seals
- Ensure visitors are educated about the City's policies and follow such policies /are informed of and follow all laws governing their conduct at the Pool
- Provide a visible presence to deter any unlawful acts at the Pool
- Create an interpretive program (e.g. signs, brochures) about the wildlife in LJ and Children's Pool

To this date (May, 2012), the rangers (there have been three) have consistently allowed the public to approach the seals at will.. In fact, the actual hours of the ranger's presence on the beach have included long lapses of absence. The volunteer docent program is yet to be advertised, nor has one docent has been recruited. An explanation given by one of the rangers is that the city does not want to put docents at the beach as long as the controversy exists.

6.) The people of San Diego, including many from La Jolla, have re-iterated in many surveys, polls and opinion letters that they are in favor of more protections for the seal colony at Casa Beach. In 2007, a La Jolla elementary school student polled fellow students in La Jolla's lower grades. She received overwhelming support for the Children's Pool to be used as a place to view seals as opposed to the beach being used as a swimming pool. A Zogby poll, that same year, revealed that nearly 80 percent of the 602 respondents supported a year round rope.

Surveys that are more recent continue to show strong public support for greater seal protections, even to the possibility of creating a marine park.

7.) The seal colony has been the center of a multitude of educational projects from elementary schools field trips to university studies. Topics have varied from studies on the habitat itself, marine life, disturbances during pupping season, identification of markings to distinguish individuals, the species feeding habits, opportunities for ecotourism, and as art and writing projects. The loss or endangerment of this colony without at least the protection a visible rope gives during the off-pupping season would be a major loss for the thousands of residents of San Diego and the many visitors from around the world.

For these any many other reasons, approval of the year-round rope is the most responsible decision for the California Coastal Commission to take. If indeed, you are responsible to oversee the coastal resources and to make use of them in the most responsible manner for all the public interests, there is no possible action other than to approve this permit application.

Thank you.

A handwritten signature in cursive script that reads "Ellen Shively". The signature is written in dark ink and is positioned above the printed name and address.

Ellen Shively
La Jolla Friends of the Seals
PO box 2016
La Jolla, California 92037

CALIFORNIA COASTAL COMMISSION

RECEIVED

MAY 31 2012

ATTENTION: Kanani Brown

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: In Favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

We urge you to please keep the protective guideline rope up at the Children's Pool Beach in order that the harbor seals stay protected and buffered from people. This effectively protective rope will really benefit everyone because it will allow people to view and admire the seals without disturbing them. My family and I really love to come to La Jolla to observe the seals. We love to watch them and then walk around and take advantage all that the neighborhood has to offer, as well as food and shopping.

Please keep this rope up because it is a good visual cue to visitors unfamiliar with seal behavior, and it will help protect the seals from being "flushed" into the water by keeping people from getting too close. Furthermore, a public benefit of a marine mammal viewing experience in a natural setting far outweighs those who persist in using the beach for their "recreational" enjoyment of swimming or sunbathing; there are many other available beaches in La Jolla. Finally, the use of the rope will help the Marine Mammal Protection Act, which states that it is against the law to disturb marine mammals.

Thank you very much for your consideration and compassion.

Bozhena and Ryan Evans.



CHRISTOPHER WILLS
DIVISION OF BIOLOGY
LA JOLLA, CA 92093-0116

OFFICE (858) 534-4113
FAX (858) 534-7108, e-mail cwills@ucsd.edu

May 28, 2012

California Coastal Commission
Attn: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

cc. La Jolla Light, San Diego Union, Mayor Sanders, Councilmember Sherri Lightner

Re: In favor of the Year Round Rope at the Children's Pool Beach,
File 6-11-078

Dear Sirs,

We are definitely in favor of the Year Round Rope at the Children's Pool Beach! It is also clear that we need better policing along La Jolla's beautiful coast in order to keep people from disturbing the endangered birds and marine mammals and making it impossible for them to rest, feed and have babies.

On Sunday the 27th we walked along the coast from Point La Jolla to Casa Beach. We observed the following:

At Point La Jolla, there were swarms of kayaks coming right up to the rocks where sea lions used to roost (they have largely been displaced from this area). On the land part of the point, people were ignoring the clear signs. They were leaving the fenced observation area and scrambling down to the rocks where the sea lions normally rest. One male sea lion was still there, desperately defending his territory against this onslaught. Both the land and sea sides of this point need to be policed. The kayak operators must keep their immense numbers of customers a reasonable distance from the shore, and on the land side people who ignore the signs must be warned to keep back.

Near Shell Beach, where large numbers of sea lions, cormorants and brown pelicans roost, two girls in bikinis were walking along the rocks, causing all the pelicans to fly away and flushing sea lions into the water. A lifeguard did come and ask them to move away from the sea lions, but by then all of the sea lions had been chased into the water. We asked the lifeguard if he was going to "ticket" the girls, but he said that he preferred not to. The girls said that they were from LA and were presumably unaware of the federal rules making it illegal to harass marine mammals. Kayaks were also approaching this area more closely than usual, kept back only by the breaking surf. This area, the most thriving natural area that still remains along this heavily used coast, desperately needs to be policed more effectively. If these birds and mammals are driven away, the tourists will disappear and La Jolla's businesses will suffer.

At Casa Beach the war between people and seals continues. Signs announce that seals must not be harassed or flushed into the water. But fifty or so swimmers had taken over the entire beach, illegally flushing the

seals. A few seals could be seen bobbing offshore, waiting vainly for the people to leave.

We are not suggesting ropes all along the coast, but clearly they are needed at the Casa Beach. It is important to note that the overwhelming majority of the people who enjoy this magnificent shore keep well back from the birds and animals and behave responsibly. As we talked to them, they were uniformly upset by the behavior of a thoughtless minority. More signs along the coast are essential, as is more vigorous patrolling of the area. And the population explosion of kayaks, which has been encouraged by tour operators who seem to care nothing for the natural world that they are exploiting, needs to be regulated and brought under control before it is too late.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Elizabeth Wills".

Elizabeth Wills

A handwritten signature in cursive script, appearing to read "Christopher Wills".

Christopher Wills

Professor Emeritus of Biological Sciences, UCSD

12509 Caminito De La Gallarda
San Diego, CA 92128
MAY 25, 2012

RECEIVED
MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commission:

Please support the Year-Round Rope at Children's Pool Beach,
File 6-11-078.

I personally love going to see the seals on the beach; they so love to their little ones, and just ask for a place to take a break in comfort and security for a few hours each day. I also like to bring friends from out of state to see this lovely area of La Jolla and they are so excited and amazed to see the seals and go home raving about what a great experience it was. We have so MANY beaches where we can go and enjoy that it seems a shame to deny them one little beach area.

Thank you.

A handwritten signature in black ink, appearing to read "Diane Schroeder". The signature is fluid and cursive, with the first name "Diane" written in a larger, more prominent script than the last name "Schroeder".

Diane Schroeder

RECEIVED
MAY 31 2012

May 28, 2012

California Coastal Commission
San Diego Division
7575 Metropolitan Ave, Ste 103
San Diego Ca 92108-4402

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: Year round rope line at Casa Beach, La Jolla

Dear California Coastal Commissioners:

I am writing to urge you to keep the rope line up year round. The rope provides a visual barrier for the public to stay away from the seals. Otherwise, the public and the anti-seal faction take over the beach and the seals have no where to haul out when the beach is full of people.

I have seen over and over the problem of the seals not being able to haul-out. They just won't come up when there are people all over the beach. The seals swim around and around the water for hours on a busy day at the beach, just inside the break wall, waiting for the beach to clear. This constant time in the water is detrimental to the health of the seals. Their biology requires that they spend many hours resting on the beach to restore their energy after being in the water to forage for food.

The federal laws take precedence over the state and local laws, and therefore should be enforced. Not only should the rope line be up year round, but there should be a ranger there from sunup to sundown year round to enforce the federal rules regarding marine mammal protection. The federal laws recommend staying away from marine mammals on land or in the water a distance of at least 100 ft.

The signage is also very poor at the beach. There needs to be much larger signs and they need to be posted in a place the public will see them. The ultimate solution is to close the beach to the public, letting them view the seals from the sidewalk or the sea wall.

Until there is enforcement, the anti-seal faction will continue to harass the seals along with the public that they encourage to use the beach. The harassment will continue as long as the city has a policy of "shared use." This policy has created the worst situation for the seals. The seals are wild marine mammals and shouldn't be subjected to the constant harassment that is encouraged and perpetrated by the anti-seal faction. This is an animal and wildlife habitat that clearly needs protection.

Sincerely,

Ms. Shannon Player

Ms. Shannon Player

Ina P. Brown
100 Coast Blvd. #404
La Jolla, CA 92037

RECEIVED
MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
File 6-11-078
7575 Metropolitan Drive #103
San Diego, CA 92108-4402

Members of the California Coastal Commission:

This is a plea to please, please keep the rope barrier up year-round at the Children's Pool, a.k.a. Casa Beach.

I do not understand the arrogance & selfishness of humans. We are not the only ones who inhabit our world & one beach in the total of beaches available for our use pales into insignificance. Children & grandchildren, indeed are wonderful, but if we don't teach them to share the world with all other life, their lives will not only be mentally & spiritually impoverished, but also materially, as humans spread over & destroy our physical & biological world. Our only hope that this doesn't happen is to teach our children & grandchildren that our world must be shared & that the physical & biological world must be respected & preserved in order for their lives not to be impoverished now & in the future.

How wonderful it is to be able to be so close to wild animals & observe how they interact with each other & how they care for their young. How the mother seal goes with her infant pup when it goes into the water & how closely she watches to see no harm comes to it. In this built-up area, this is indeed a wondrous experience to be able to have on a daily basis ! In most places this is not available. Shame on us !

On a more practical note, the rope will keep both seals & humans safe. Seals are wild animals & will defend their pups & their space if humans get too close to the pups or infringe on the adult seal's space. Furthermore, to be quite honest, although I come to see the seals often (I live in La Jolla), I would not want to sunbathe on the beach or swim in the water. Seals do not wear diapers !

Please keep the rope barrier up all year & let the seals live in peace on the beach in La Jolla in perpetuity. I have been on the walkway above the beach when people were on the beach & a seal wanted to haul out but was afraid to come onto the beach. I'm sure it was tired after swimming & hunting for food !

Thank you for your attention to this matter.

Respectfully submitted,

Ina P. Brown, PhD

Ina P. Brown, PhD.

★

Dear Commissioners,

My name is Camille and I'm 8 years old. I have been to see the seals 3-4 times .I think the rope is a good idea and I think we should keep it there. In my ~~opinion~~^{opinion} this beach should be for seals (only) because if it was for humans (us) we would litter and it would be dirty(cause a huge effect and be dirty +smelly.)So it is our choice: a nice beach with cute seals on it or a unwanted place with trash on it + most shamefully it would be all our fault.

Sincerely,

Camille



RECEIVED

MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

BOB FILNER
51ST DISTRICT, CALIFORNIA

VETERANS' AFFAIRS COMMITTEE
RANKING MEMBER

TRANSPORTATION AND INFRASTRUCTURE
COMMITTEE

AVIATION

HIGHWAY AND TRANSIT

WATER RESOURCES AND ENVIRONMENT

ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS,
AND EMERGENCY MANAGEMENT



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

2428 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TEL: (202) 225-8045
FAX: (202) 225-9073

333 F STREET, SUITE A
CHULA VISTA, CALIFORNIA 91910
TEL: (619) 422-5963
FAX: (619) 422-7290

1101 AIRPORT ROAD, SUITE D
IMPERIAL, CALIFORNIA 92251
TEL: (760) 355-8800
FAX: (760) 355-8802

website: www.house.gov/filner

May 29, 2012

Steve Blank
Commissioner
California Coastal Commission
45 Fremont St. Suite 2000
San Francisco, CA 94105

RECEIVED

JUN 01 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COUNTY

Dear Commissioner Blank:

Enclosed is a CC # 2614658 regarding the establishment of a year-round rope at the Children's Pool Beach in La Jolla, CA sent on May 23, 2012 to Commissioner Shallenberger.

Sincerely,

BOB FILNER
Member of Congress

BF/TC
2614884

BOB FILNER
51ST DISTRICT, CALIFORNIA

VETERANS' AFFAIRS COMMITTEE
RANKING MEMBER

TRANSPORTATION AND INFRASTRUCTURE
COMMITTEE

AVIATION

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FAX: (760) 355-8802

website: www.house.gov/filner

May 23, 2012

Mary K. Shallenberger
Chair
California Coastal Commission
P.O. Box 354
Clements, CA 95227

Dear Ms. Shallenberger:

I am writing to urge you to support the City of San Diego's permit application #701673 for the year-round rope at the Children's Pool Beach in La Jolla, CA.

The guideline rope provides a clear indicator to the public to keep a safe distance away from the seals and protects them from being disturbed.

I appreciate your kind attention and consideration to this matter. If I can be of any assistance, please feel free to call me or Tony Cruz of my staff at (619) 422-5963.

Sincerely,

BOB FILNER
Member of Congress

BF/TC
2614658

CC: Steve Blank, CCC Commissioner
Dayna Bochoco, CCC Commissioner
Dr. William Burke, CCC Commissioner
Wendy Mitchell, CCC Commissioner
Martha McClure, CCC Commissioner
Brian Brennan, CCC Commissioner

Jana Zimmer, CCC Commissioner
Esther Sanchez, CCC Commissioner
Richard Bloom, CCC Commissioner
Steve Kinsey, CCC Commissioner
Mark Stone, CCC Commissioner
Kanani Brown, San Diego Coast District Office

5/28/2012

California Coastal Commission

RECEIVED

JUN 01 2012

Att: Kanani Brown

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I am writing regarding protecting the seals at the children's pool in La Jolla.

Visitors and locals sit for hours watching the seals during pupping season with tremendous pleasure.

The guideline rope is so important for the seal's protection from visitors who get too close during pupping season.

Since the seals need to haul out to replenish their oxygen supply and restore their body temperature, it is harmful to disturb them with visitors surrounding them from all sides with picture takers.

Carole Parker

Very concerned,

858 356 8197

RECEIVED
JUN 01 2012

May 29, 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

RE: Need to Maintain a Year-Round Rope at Children's Pool Beach, File 6-11-078

I strongly believe that a year-round rope is needed at Casa Beach to protect the seals. The Marine Mammal Protection Act makes it illegal to disturb marine mammals. This means **at all times**, not just during pupping season.

La Jolla is one of my favorite places to spend time. For me, it is an immersion in the beauty of nature at its best. In addition to my own enjoyment of watching the seals, it is such a pleasure to witness the sheer delight of visitors of all ages. It is a unique educational and recreational opportunity for locals and tourists.

Unfortunately, many visitors do not understand the importance of keeping a safe distance, for the comfort and safety of both the seals and humans. I have seen visitors approach very closely to photograph and even touch or throw sand at the seals.

To my complete dismay, I have also seen wet-suited swimmers purposely harass seals in the water near the shore. While a rope may not totally eliminate this behavior, it does increase public awareness of the seals' right to a peaceful environment and thus make it more difficult for blatant harassment to occur.

In my work as a tour guide, I can tell you how excited visitors are when they learn that they can walk along the beautiful shoreline and watch a seal colony in its natural setting. It is truly another facet to the beautiful gem of La Jolla.

I trust that the Commission will do all it can to protect this precious resource by maintaining the rope year-round.

Sincerely,



Dianne Pietila
P.O. Box 7284
San Diego, CA 92167

May 29, 2012

RECEIVED
JUN 01 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear CC Commissioners,

I am in favor of the Children's Pool Beach year-round rope proposal to be decided in July 2012 by the California Coastal Commission.

Upon my last visit May 2012 I could see that the seal count this year is down, compared to previous years. I witnessed disturbances from anti-seal people, placing a large "OPEN" sign, beach chairs and umbrellas close to the water line. Encouraging visitors to ignore the City of San Diego warning signs and approach the animals up closer. I am certain that this has contributed to the disruption of seals present.

The rope is a safety aid while informing visitors that wild animals are present. The rope offers an alternative buffer which benefits people's safety. Without the rope, both the animals and visitors may inadvertently suffer injury from close encounters.

Observing the seals from the top of Children's Beach or walking on the Seawall is the safest way to see the seals. It is a beautiful, educational experience for all the children. Safety is critical where wildlife is present; it is difficult for me to understand why the state and city would not want to implement every possible way to insure this. Furthermore seals and sea lions are protected by federal law. While the law is not being enforced, the year-round rope is the best measure.

Losing this famous seal colony would be a huge loss for the city of San Diego.

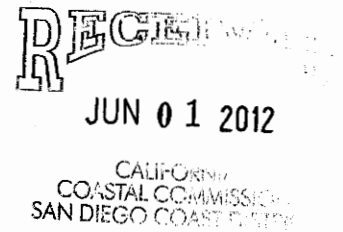
Thank you,



Tracy D. Gutierrez
Global Wealth and Wellness Group
7700 E Speedway Blvd #226
Tucson, Az. 85710

May 15, 2012

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402



RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Ms. Brown:

Although I realize you have probably received many letters regarding the La Jolla seals, I must add my voice to the list of those who support the year-round rope at the Children's Pool Beach.

Human behavior encroaches on wildlife in countless ways, a rope is literally the least we can do for these wonderful animals. There are many beaches for humans to enjoy, but only a few in the world that can support the seals as Casa beach can. A beach is imperative to the seals' continued survival.

Seeing seals in the wild is an amazing experience few humans will have. We San Diegans are fortunate to be able to have seal habitat right here. Providing a year-round rope helps create a safer space for the seals, and a place for their human admirers to observe them.

Although it is currently against the law to disturb the seals, it happens all too often. Although a rope will not stop a malicious party, it will remind well-meaning nature-lovers to keep a respectful distance.

I appreciate your time and the attention you give this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "KJ Coop". The signature is written in a cursive, flowing style.

KJ Coop
3704 Robinson Place
San Diego, CA 92103

RECEIVED

JUN 04 2012

Lydia Mastaglio

Kanani Brown
Coastal Program Analyst II
California Coastal Commission
7575 Metropolitan Dr. Suite 103
San Diego, CA 92108-4402

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



June 1, 2012

Dear Kanani Brown:

Why has the Year-round rope been removed from the Children's pool? It serves as a visual guideline and safety rope to those unfamiliar with seal behavior, or curious children who wish to see wild animals up close. If someone wanders too close, they or a seal could be hurt, and this could have been easily prevented.

Expecting seals to stay in the water or on rocks 24/7 is unsustainable to their survival. This rope informs people, "Get closer!" and they'll (the seals) be forced back (or again) to defend themselves, resulting in injury and death on both sides. People come from all over the world to see these federally protected seals.

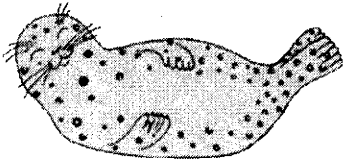
There is nothing better than watching an animal in its natural habitat. Students' (of all ages) can experience and study them for a project or paper. How could you take this chance away? We have plenty other public beaches. This is San Diego, California!

And last but not least, removing that rope will violate the Marine Mammal Protection Act, which states that it is against the law to disturb marine mammals. In addition, the majority of San Diegans' especially the children of San Diego want the seals to have that part of the beach as theirs. Maybe I'm old fashioned, but I believe in super heroes. I believe that these heroes not only do the right thing, but the right thing for animals not just humans. Will you be my super hero? I look forward to hearing from you.

Sincerely,

Lydia Mastaglio

8561 Neva Avenue, San Diego, CA 92123 * 858-277-3759 * lmastaglio@gmail.com



La Jolla Friends of the Seals

Deborah Saracini
1155 Camino Del Mar, #188
Del Mar, CA 92014

California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED

JUN 06 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: In favor of a year round rope at Children's Pool application. File No. 6-11-078

June 2, 2012

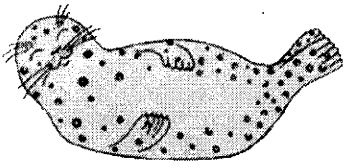
To Whom It May Concern,

I am writing to request your support of the City of San Diego's year-round rope viewing guideline at Children's Pool beach (also known as Casa Beach) in La Jolla, CA.

I am the Docent Coordinator with La Jolla Friends of the Seals, and the City will not sponsor their own docent program until the controversy at the beach is resolved. All year-round, every day, seals are flushed into the water by both those familiar with the controversy who insist on using the beach for their own recreational uses, i.e. diving, swimming, up-close seal interactions etc. and those unfamiliar with the controversy who follow the behavior of others by example.

The rope is a very good visual guideline to visitors unfamiliar with seal behavior, indicating a safe distance for viewing the federally protected animals. However, the rope **does not** act as an enforced barrier and does not prohibit visitors from using the beach. It merely allows people a moment to pause and assess their proximity to resting seals, before crossing the rope line.

Seals have a biological need to "haul out" of the cold water to rest at regular intervals in order to survive. The guideline rope will help to protect seals from being "flushed" into the water by people getting too close to them. Without the rope, people advance within touching distance of the seals, which deprives them of their needed rest as they scare into the water. It also creates a high risk situation for unwary visitors, who may be scratched or bitten by agitated and frightened seals.



La Jolla Friends of the Seals

The public benefit of a marine mammal viewing experience in a natural setting far outweighs the need of those who wish to "recreate" at Casa Beach, as there are so many other available beaches nearby.

The use of the rope will help enforce the MMPA, which states that it is against the law to disturb marine mammals. There are very few beaches which meet the seals' physiological needs, which are not already used by people. In other California seal habitats, people are not allowed to get nearly as close to resting seals, e.g. Carpinteria, Point Reyes, 17 Mile Drive in Carmel.

Casa Beach is a rare living laboratory for children and adults to learn about nature. It is a place that supports multiplicity of ethnicity and is physically accessible, free and outdoors.

With your assistance, San Diego can provide a richer outdoor educational experience at this beach for the thousands of visitors both local and from all over the world.

I urge you to approve the year-round rope line and finally put an end to this on-going controversy. Please do the right thing for the environment and for the City of San Diego!

Yours Truly,

Deborah Saracini
La Jolla Friends of the Seals
Board Member and Docent Coordinator

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078



Hello,

My name is Carly. I'm a San Diego native and currently perform seabird and mammal research along the southern California coast. The most important location for my work is the La Jolla Cove and La Jolla Shores area. It's great to see the fauna living together in harmony at the La Jolla Cove—Pelicans, Cormorants, Sea Lions, Gulls. And then further south it's such a treasure to see the Harbor Seals in the mix as well. Life can be tough for the wildlife in La Jolla, however. I frequently note Cormorants with fishing tackle caught in their bills and Sea Lions and Harbor Seals with net digging into their neck. The last things these animals need are additional trauma caused by unnecessary human interaction.

My job includes a weekly count of the seals. There have been several occasions where I'm literally paralyzed by awe and can't take my eyes off the adorable Harbor Seals. No wonder La Jolla is San Diego's #1 tourist destination! However, there have been several instances, especially in the past couple months, where I'm paralyzed with sorrow at how close the uninformed tourists get to the Harbor Seals. People try to take their pictures with the seals and will literally get inches from the animal to do so. The entire group of Harbor Seals on Casa Beach (which can be 160+) can get easily agitated and either head for the water or start squirming away from a simple disturbance. Who knows how often an event like this must happen every day!

This is why it is so important to keep the Harbor Seals from undergoing unnecessary stress by adding a year-long rope. I hope you will consider it.

Seriously concerned for the safety of the Harbor Seals,

Carly Baker

A handwritten signature in cursive script that reads "Carly Baker". The signature is written in dark ink and is positioned below the printed name.

RECEIVED

JUN 05 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

11255 Caminito Inocenta

San Diego, CA 92126

June 1, 2012

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Ms. Kanani,

I have been a resident of San Diego for 43 years and have enjoyed the unique natural beauty and marine life along our coast very much. I feel strongly that all things natural should take precedence over the selfish and care-less actions of man. We are slowly but surely destroying mother earth and this is a good place to start changing our priorities. The harbor seals have been around since long before Ellen Browning Scripps and I think if EBS were still around she would agree that they come first.

In addition, I think that the people who are unfamiliar with seal behavior need to be protected from themselves and their ignorance.

Finally, use of the rope will help enforce the Marine Mammal Protection Act which states that it is against the law to disturb marine mammals.

Thank you for your consideration of these beliefs. I look forward to the Coastal Commission doing the right thing for the seals and the caring citizens of San Diego.

Sincerely,



Robert A. Waller

California Coastal Commission

7575 Metropolitan Dr. #103

San Diego, CA 92108

Attn. Kanani Brown

RECEIVED


JUN 05 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: File 6-11-078

I urge you to "KEEP THE ROPE UP YEAR ROUND" in La Jolla to help protect the seals.

Thank you for your consideration.



Tim Laren

16027 Tulsa Street

Granada Hills, CA 91344

June 3, 2012



To: California Coastal Commission

RE: Year-round rope to protect seals

I have lived in La Jolla for the past six years and have been very distressed by the lack of care divers and others have shown toward protecting our natural coastal environment.

One of the very first pleasures I experienced when I saw La Jolla for the first time was observing the seals at rest on the beach at the Children's Pool.

Having traveled over the world, the sight of the seals on a beach is a rare experience..one that La Jolla should be proud of being able to have in their community.

For a long time I avoided the area because I have observed heartless, selfish people trying to drive the seals away..sitting on the beach in beach chairs..scaring away pregnant females who wanted to rest on the beach...kids tossing shells at them.

To me the excuses people use to continue disturbing the seals makes no sense.

There ARE other places to swim and dive...many other places... besides the Children's Pool. As for the seals defecating in the water, yes that happens. I have not noticed a smell in the area. And let me ask, does not all the other marine life defecate in the water? What about the fish, whales, dolphins, crabs etc? And the argument about attracting sharks...excuse me? That doesn't fly either.

What are the divers leaving for our grandchildren to enjoy? What all the rest of us who do not dive? How about our great grandchildren? Are our future children not to have the enjoyment of La Jolla marine wildlife because divers wanted the area for themselves in 2012?

You know, when I visited Scripps Aquarium and saw the way the coast used to look and the amount of marine life that once upon a time existed here, I couldn't believe the devastating change that humanity has brought to this once flourishing sea coast environment.

Humans have greatly destroyed La Jolla's underwater marine life in the last fifty years. The Cove is no longer the same. How sad. How sad it is that our earth is being destroyed..marine life chased from their natural habitat and breeding grounds, right here in La Jolla..right to this day.

I am very proud to say to say I live in La Jolla. It is very beautiful.

But I am very ashamed of the way the divers are behaving toward the seals. It is very, very ugly.

Please stop these few from harming many.

Since the seals have no voice, and the tourists who visit here all year round have no voice, please be their voice . Please protect La Jolla's marine life. Please protect the seals by keeping up a year round rope barrier.

Even more so, please go a step further and do not allow people on the beach at all. Give the beach at Children's Pool back to nature.

We don't have many natural wonders left. Please protect what we have.

Thank you.

Sincerely,


Mrs. Nancy Coates

5730 Dolphin Place, La Jolla, CA. 92037

June 1, 2012

To: CA Coastal Commission
Attn: Kanani Brown

From: Norman and Doreen Kingston
27 Woodcrest
Irvine, CA 92603

RECEIVED

JUN 06 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

We understand you are meeting to vote on whether or not to keep the rope up for the seals year round at the Children's Pool in La Jolla. We just spent the last weekend in La Jolla and so enjoyed watching the seals. However, we were really upset when we saw people going up so close, disturbing them. In particular, two young men were throwing sand at them, forcing them to retreat in the water. The second evening there we saw so many people at water's edge that the seals couldn't even come up onto the sand which as we understand, is a necessity for them.

A guideline rope seems like a great idea and will help people to keep their distance. This beach is so wonderful we just can't wait to bring our grandchildren to visit this summer. We have traveled extensively and have never seen seals in the wild like this. It is a very special place and we hope you will vote to keep the rope up year round so all can enjoy without disturbing the seals.

Thank you,

Norman/Doreen Kingston

June 3, 2012



TO: California Coastal Commission

Attention: Kanani Brown

7575 Metropolitan Drive, Suite 103

San Diego, California 92108-4402

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

1. Rope is a good visual GUIDELINE to visitors unfamiliar with seal behavior showing the safe distance from federally protected animals
2. Rope is NOT an enforced barrier and does not prohibit visitors to use the beach (this will be the main point of the opposition crying about the rights of the public being violated by the "barrier", term used to mislead the public and the decision makers)
3. I strongly support The City of San Diego's year-round rope permit application to be heard by the California Coastal Commission July 11-13, 2012, and, therefore, I support the seals!!!
4. Me and my family are La Jolla residents, we come to walk on La Jolla Cove every day and we enjoy watching seals on the Casa Beach, La Jolla.

Oxana Kazarina

A handwritten signature in black ink, appearing to be "Oxana Kazarina", written in a cursive style.

June 5, 2012

Dear Kanani Brown,

I am in favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078.

First of all, the rope will help enforce the Marine mammal Protection Act which states that it is against the law to disturb marine mammals.

I have brought many out of town visitors to see the seals and they loved it. There are many other beaches for people to use in La Jolla.

The rope will help protect the seals from being flushed into the water by keeping people from getting too close. It is a good visual cue to visitors unfamiliar with seal behavior. Seals have to come out of the cold water to rest at regular intervals to survive. The rope will help protect them.

Please leave the rope up year round to create a buffer zone for the seals.

Sincerely,

Diane Ake

5601 Adobe Falls Rd #B
San Diego, CA 92120

RECEIVED

JUN 08 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

909 Coast Blvd. #16
La Jolla, CA 92037

June 1, 2012

RECEIVED
JUN 05 2012

California Coastal Commission
San Diego Coast District Office
File # 6-11-078
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Seals at Childrens Beach in La Jolla (File 6-11-0708)


Dear Coastal Commission:

I have lived more than 20 years in a condo adjacent to the "Childrens Pool" in La Jolla, California. During his lifetime the chairman of the condo board was an enthusiastic docent for the seal observers at Childrens Pool. He stopped when he said it got too "political". He told us how a vote was taken in 3 elementary schools giving the children a choice of watching seals or having free use of the beach. 90 to 95% preferred to watch the seals. But the adults said "what do they know - they're only children." Yes, the same people who think they represent the "children" in Children's Pool.

Our representatives to the City Council seem to take their guidance from an unelected group called the La Jolla Town Council. As a result, the seals, the children and those supporting their interests have not been well represented in resolving this issue.

The rope separating the seals and the people should be up year round. Children want and need the opportunity to enjoy a gift from nature.

Sincerely,



Jean S. Levy

June 4, 1012

California Coastal Commission
Attn: Ms. Kanani Brown
7575 Metropolitan Drive, Suite #103
San Diego, Ca. 92108

RECEIVED

JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: File # 6-11-078

Dear Ms. Brown:

I am sure you have received a lot of logical letters with legalese of why or why not the rope should be left up/taken down.

I write this letter from the heart. I love coming to La Jolla to see the Seals, but it's not about my pleasure. It's about some wonderful little animals that should be treated with love and respect, like any living thing should be.

I cannot bear to visit them very often because the disruption and abuse that I see is heartbreaking. I'm not a confrontational person but I want to do everything I can to stop the disruption of the mothers and babies as well as the abuse these animals are receiving at the hands of the public. From the research I have done, it's a small percentage of people that do not want the seals, but they disrupt, abuse and scare them to the point that its horrible for the animals.

I have seen divers purposely causing them to leave the beach, parents letting their kids run and try to pet them, trash thrown on the beach, where one little puppy had a plastic bag around its neck, mothers in labor being harrassed.....can the Public Officials responsible please do whatever it takes to stop this? Doesn't anyone care?

I have made numerous calls and most of the responses I receive are: "there's nothing we can do, most people agree with you, but there's nothing that can be done".

WHAT????? Would the reaction be the same if it were puppy dogs? Little kittens?

PLEASE, I beg you, to provide a year round rope as well as whatever other protection can be provided for these beautiful little creatures.

I am not a "bleeding heart liberal". I am a commercial real estate broker that believes all animals should be treated with respect and love.

Many thanks for reading this,

A handwritten signature in cursive script, reading "Jeannie Niles". The signature is fluid and elegant, with a large initial "J" and a long, sweeping underline.

Jeannie Niles

73450 Country Club #177

Palm Desert, Ca. 92260

760-574-8456 (phone)

3548 Granada Ave
San Diego, CA 92104
May 26, 2012

Re: File 6-11-078
Calif. Coastal
Commission
7575 Motorholman Dr,
Suite 103
San Diego, CA 92108-4402



RECEIVED

MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioners:

Please approve the City of San Diego's permit application for the year-round rope at Children's Pool Beach in La Jolla.

This simple measure works as a guide to members of the public informing them of the City's recommendation for safe viewing distance from the harbor seals.

Thank you for supporting the City's permit application.

Sincerely,

Christine C. Gommel



Zelda Klapper

7544 La Jolla Blvd. Apt. T309
LA Jolla, CA 92037

RECEIVED

JUN 08 2011



CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal
Commission

40 File 6-11-078

7575 Metropolitan Dr
#103

San Diego, CA

92108-4402

Protect the seals.

Approve the year-
round rope.

Humans have 20 miles
of coastline in SD
County. Give the
seals a few yards
of sand. Thank you.

52108442128

Statendam

www.hollandamerica.com

3000222 (11/05)

5-23-12

Wendy Brunell

8410 Hatillo Ave

Winnetka CA 91306

Dear Ms Brown,

RE: File 6-11-078

Please keep the rope up YEAR ROUND
at Children's Beach. It is such a simple
thing to help keep a safe distance
from the seals.

THANK YOU

Wendy

RECEIVED

MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

7450 Olivetas Ave
La Jolla CA 92037
May 25, 2012

California Coastal Commission
7575 Metropolitan Dr, Ste 103
San Diego, CA 92108-4402

Attn: Kanani Brown

Dear Ms Brown,

I am writing you in support of maintaining a year-round rope as a guideline for beach visitors at the Casa Pool in La Jolla. I walk by there frequently and find that the rope guide is almost always observed. I believe that the seals provide us with a wonderful contact with nature, that is very special, especially for children. The seals are a community asset and deserve our protection.

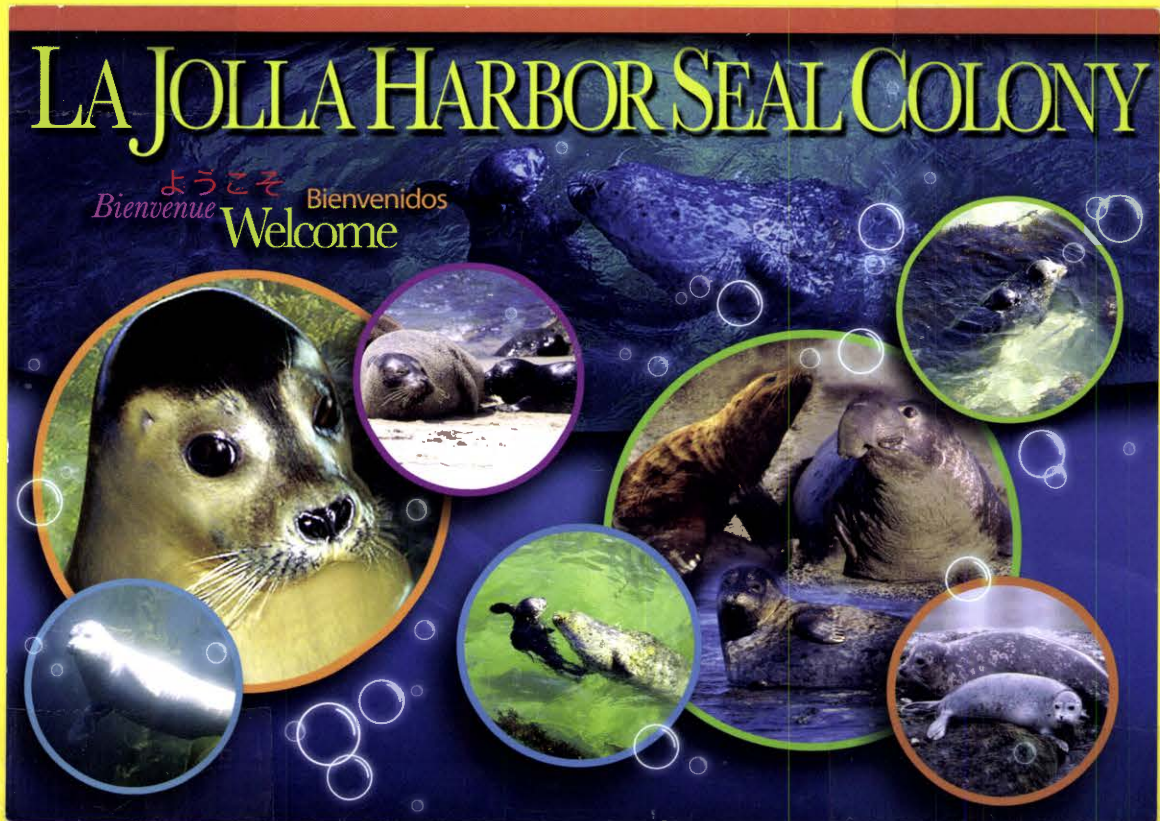
Very truly yours,

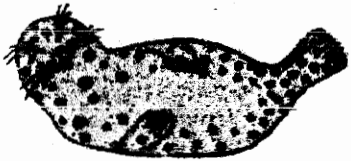
Ann S. Lanke

RECEIVED

JAN 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT





La Jolla Friends of the Seals

Coastal Commission
Regional Office Staff
Attn: Lee McEcheran
San Diego, CA

January 30, 2012

Dear Coastal Commission Staff;

The enclosures contained in this folder are important documents to consider as you make your decision whether or not to approve a year-round rope at Casa Beach in La Jolla.

Thank You;

A handwritten signature in cursive script that reads "Ellen Shively".

Ellen Shively
President
La Jolla Friends of the Seals
PO Box 2016
La Jolla, Ca 92038
Ph: 619-687-3588

www.lajollafriendsoftheseals.org

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CASA BEACH



ANIMAL PROTECTION LAWS - FEDERAL, STATE AND LOCAL

The following Federal and State laws and City ordinance need to be observed at all times.

A. MMPA - Section 515: Amends Section 3(18)(A) of the MMPA.

Harassment Definition: Defines level A harassment as "any act" which injures or has a high potential to injure a marine mammal. Level B harassment includes "any act" that either disturbs or is likely to disturb a marine mammal's natural behavior or is directed towards a specific individual or group and is likely to cause disturbance by interrupting natural behavior.

B. CALIFORNIA FISH AND GAME Fish and Game Code, Section 4500-4501.

(a) It is unlawful to take any marine mammal except in accordance with provisions of the Marine Mammal Protection Act of 1972 (Chapter 31 (commencing with Section 1361) of Title 16 of the United States Code) or provisions of Title 50 of the Code of Federal Regulations, or pursuant to subdivision (b) of this section.

(b) At such time as federal laws or regulations permit the state to assume jurisdiction over marine mammals, the commission may adopt regulations governing marine mammals and the taking thereof.

(c) For purposes of this chapter, "marine mammals" means sea otters, whales, dolphins, porpoises, seals, and sea lions.

C. SAN DIEGO MUNICIPAL CODE §63.0102(b)(10) of the municipal code states: "It is unlawful to take, kill, wound, disturb or maltreat any bird or animal, either wild or domesticated, unless the same shall have been declared noxious. . . ."

----- Original Message -----

From: Daneri, Daniel

To: ellenshively

Cc: Reese, Scott

Sent: Wednesday, August 03, 2011 1:48 PM

Subject: RE: Ranger Duties description

Hi Ellen,

Here is a description of the duties for the Park Ranger at the Children's Pool.

Under the general supervision of a District Manager, the Park Ranger at the Children's Pool in La Jolla will be responsible for patrolling and providing information and assistance to patrons at the Children's Pool/Casa beaches area, particularly in the area of seal/people interaction including patrolling the beach and explaining interaction issues, resolving disputes, monitoring park usage and incidents, writing reports and issuing citations, developing a volunteer/docent Park Ranger program, designing and preparing exhibits, designing publications and interpretive signage, providing information to community and related groups, and training and evaluating the work of volunteers.

Hi Ellen,

Below is a general outline of the responsibilities/duties anticipated on the ranger for the site. I have cc'd Dan who can add if I am missing anything.

Full-time Park Ranger whose primary responsibility is to patrol Children's Pool and to create and lead a volunteer docent program.

- Ensure visitors to the Children's Pool have a safe and enjoyable time
- Ensure visitors are provide information about seals, including behavior, etc/Ensure visitors are respectful of the seals
- Ensure visitors are educated about het City's policies and follow such policies /informed of and follow all laws governing their conduct at the Pool
- Provide a visible presence to deter any unlawful acts at the Pool
- Create an interpretive program (e.g. signs, brochures) about the wildlife in LJ and Children's Pool

Stacey LoMedico
City of San Diego Park and Recreation Director
202 C Street - MS37C, San Diego CA 92101
619.236-6643/Fax 619.525.8220

LA JOLLA PARK

SAN DIEGO CO.

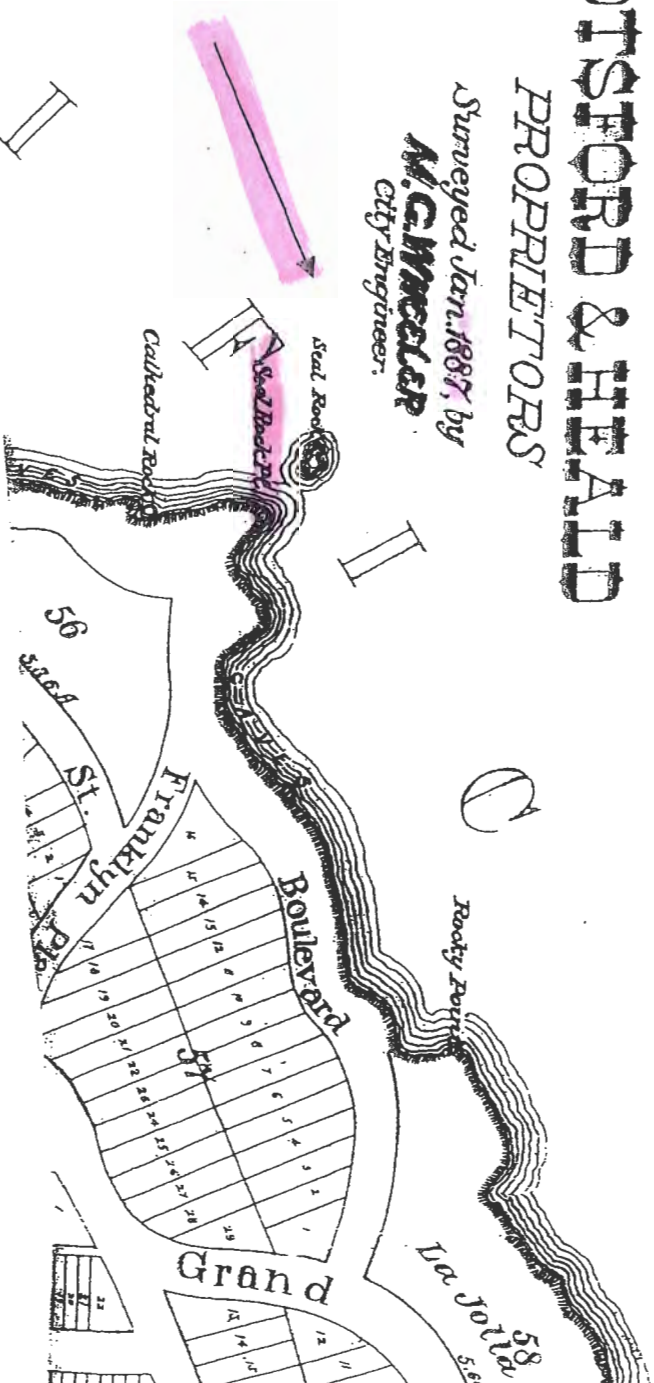
CALIFORNIA.

*A subdivision of Pueblo Lot 1282 and a
portion of Pueblo Lots 1283
and 1284.*

BOTSFORD & HEALD

PROPRIETORS

*Surveyed Jan. 1887, by
M. C. MacCallister
City Engineer.*



"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA AMENDING SECTION 12.24.090 OF MUNICIPAL CODE, AS AMENDED, RESTRICTING PUBLIC ACCESS TO THE SEAL HAUL-OUT AREA EASTERLY AND WESTERLY OF THE CHEVRON PIER DURING THE HARBOR SEAL PUPPING SEASON, AS AN URGENCY MEASURE"

The City Council of the City of Carpinteria does hereby ordain as follows:

SECTION 1. PURPOSE

The purpose of this Urgency Ordinance is to provide immediate and readily enforceable restrictions on public access to and adjacent to the beach area where harbor seals regularly give birth to and nurture their young until such time as the young are able to fend for themselves. By enacting such restrictions, the City Council is supporting the spirit and intent of the Federal Marine Mammal Protection Act which prohibits the harassment or touching of harbor seals and other marine mammals and on-going public interest research directed toward protecting marine mammals.

SECTION 2. FINDINGS

Pursuant to Government Code Sections 36934 and 36937, the following findings are made in support of this urgency ordinance:

1. Harbor Seals are protected under the Marine Mammal Protection Act and harassment of such mammals is a federal felony and it is in the public interest to prevent harassment of such harbor seals.
2. Authoritative studies confirm that harbor seals give birth to their young on the Carpinteria beach easterly and westerly of the Chevron Pier during the period of December 1 through May 31 of each year and such activity is presently in progress.
3. If disturbed, harbor seals can bite and inflict serious injury to humans and other animals.
4. Harbor seals are known to carry diseases communicable to humans.
5. The presence of humans and/or dogs or other animals in the near proximity of harbor seals is known to cause stress and injury to the seals and their young. Mature harbor seals weigh approximately 250 pounds. It is common for frightened mature harbor seals to escape from humans and/or dogs.
6. If humans touch or disturb seal pups on the beach while their mothers are fishing at sea, such pups may be abandoned and left to die.
7. The presence of humans and/or dogs has been known to cause a reduction in the number of pups born.

SECTION 6. PUBLICATION

This Ordinance, within fifteen (15) days after its adoption and approval, shall be published once in the Carpinteria Herald, a newspaper of general circulation within the City of Carpinteria, together with the names of the Members of the City Council voting for and against the same.

PASSED, APPROVED AND ADOPTED THIS 9th day of December, 1991, by the following vote:

AYES: COUNCILMEMBER: STEIN, WULLBRANDT, KING, JORDAN, LEDBETTER

NOES: COUNCILMEMBER: NONE

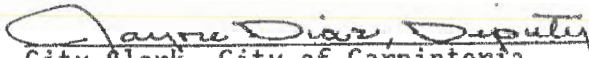
ABSENT: COUNCILMEMBER: NONE


Mayor, City of Carpinteria


ATTEST:


City Clerk, City of Carpinteria

I hereby certify that the foregoing ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 9th day of December, 1991.


City Clerk, City of Carpinteria

APPROVED AS TO FORM:


City Attorney, *Chief Deputy*

Chapter One OVERVIEW OF THE COASTAL ACT

A. Historical Review

B. FUNCTION OF THE CHAPTERS

- The Coastal Act is divided into 10 chapters, but the heart of the Coastal Act is found in chapter 3.
- Chapter 3 called 'Coastal Resources Planning and Management Policies' (Section 30200 et. seq.) contains seven articles that mandate protection of public beach access, recreational opportunities, marine and land resources, and govern all development:

Article 4: Marine Environment

Marine resources shall be maintained, enhanced and, where feasible, restored. Uses shall be carried out in a manner to sustain the biological productivity of coastal waters. The biological productivity and quality of coastal waters, streams, wetlands, estuaries and lakes shall be maintained and restored. Sections 30230 and 30231 provide the major link to issues dealing with water quality issues.

This Article also contains major sections dealing with wetlands, (30233) and what is allowed in a wetland, armoring (30235), and stream alterations (30236).

Article 5: Land Resources

Section 30240 and 30233 from Article 4 contain the heart of the Coastal Act as it pertains to the protection of habitat and species. The language protecting habitat is the strongest of any environmental law in the Nation. ESHA under the Coastal Act means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degrade by human activities and development. It states that ESHA's shall be protected and that development adjacent to ESHA shall be sited and designed to prevent impacts on the ESHA and follows that with the limitation that only uses dependent on those resources shall be allowed. Protection of ESHA is different from that provided through the NCCP process and an NCCP or HCP does not trump the Coastal Act.

5

FACT SHEET:

La Jolla Harbor Seal Rookery San Diego, CA

1. This rookery, located at Casa/Children's Pool Beach in La Jolla (a suburb of San Diego) is the only Southern California mainland harbor seal (not sea lion) rookery south of Point Mugu and is the southernmost harbor seal rookery in the United States.
2. Harbor seals use the rookery beach for hauling out, resting and reoxygenating on every 24-hour-day of the year. Pupping and nursing also occur here every year.
3. The earliest mapmakers to La Jolla (1887) named two prominent geological features in the immediate vicinity "Seal Rock" and "Seal Point." The rookery beach lying between these two features is about 180 feet long from side to side.
4. There are only about 34,000 harbor seals along the entire California coast. Of these, approximately 160 use the La Jolla rookery during every pupping season, giving birth on the beach to about 45 pups every year.
5. **Every day now, unsuspecting visitors are lured and coaxed into the rookery by a few divers and wealthy La Jollans who want to use the rookery beach for themselves. These visitors, including young children, are unknowingly wallowing in concentrations of seal fecal matter in the sand, creating a human health risk.**
6. **Seals, including pregnant females, are driven off the beach by the presence of people swarming around them, and seals wanting to haul out are unable or unwilling to do so while people are at the water's edge.** Rookery seals can be watched from adjacent viewing areas on either side of the beach without disturbing the rookery.
7. There is currently **NO ENFORCEMENT OF THE MARINE MAMMAL PROTECTION ACT** at this rookery, nor does the State or City of San Diego protect these seals from disturbance and harassment at the moment.
8. The presence of this harbor seal rookery enriches the near shore ecosystem and provides recreational seal watching for hundreds of thousands of people every year. Ample water entry for swimmers and divers is available on beaches immediately adjacent to the rookery beach. Fish and spiny lobster are plentiful in the vicinity.

For more information, go to the La Jolla Friends of the Seals website: www.lajollafriendsoftheseals.org
La Jolla Friends of the Seals is a 501c3 educational organization.

over ↴

AN EARLY HISTORY OF THE LA JOLLA HARBOR SEAL ROOKERY

If we can assume, from the early naming of two prominent geological features in the immediate vicinity of the La Jolla harbor seal rookery, that the earliest mapmakers to La Jolla (1887 & 1894) saw seals on "Seal Rock," then we might extend that assumption to conclude that seals, having high site fidelity, occupied this rookery in prehistoric times. Currently, sea lions, other than the very occasional sick or starving sea lion, do not show any interest in hauling out at this rookery, but rather regularly utilize several haul-outs to the north in the vicinity of La Jolla Cove Beach and Goldfish Point.

What we know from the early 1900's and up to 1972 is that harbor seals were hunted extensively, causing the Southern California population to decrease almost to the point of extinction. In the 1940's and 1950's, no harbor seals were seen in the La Jolla rookery.

In 1931 a seawall was completed across the top of seal Rock, extending out and northward from Seal Point. No reports of harbor seals in the vicinity during this period have been found. The construction of the seawall formed a swimming area, and a pre-existing seasonal small beach between Seal Point and Seal Rock grew larger annually as migrating sand was trapped. Known as Casa Beach in the 1950's for its proximity to the Casa de Mañana Hotel, the beach was later named Children's Pool Beach.

With the inception of the Marine Mammal Protection act in 1972, harbor seals became a protected species, and their population numbers began to recover. Harbor seals began to occupy an offshore surf-swept rock near Casa/Children's Pool Beach during periods of calm weather. As the 1980's began, some people reported seeing a few harbor seals hauled out on the rookery beach. By the early 1990's small groups of seals were regularly hauling out on Casa/Children's Pool Beach, which by this time had become so large due to trapped sand that very little sheltered swimming area remained.

In the late 1990's, with seals now hauling out regularly and pupping beginning to be seen on the beach, the City of San Diego decided to dredge the beach and get rid of the seals. Citizens overwhelmingly opposed the proposed dredging project and supported the presence of the now-celebrated harbor seal rookery. A guideline rope was eventually put up across the beach laterally to give seals the undisturbed use of seaward lower part of the beach while allowing humans to view seals from the upper (landward) beach area, the seawall on the west side, and the sidewalk above the east side of the beach.

Eventually, City politicians decided that the beach should be "shared" between seals and people in a different way, causing the rope to be removed except during the pupping season. Since that time, many people including the Governor have helped protect this rookery, but today the Mayor of San Diego refuses to take the single action asked by City Council, restoring the rope immediately, which would prevent people from overrunning the rookery and blocking seals from hauling out.

CITY OF SAN DIEGO
RESOLUTION NO.
COASTAL DEVELOPMENT PERMIT NO. 410971
SITE DEVELOPMENT PERMIT NO. 410975
La Jolla Children's Pool Rope Barrier

WHEREAS, the City of San Diego Park and Recreation Department, Owner/Permittee, applied to the City of San Diego for a permit to erect a temporary rope barrier (including support posts and foundations), during seal pupping season, December 15th, 2006 through May 15th, 2007 and

WHEREAS, the project is located at the La Jolla Children's Pool, west of Coast Boulevard, near Jenner Street, La Jolla, within the Coastal Overlay Zone (Coastal Commission Appeal Jurisdiction) and the La Jolla Community Planning Area; and

WHEREAS, the project is a follow-up to an emergency coastal development permit and emergency authorization to impact environmentally sensitive lands, issued on December 15, 2006, (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 410971 and Site Development Permit No. 410975); NOW, THEREFORE,

BE IT RESOLVED, by the City of San Diego as follows:

That the City of San Diego adopts the following written Findings, dated January 24, 2007.

FINDINGS:

Findings for Coastal Development Permit - Section 126.0708

1. **The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; and**

The project is located on the sand of the La Jolla Children's Pool west of Coast Boulevard, near Jenner Street, in La Jolla. On December 15th, 2006 the City Attorney's Office opined in a Memorandum of Law (Attachment 4) that an emergency existed at the La Jolla Children's Pool and that the emergency necessitated the installation of a rope barrier. The project includes the rope barrier supported by poles, with pole foundations buried in the sand, above the Mean High Tide Line. A rope barrier was erected, and stretches from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on Exhibit "A."

The area above the Children's Pool is identified as a Viewshed area in the La Jolla Community Plan and Local Coastal Program Land Use Plan. The proposed rope was placed at a height not exceeding four feet and not exceeding one half-inch in diameter. Given this height and diameter, the rope does not block any public views as identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan. While the proposed rope barrier provides a buffer between humans and seals during the annual pupping

season, the beach remains open for public use and swimming is allowed. Swimming may not be recommended due to bacteria levels possibly exceeding health standards, but the rope is not intended to prevent access to the sand beach or the ocean. In addition, existing vertical access (concrete stairs) remain unchanged by the project. Given that the sand beach and ocean remain open to the public while the rope is in place and that the rope's location and type of rope used does not block any identified public views at the Children's Pool, the proposed coastal development does not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan, and the coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands; and

The adjacent Coastal Beach and Coastal Bluff are the environmentally sensitive resources potentially affected by the project. The installation of the rope included hand digging small holes (less than 18 inches deep) in the sand, above the Mean High Tide Line, placing the foundation portion of the rope supports in the holes and covering the foundations with sand. The rope does not touch the adjacent Coastal Bluff. Proposed permit conditions require that any debris caused by construction, must be removed from the site and disposed of appropriately. Permit conditions also require that all materials shall be maintained and managed so as to prevent them from entering sensitive areas, including the adjacent coastal waters. Placement is required to be maintained in location identified on Exhibit "A," during the identified time period. In addition, environmental review was performed and an exemption was prepared for the project per Section 15269, Emergency Projects (Attachment 13). As the project involved digging relatively shallow holes in the beach sand above the Mean High Tide Line, permit conditions prohibit any debris or construction materials from entering the ocean, and permit conditions also prohibit the project affecting the adjacent Coastal Bluff, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and

The project includes the rope barrier supported by poles, with the pole foundations buried in the sand above the Mean High Tide Line. The rope barrier stretches from near the concrete access stairs on the east side of the beach to the sea wall on the west side, as shown on Exhibit "A."

The area above the Children's Pool is identified as a Viewshed area in the La Jolla Community Plan and Local Coastal Program Land Use Plan. The rope is placed at a height not exceeding four feet, and not exceeding one half-inch in diameter. Given this height and diameter, the rope does not block any public views as identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan. While the rope barrier provides a buffer between humans and seals during the annual pupping season, the beach remains open for public use and swimming is allowed. Swimming may not be recommended due to bacteria levels possibly exceeding health standards, but the rope is not intended to prevent access to the sand beach or the ocean. In addition, existing vertical access (concrete stairs) remains unchanged by the project. Given that the sand beach and ocean remain open to the public while the rope is in place, and that the rope's location and type of rope used does not block any identified public views at the Children's

Pool, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

4. **For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

Section 30211 of the California Coastal Act requires that no development interfere with the public's right of access to the sea, the use of dry sand and the use of rock coastal beaches up to the first line of terrestrial vegetation. The purpose and intent of Section 30211 is ensure that the public can access the sea and its associated rock coastal beaches. The purpose and intent of the rope barrier is to create a buffer between the public utilizing the sand beach and accessing the sea at the Children's Pool, and the seals, as they are hauled out on the sand during the current seal pupping season. The rope is not intended to keep the public from reaching either the beach or the sea at the Children's Pool. The public is able to enter the sea at the Children's Pool while the rope is in place. In addition, signage that is posted at the Children's Pool indicates that the beach is open to the public. Therefore, the rope would not interfere with the public's right of access to the sea, the use of dry sand and the use of rock coastal beaches up to the first line of terrestrial vegetation as described in Section 30211.

Section 30220 of the California Coastal Act requires that coastal areas suited for water-oriented recreational activities that cannot be provided at inland water areas, be protected for such uses. The rope barrier does not prevent the use of the Children's Pool for recreational activities. The rope is not intended to keep the public from reaching either the beach or the sea at the Children's Pool. The public is able to enter the sea at the Children's Pool, while the rope is in place. In addition, signage that is posted at the Children's Pool indicates that the beach is open for public use.

As the project would not block public access and the beach and ocean would remain open for public recreation, the project is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

1. **The proposed development will not adversely affect the applicable land use plan;**

One of the goals of the Community Facilities, Parks, and Services Element of the LJCP (p. 113) is to, "Ensure that all new and existing public facilities are designed and developed in a manner that will not contribute any adverse impacts to the environmentally sensitive areas of La Jolla." The Children's Pool is located in an area designated as *Environmentally Sensitive Lands containing Coastal Beaches and Coastal Bluffs*. The rope installation has no significant affect on either of these resources. The rope installation included hand digging holes in the sand (not exceeding 18 inches), placing the foundation portion of the rope supports in the holes and covering the foundations up with sand. Proposed permit conditions require that any debris caused by construction, must be removed from the site and disposed of appropriately, and would also require that all materials shall be maintained and managed so as to prevent them from entering sensitive areas, including the coastal waters. Placement is required to be maintained in location identified on Exhibit "A," during the identified time period. The La Jolla Community Plan

also calls for the protection of public views. The rope is placed at a height not exceeding four feet and does not exceed one half-inch in diameter. Given this height and diameter, the rope does not block any public views. As the project does not have any adverse impacts on the Coastal Beach or the Coastal Bluffs, and the project does not negatively affect any public views, the development does not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The primary objective of the rope installation is to serve as a buffer between humans and seals during the current pupping season. Lifeguards advise beachgoers to avoid unattended seal pups, as a pup's mother may be foraging and conflicts could arise upon a mother's return. Users are also advised not to place themselves between a seal mother and her pup. While the beach is open to public use, and beachgoers may pass the rope to enter the beach, the rope's presence serves as a caution, and allows users to read signage warning them that it is unlawful to harass the seals, and that the water may cause illness due to bacteria levels that may exceed health standards. The signs also inform users that swimming is allowed, but is not recommended, and that the beach is open for public use. As the project is intended to create a safety buffer between humans and seals, and information is provided to the beach-going public regarding potential health hazards, the project is not detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

Land Development Code regulations require that the construction of a project potentially affecting an environmentally sensitive resource, result in minimum disturbance to that resource. The rope installation included digging shallow (not exceeding 18 inches) holes for each post footing and covering them with the sand. Standard, cord (not exceeding one half-inch) was then strung between the posts. Informational signage mounted to the posts provides the public with safety information. In addition, the height of the rope does not exceed four feet, no public views are obstructed, and the project is temporary and removable. As a result, the rope barrier does not disturb the Coastal Beaches or Coastal Bluffs. In addition, environmental review was performed and an exemption was prepared for the project per Section 15269, Emergency Projects (Attachment 13). As such, the proposed development would not create a disturbance of the environmentally sensitive lands, and, therefore, complies with the Land Development Code.

B. Supplemental Findings—Environmentally Sensitive Lands

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;

The project site is the sand at the Children's Pool beach. There is ample sand at the beach to allow the rope support posts to be placed in hand dug holes in the sand, and to cover the post foundations with the sand. Standard, half-inch cord is strung between the posts. Informational signage is mounted to the posts to provide the public with safety information. The installation of the rope barrier at the La Jolla Children's Pool was considered to be the minimum necessary to avert the emergency. The height of the rope does not exceed four feet, and no public views are obstructed. Hand dug holes do not exceed 18 inches, minimizing any effect on the Coastal Beach Resource. The rope barrier does not disturb the

Beach or Coastal Bluff resources. As the site can readily accommodate the installation of the rope barrier project with minimal disturbance to the Children's Pool beach, and neither the Coastal Beach nor the Coastal Bluff would be negatively affected by the project, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

2. **The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;**

The proposed rope installation would include digging shallow holes (not exceeding 18 inches in depth) for each post footing and covering them with the sand. The rope would be placed above the Mean High Tide Line and, as such, would not create erosional conditions. No geologic forces are expected to be factors with this type of development, and because no structures are proposed, no flood or fire hazards are anticipated. Therefore, the proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. **The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;**

The proposed installation of the rope would include digging shallow holes (not exceeding 18 inches in depth) in the sand, placing the foundation portion of the rope supports in the holes and covering the foundations up with sand. The rope will be installed in dry sand above the Mean High Tide Line, ensuring the project can be installed and removed with minimal affect on the Coastal Beach and Coastal Bluff. In addition, proposed permit conditions would require that any debris caused by construction to be removed from the site and disposed of appropriately. Permit conditions would also require that all materials shall be maintained and managed so as to prevent them from entering sensitive areas, including the coastal waters. Placement would be required to be maintained in location identified on Exhibit "A," during the identified time periods. Therefore, the proposed development would be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

4. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;**

The project is not located in or near the Multiple Species Conservation Program (MSCP) Subarea. Therefore, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan

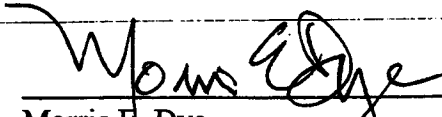
5. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and**

The rope barrier pole foundations would be placed in dry sand above the Mean High Tide Line. As such, the project would not create erosional conditions. Sand removed to hand dig the holes for pole installation, would be used to cover the foundations, and therefore, sand would not be removed from the Children's Pool Beach as a result of the project. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

6. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.**

No mitigation is required of this project. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City of San Diego, Coastal Development Permit No. 250362 and Site Development Permit No. 250363 is hereby GRANTED by the City of San Diego to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Coastal Development Permit No. 250362 and Site Development Permit No. 250363 a copy of which is attached hereto and made a part hereof.



Morris E. Dye
Development Project Manager
Development Services

Adopted on: January 24, 2007

Job Order No. 4900

cc: Legislative Recorder, Planning Department

7
1 Bryan W. Pease (SB# 239139)
2 302 Washington St. #404
3 San Diego, CA 92103
4 Telephone: (619) 723-0369
5 Facsimile: (619) 923-1001
6 email: bryanpease@gmail.com

7 Attorney for Petitioners

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN DIEGO**

10 ANIMAL PROTECTION AND RESCUE) No. 37-2011-00085228-CU-WM-CTL
11 LEAGUE, a California not-for-profit)
12 organization; Marcia Patt, an individual; Tina) **DECLARATION OF BENJAMIN HUESO**
13 Menier, an individual; Jeanne Thoennes, an) **IN SUPPORT OF WRIT OF MANDATE**
14 individual; James Hudnall, an individual;)
15 Dorota Valli, an individual; Ellen Shively, an) Date: July 15, 2011
16 individual; Robb Mead, an individual;) Time: 2:30 p.m.
17 Deborah Saracini, an individual,) Judge: Hon. Lisa Foster
18) Dept.: C-60
19 Plaintiffs/Petitioners,)
20)
21 v.)
22)
23 CITY OF SAN DIEGO and THE PLANNING)
24 COMMISSION OF THE CITY OF SAN)
25 DIEGO,)
26)
27 Defendants/Respondents)

28 I, Benjamin Hueso, hereby declare as follows:

29 1. I am a resident of California, over the age of 18 years, and competent to testify as
30 a witness. I state the following of my own personal knowledge, except those matters stated on
31 information or belief, and as to those matters, I believe them to be true.

32 2. I am currently a member of the California State Assembly. From 2006 until my
33 election to the Assembly in 2010, I was a member of the San Diego City Council, and I was

1 elected as Council President in 2008. I also served on the California Coastal Commission for
2 two years while on the City Council.

3 3. I was personally present at the May 17, 2010 City Council hearing, and I voted in
4 favor of Resolution R-305837, directing the Mayor or his designee "to amend Coastal
5 Development Permit Number 701673 and Site Development Permit Number 701765 to keep the
6 rope barrier up year round at Children's Pool and to timely submit permit applications." The
7 Resolution passed by a 6-2 supermajority vote.

8 4. In approving this Resolution, the Council made the necessary findings for
9 granting a Coastal Development Permit. The Council specifically found that the rope is a
10 guideline only, and not an "encroachment" on beach access. It was never the intention of the
11 Council for the Planning Commission to be able to substitute its own findings on this issue and
12 overrule the Council.

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14
15 I declare under penalty of perjury the foregoing is true and correct.

16 Dated: June 17, 2011
17 San Diego, California

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By: 

Benjamin Hueso



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

8

2010/02039:CCF

May 14, 2010

Donna Frye
Chair, Natural Resources & Culture Committee
San Diego City Council
202 C St. #10
San Diego, California 92101-3860

Dear Councilwoman Frye:

Thank you for contacting NOAA's National Marine Fisheries Service (NMFS), Southwest Regional Office, regarding the San Diego City Council's next steps concerning Children's Pool Beach (CPB), located in La Jolla, California. Following a conference call with my staff in the Protected Resources Division on April 28, 2010, your staff sent, via electronic mail, a copy of your draft report to be presented to the San Diego City Council identifying management options for CPB. Per your request, this letter provides our comments and recommendations regarding the proposed management options. In order to provide some context for these comments, we have added some background (Appendix 1) on the Marine Mammal Protection Act (MMPA), harbor seal biology and life history, and the historical and current use of CPB by harbor seals.

The presence of a harbor seal colony at CPB has been the focus of several lawsuits in the recent past. In 2009, the California State Legislature passed Senate Bill 428, which amended the conditions of the 1931 State trust granting the CPB area tidelands to the City of San Diego. Effective January 1, 2010, the trust was amended to allow for an additional use of the tidelands: a "marine mammal park for the enjoyment and educational benefit of children." While, there is no definition or recognition of the term "marine mammal park" under the MMPA and NMFS' implementing regulations, this amendment of the trust provides the City of San Diego with greater latitude in implementing management actions regarding the harbor seal colony at CPB.

COMMENTS AND RECOMMENDATIONS

My staff and I have reviewed the actions that were proposed by the San Diego City Council Natural Resources and Culture Committee, of which you are the Chair, and offer the following comments and recommendations.

1. **Direction to seek a Local Coastal Program amendment to prohibit the public from entering the beach during pupping season, 24 hours a day from December 15 through May 15.**



Harbor seals (*Phoca vitulina richardii*) at CPB are subject to many potential daily urban disturbances— traffic noise, car alarms, slamming doors, people shouting and laughing. Any of these disturbances may provoke a reaction from a harbor seal on the beach. This may include raising their head, looking around, or moving. The most disruptive of human interactions are those that lead to animals flushing into the water, causing animals to expend energy and prevent them from gaining the benefits of hauling out (e.g., rest or thermoregulation). When pups are on the beach, they can be injured or even killed by stampeding adult seals. Biologists have observed that the presence of people on the beach near the hauled out seals, or at the water's edge typically results in large numbers of seals flushing (Hanan 2004). By preventing the public from entering the beach, flushing can (in most cases) be prevented. Therefore, NMFS supports prohibiting the public from entering the beach.

For the harbor seals hauled out at CPB, the most critical time for protection from disturbance and harassment are during the last months of pregnancy and through pup weaning. The first full-term harbor seal pups are usually born at CPB in January. Based on these dates, implantation occurs no later than August. Therefore, adult females hauled out at CPB after August are likely pregnant. NMFS has received documented reports of abortions and premature parturition occurring in CPB harbor seals in November and December. Therefore, NMFS recommends treating December 1 as the beginning of the pupping season. This date is a conservative start date for pupping season and provides protection from human interference for late term pregnant females hauled out at CPB, and likely reduces the risk of abortion and premature parturition. After birth, pups nurse and are dependent on their mothers for approximately 4-6 weeks until weaning. The last pups of the season (typically born in April) may not wean until the end of May. Therefore, NMFS recommends treating May 30 as the end of the pupping season, as this date ensures that the majority of pups will be weaned.

NMFS has one comment regarding this restriction. The City Council might consider exempting certain categories of people from the general prohibition. For example SeaWorld personnel may need to access CPB if an entangled animal is observed on the beach. We recommend that the City Council consider a mechanism that will allow access in this, or other appropriate situations.

2. Prohibit dogs on the Children's Pool Beach year round, 24 hours a day

NMFS supports this action. Dogs may harass seals and cause them to flush into the water. There is also a risk of disease transmission between canines and pinnipeds. Therefore, prohibiting dogs from the beach is protective of the seals and dogs by reducing potential disturbance and preventing potential health issues.

3. Seek private funding for a Park Ranger or Lifeguard full-time position with expert qualifications whose primary duty is to patrol the Children's Pool. Authorize the Park and Recreation Department or Lifeguard Services to create a Volunteer Docent Program led by this Park Ranger or Lifeguard

NMFS supports this action. NMFS recognizes that at least some percentage of harassment of marine mammals is caused by well-meaning members of the public who do not understand the

impact their behavior may have on the animals or lack knowledge of applicable laws. La Jolla's CPB is a destination area for many tourists who may have no experience with wild marine mammals. Once informed, most people tend to maintain a greater distance and limit potentially disruptive behaviors. Therefore, the combination of enforcement and education should greatly help this situation.

While NMFS appreciates the efforts of the private organizations that have provided educational materials at CPB, we believe that the programs would be more organized and messages more consistent if they were maintained by a central group operating under the purview of the local government, such as the program envisioned by this proposal. NMFS would look forward to coordinating closely and assisting with such a program. Additionally, having a dedicated employee with enforcement authority would likely help prevent violation of city ordinances that are protective of seals or limit conflict, including purposeful violation of those city ordinances.

While NMFS has enforcement authority under the MMPA, limited staffing creates a challenge. NMFS has a toll-free hotline (1-800-853-1964) to report violations of marine laws (including the MMPA). In 2009, this number received a total of 154 calls regarding CPB. Although only three of the 154 calls resulted in a full investigation, all of the calls represent a significant investment for the local NMFS enforcement agent.

Under MMPA Section 109(a), no State may enforce a State law or regulation relating to the taking of the species of marine mammal without a transfer of management authority from the Secretary of Commerce. This has not occurred in California. However, States and local governments are free to implement and enforce ordinances, such as the closure of a beach, which may have a side benefit of preventing the harassment of a marine mammal.

4. Seek an emergency amendment to the existing Coastal Development Permit to keep the guideline rope up year round

NMFS supports this action with some reservations, as maintenance of the guideline rope does not ensure that harbor seals will not be harassed. For example, if a harbor seal hauls out on the "human" side of the rope, harassment of that seal may still be considered a violation of the MMPA, even if one is on the "correct" side of the rope. NMFS recommends that the public maintain a distance from any seal, regardless of where they are regarding the guideline rope. For most harbor seal haulout sites along the West Coast of the U.S., NMFS recommends a distance of 100 feet. However, with the relatively small area at CPB, NMFS has recommended that the public maintain a distance of at least 50 feet from any seal, while standing on CPB (as opposed to standing on the breakwater). As this is a viewing guideline and not codified in the regulations, NMFS has the flexibility to modify it to meet the individual circumstances of the geographic area and the natural history of the species. Because viewing distances are guidelines, they do not have the force of law, but harassment is a violation of the MMPA regardless of the distance from which it occurs.

Therefore, NMFS supports establishing the guideline rope year-round, as it would allow at least some measure of public awareness and protection to the harbor seals hauled out on the sand. However, we note that merely abiding by the guideline rope (standing on the "human" side) does


not guarantee that a person will not violate the MMPA. For example, humans approaching CPB from the water while harbor seals are on the beach may present more of a threat to the seals than humans on the beach, which may result in flushing en masse into the water.

CONCLUSION

Thank you for the opportunity to provide input on the proposed actions sent before the City Council of San Diego. We hope that our comments and recommendations will help inform your discussions. If you have any further questions, please do not hesitate to contact Sarah Wilkin at Sarah.Wilkin@noaa.gov or 562-980-3230 or Christina Fahy at Christina.Fahy@noaa.gov or 562-980-4023.

Sincerely,



 Rodney R. McInnis
Regional Administrator

cc: Copy to File: 151422SWR2005PR2267

Appendix 1.

BACKGROUND:

Marine Mammal Protection Act

Under the Marine Mammal Protection Act (MMPA), NMFS (exercising the authority of the Secretary of Commerce) is the resource trustee agency for cetaceans and pinnipeds (excluding walrus) in the United States and is responsible for implementing and enforcing the law. The stated goal of the MMPA is to ensure that marine mammal species and stocks do not "diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part" (16 U.S.C. §1361(2)). To implement this goal, the MMPA imposes a general moratorium on the "take" of a marine mammal in U.S. waters. It defines take to mean "to harass, hunt, capture, or kill or attempt to harass, hunt, capture or kill any marine mammal" (16 U.S.C. §1361(13)).

Pacific harbor seals – general biology/life history

Pacific harbor seals (*Phoca vitulina richardii*) are widely distributed throughout the North Pacific. Haulout sites are widely distributed throughout the California mainland and on offshore islands, including beaches, rocky shores, and intertidal sandbars. This subspecies inhabits near-shore coastal and estuarine areas from Baja California, Mexico to Alaska. Their migrations are limited to 300-500 kilometers, occasionally traveling these distances to find food or suitable breeding areas. The timing of harbor seal pupping occurs sequentially along the west coast of North America, with the earlier pupping seasons occurring in Baja California and southern California, and later seasons occurring in the Pacific Northwest and British Columbia, Canada. After birth, pups nurse and are dependent on their mothers for approximately 4-6 weeks until weaning. Harbor seals breed shortly after weaning their pups. Delayed implantation of the fertilized blastocyst occurs 1.5 to 3 months following mating. The gestation period is approximately 9 months.

For any individual or group of individuals in a breeding colony, there are two time periods in a given year when non-lethal disturbance or harassment would be the most harmful to harbor seals. The first is any interference with pregnant females that might result in the loss of young prior to birth (either through abortion of a fetus that cannot survive outside of the womb or the premature birth of a pup that lives a short time before dying). This type of reproductive failure can be harmful to the health of that female and, over time, may result in the collapse of the harbor seal colony. The second critical time period is immediately following birth, when mothers and their pups bond, so they can recognize each other if they become separated. Disruption of the bonding process usually leads to abandonment of the pup and eventual death without human intervention.

Harbor seals at Children's Pool Beach

There have been limited studies focusing on the harbor seals in La Jolla, but the animals likely colonized CPB because it provided suitable habitat. Genetic analyses have not been conducted to determine population structure or the origins of the founding animals for this rookery; however, one reasonable assumption is that they may have originated from some of the offshore islands (e.g., San Clemente Island) in southern California. In addition, there is no evidence that human intervention (via the release of rehabilitated seals) created this colony. Prior to colonization of CPB, some rehabilitated harbor seals were released from multiple La Jolla beaches located near known offshore haulout sites (rocks). However, these releases represent a small number of animals and there is no evidence that those released harbor seals were more likely to haul out on the mainland beaches versus offshore rocks following release. Currently, all harbor seals rehabilitated in San Diego County are released off Point Loma.

Currently, Pacific harbor seals use CPB to haul out year-round, and to give birth and nurse their pups. Harbor seals historically occupied the offshore rocks near La Jolla, but were not consistently observed on the mainland at CPB until the early 1990's. By 1995, harbor seals were using CPB daily (Yochem and Stewart 1998). This time period coincides with an observed increase in the harbor seal population off California. During this time, individual animals could be observed hauling out in areas containing suitable habitat (Hanan 1996), sometimes leading to the establishment of a haulout site or re-colonization of an historical haulout site. With a sloping, sandy beach that is north-facing and generally protected from tidal influence and high wave action, CPB provides suitable habitat for harbor seals.

The first observed pups confirmed born on CPB occurred in the late 1990's. NMFS conducts a statewide harbor seal census survey every few years and includes the animals at CPB. More frequent observations by volunteer groups and project monitoring reports indicate that the number of pups born annually appears to have stabilized at CPB, now averaging between 40-50 pups. Harbor seals, including those at CPB, display site fidelity, with female harbor seals often remaining close to the area they gave birth.

The term "rookery" is not defined in either the MMPA or through its implementing regulations. The American Heritage Science Dictionary (2002) defines a rookery as: "A place where certain birds or animals, such as crows, penguins, and seals, gather to breed." Harbor seals have been observed giving birth at CPB for approximately 10 years, and the timing and numbers of pups born are generally predictable from year to year. Therefore, NMFS considers CPB to be a harbor seal rookery and year-round haulout site.

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Yochem, P. and B. Stewart. 1998. Behavioral ecology and demography of seals and sea lions at Seal Rock Marine Mammal Reserve. HSWRI Technical Report No. 98-282. Submitted to City of San Diego, Seal Rock Marine Mammal Reserve Ad Hoc Committee.



UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NOAA FISHERIES SERVICE
Office of Law Enforcement
501 W. Ocean Blvd., Suite 4300
Long Beach, CA 90802
November 30, 2007

9

San Diego City Attorney's Office
Nina M. Fain, Deputy City Attorney
1200 Third Ave, Suite 1100
San Diego, CA 92101

Dear Ms. Fain,

I am writing in regard to the marine mammals at La Jolla's Children's Pool and steps we can take to protect them and the people in the community. In the past few months, there have been numerous calls and other communications to NOAA's Office of Law Enforcement (OLE) regarding incidents of marine mammal harassment by the public at the Children's Pool Beach (CPB) in La Jolla, CA. As you know, under the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1372 (a)(2)(A), *it is unlawful for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States.* Harassment is listed under the definition of 'take.' Take means to harass, hunt, capture, collect, or kill, or to attempt to... any marine mammal.

Harassment (Level B) means any act of pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.

Joe Cordaro, NOAA Wildlife Biologist, advises that harbor seals haul out at CPB for breeding, nursing, molting, and resting. The first full-term pups are usually born in early-mid January. Pups wean from their mothers in approximately 4-7 weeks. The last pups of the season may not wean until the end of May.

The CPB receives numerous visitors each month which increases the potential for seal/human interaction. OLE has placed signs on the landings above the CPB, which warn the public to keep a safe distance from the hauled out harbor seals. While the guidelines are useful, they have not prevented actions that could be considered harassment from occurring at the beach, particularly during pupping season. OLE continues to receive HOTLINE calls reporting alleged marine mammal harassment at the CPB.

OLE is concerned that the public will continue to harass marine mammals and continue to be subject to citation under the MMPA at CPB. Therefore, we strongly recommend, that the City close the CPB starting December 15 through May 30 or, at a minimum, consider reinstating the CPB rope barrier that was once in place. Unfortunately, in the past the rope barrier did not deter the "determined" individual(s) from approaching the seals. The rope barrier will provide a clear message for those that have a sincere desire to respect the marine mammals present on the beach, and therefore will provide some level of heightened protection for the adults and newborn seals. The rope barrier will also aid in informing people when they are more likely to be found in violation of the MMPA and potentially cited.



We realize that this request may be complicated by the recent result of the litigation over CPB. Nonetheless, NMFS remains concerned about the vulnerability of the seals at the rookery during the pupping season.

As in previous years, OLE appreciates your practice of implementing the rope barrier. The rope barrier has been a needed step in the right direction, but closing the beach would make a safer environment for the nursing seals. OLE appreciates and looks forward to a continued opportunity to work with you in assisting you achieving your goals as well as protecting the animals and citizens of our community.

Sincerely,



Donald W. Masters
Special Agent in Charge
NOAA Fisheries/OLE

cc: April Penner, City Manager's Office
Dale Jones, Director, Office of Law Enforcement
Rod McInnis, Regional Administrator, SW Region
Russ Strach, Assistant Regional Administrator for Protected Resources, SW Region



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Office for Law Enforcement
Southwest Region
501 W. Ocean Blvd., Suite 4300
Long Beach, CA 90802

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March 21, 2006

Mayor Jerry Sanders
City Administration Building
11th Floor
202 C Street
San Diego, CA 92101

Dear Mayor Sanders,

I am writing in regard to the marine mammals at La Jolla's Children's Pool and steps we can take to protect them and the people in the community. In the past few months, there have been numerous calls and other communications to NOAA's Office for Law Enforcement (OLE) regarding incidents of marine mammal harassment by the public at the Children's Pool Beach (CPB) in La Jolla, CA. As you know under the Marine Mammal Protection Act (MMPA), §16 U.S.C. 1372 (a)(2)(A), *it is unlawful for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States.* Harassment is listed under the definition of 'take.'

Take means to harass, hunt, capture, collect, or kill, or to attempt to... any marine mammal.

Harassment (Level B) means any act or pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.

The CPB receives an estimated 80,000 visitors per month which increases the potential for seal/human interaction. OLE has placed two signs down on the beach which warn the public to keep a safe distance from the hauled out seals and sea lions. ~~While these guidelines are useful, they have not prevented actions that could be considered harassment from occurring at the beach, particularly during pupping season.~~ The OLE has received over 60 HOTLINE calls reporting alleged marine mammal harassment at the CPB since January 1, 2006. The agency responded to these complaints by increasing the number of patrols to the beach, especially on weekends but, resources do not afford us with the ability to maintain a constant presence.



Harbor seals haul out at CPB for breeding, nursing, molting, and resting. The pupping season at the CPB is from January through the end of April. Typically, the pup is born and weaned during the late spring. Nursing usually lasts about 3-6 weeks, averaging about 4 weeks until the pup is weaned. Unlike many other seal pups, harbor seals are able to swim at birth, but harbor seal mothers are very protective and the mother/pup bond is very important, particularly during the time immediately following birth.

California State Parks closed beaches in Arroyo Laguna and Piedras Blancas because of concerns of elephant seals being harassed at sites they are known to haul out to rest, give birth, care for their pups, and molt.

OLE is concerned that the public will continue to harass marine mammals and continue to be subject to citation under the MMPA at CPB. Therefore, we strongly recommend, as well, that the City close the CPB during the remainder of pupping season (through the end of April). The closure during this time will afford the City with time to decide, plan, and place into action a more permanent strategy for the CPB.

In the event you decide against a temporary closing of the beach, as conducted at Arroyo Laguna and Piedras Blancas, consider reinstating the CPB rope barrier that was once in place. Unfortunately, in the past the rope barrier did not deter the "determined" individual(s) from approaching the seals. ~~The rope barrier will provide a clear message for those that have a sincere desire to respect the marine mammals present on the beach, and therefore will provide some level of heightened protection for the adult and newborn seals. The rope barrier will also aid in informing humans when they are more likely to be found in violation of the MMPA and potentially cited. This option has been supported by Susan Davis, Member of the U.S. Congress (House of Representatives).~~

OLE appreciates and looks forward to a continued opportunity to work with you in assisting you fulfill your goals as well as protect the animals and citizens of our community.

Sincerely,


Donald W. Masters
Special Agent in Charge

cc: Julie Teel, Office of the City Attorney
April Penner, City Manager's Office
Dale Jones, Director, Office for Law Enforcement
Rod McInnis, Regional Administrator, SW Region

March 16, 2010

Councilmember Donna Frye and
Members of the Natural Resources and Culture Committee
202 C Street, MS #10
San Diego, CA 92101
Via email: mkempczenski@sandiego.gov

Re: Coastkeeper position on harbor seal rookery and haul-out at Casa Beach, La Jolla

Dear Councilmember Frye and Committee Members:

San Diego Coastkeeper (Coastkeeper) is a local nonprofit organization whose mission is to preserve, restore and enhance the region's waters and lands that affect our coastal areas for the people, plants and wildlife that depend on them. We are also committed to the protection of healthy coastal ecosystems.

Coastkeeper has been engaged in discussions and actions involving uses of the harbor seal rookery and Children's Pool at South Casa Beach, La Jolla, since 2004. Over the past six years we have met with a number of individuals and groups who are involved in efforts to secure Casa Beach as a marine mammal park and those who endeavor to keep the beach open to shared human and seal use year round. We respectfully offer our position and associated comments regarding the harbor seal rookery and haul-out at Casa Beach.

San Diego Coastkeeper supports the protection of the harbor seal colony and rookery at Casa Beach (Children's Pool) in La Jolla in the following manner:

- **We support closure of the beach rookery to human use during pupping season (December 1 – June 1) so as the seals may give birth and nurse their young with no disturbance.** A similar, successful form of management at Carpinteria State Beach has been implemented since the 1980s. We support a move away from the current shared use policy of Casa Beach during this timeframe because it does not serve the best interest of either the seals or public safety. Female harbor seals can become increasingly aggressive should they sense disturbance or intrusion on their newborns. Additionally, human interaction can cause seals to be separated from young leading to abandonment.
- **We encourage federal enforcement of the Marine Mammal Protection Act¹ of 1972 at Casa Beach which prohibits the hunting, harassing, capture or killing of any marine mammal or attempt to do so².**

¹ <http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa.pdf>

² "The effect of this set of requirements is to insist that the management of animal populations be carried out with the interest of the animals as the prime consideration."² - House of Representatives, No. 707, 92nd Congress, 1st Session, 18, 22 [December 4, 1971]

- We support the permanent installment of educational signage about the harbor seals at Casa Beach, as well as the installment of a guideline rope during non-pupping season. These measures would serve to educate and promote public safety and safety of the seal colony. We further encourage the City and citizen groups to engage in activities and behaviors that would help curtail confrontations between pro-seal and pro-beach advocates.
- We support the prohibition of dogs on the beach at all times.

Thank you for consideration of our comments of this issue. Please contact me at (619) 758-7743 x 109 with any questions or concerns.

Sincerely,

Gabriel Solmer

Gabriel Solmer
Legal Director



For more information or questions about these guidelines, please contact:

NOAA's National Marine Fisheries Service

Southwest Regional Office
501 West Ocean Boulevard,
Suite 4200

Long Beach, CA 90802-4213
(562) 980-4017 or (562) 980-3232
<http://swr.nmfs.noaa.gov>

To report incidents of harassment, please contact:

Southwest Region
NOAA Office of Law Enforcement
501 West Ocean Boulevard,
Suite 4300
Long Beach, CA 90802-4213
(562) 980-4050 or

NOAA Law Enforcement Hotline
1-(800) 853-1964

California, Seal and Sea Lion Viewing Guidelines

NOAA's National Marine Fisheries Service (NMFS) is responsible for protecting seals and sea lions under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA). California offers a unique opportunity for the public, to view these wild animals in their natural habitat.

However, efforts by the general public to closely approach or otherwise interact with seals and sea lions can lead to harassment, which is illegal under the MMPA and ESA. Harassment, as defined under the MMPA, is an act of pursuit, torment or annoyance which has the potential to injure the animal or cause a disruption of its natural behavior. Harassment can carry penalties of \$100 to \$13,000.

From a biological and management standpoint, the harassment of seals and sea lions by members of the general public continues to be a concern. In addition, there are significant public safety issues to consider, as some people have been injured while attempting to interact too closely with seals and sea lions.

DECLINES FOR VIEWING SEALS AND SEA LIONS IN CALIFORNIA WATERS:

seals and sea lions
out on man-made buoys
on shore
specifically vessels under power
(without endangering the vessel), and
observed at the surface and clear of
distance from vessel).

Flying or Gliding:
Remain at 1000 ft. elevation near seal and sea
lion haul out sites, rookeries, and surrounding
waters.

All Photos: NOAA

NORTHERN FUR SEAL

Callorhinus ursinus

Range/Habitat: Restricted to North
Pacific Ocean and Bering Sea
(includes outer islands in California).
May occur year-round at San Miguel
Island. Haul out on rocky and sandy
beaches.

Description: Adult females weigh
~140lbs; dark brown-gray; lighter
along lower chest. Adult males
weigh ~500lbs; with a massive chest
and stiff mane; reddish brown -
black. All have large hindflippers, a
stocky/body, small head, and
pointed snout. Pups born with black
pelage.

Reproduction: Females at rookeries
by late spring; pupping from late
May-June; pups weaned at ~4
months; Adult males at rookeries
late May-early June, leave late
August - early October.

Protected under MMPA



NORTHERN ELEPHANT SEAL

Mirounga angustirostris

Range/Habitat: Baja California to Gulf of Alaska/Aleutian
Islands. Breeding season: haul out on beaches; offshore
islands, mainland. Travel widely into eastern and central
North Pacific, and along Northwest coasts.

Description: Adult females weigh ~1,500lbs. Adult males
weigh ~4,500lbs; have a fleshy nose; dark brown, chest
heavily calloused/scarred. Post-molt coat is silver - dark
gray; fades to tan - yellow. Pups born with a black pelage

Reproduction: Females arrive for pupping December - March (males arrive earlier
then females); pups weaned at three - five wks. Adults depart rookeries end of
February to mid-March, remain at sea, return in June-July to molt. Weaned pups
remain on beaches.

Protected under MMPA

PACIFIC HARBOR SEAL

Phoca vitulina richardsi

Range/Habitat: Coastal areas Baja California to Alaska. Haul out on near-shore
beaches, mudflats, bays, and estuaries. Haul out year-round throughout their range.

Description: Adult females weigh ~300lbs; Adult males weigh ~380lbs. All have a
robust head, broad snout. Pelage pattern varies with
latitude (darker - in southern range; lighter - in north-
ern range). Pelage: light tan-silver; scattered dark spots
or black with light colored scattered rings. Pups born
with lanugo coat that is shed; grayish coat underneath.

Reproduction: Pupping January - October (through
entire range); occurs earlier in southern areas. Pups
able to swim immediately after birth; weaned three-
weeks. Mating occurs during the molting season.



ing the northern coast of Baja Califor-
rookeries in August-September;
s weaned 4-8 months.

Protected under MMPA

LION

versus

ean and Bering Sea found as far
reefs, ledges, beaches. Individuals

Females weigh ~800lbs. Adult
0lbs; head, chest, and neck area is
of long hair. Adults light brown-
oppers. Pups born with dark brown -
occurs in late summer-fall.

urs from central California to Alaska.
in May; pupping late May - early
e weaned by one year of age.

der ESA (Eastern) is protected under MMPA

Letters to the Editor (San Diego Union Tribune)

THURSDAY, JULY 23, 2009 AT 2 A.M.

Anti-public access and the La Jolla seals

Given even the smallest opportunity, nature has an incredible ability to recover and reclaim what man has destroyed. In the case of Casa Beach in La Jolla, what was once just another beach is now home to a thriving colony of harbor seals. As the location of the only mainland harbor seal rookery south of Santa Barbara, this is much more than a "haul-out" site for the seals — it is the site where a population of seals breed, give birth and raise their pups.

Some argue that this beach should be returned to the "children" of San Diego and that the seals should go elsewhere. We ask: Where would that be? The seals have chosen this beach for their home for a reason. We have no way of knowing what that reason is, but we must insure they have a home somewhere.

Does this mean we don't care about the children? Of course we do, but what could be more educational than a trip to visit the rookery, the only one available to the children of San Diego. But this is precisely the problem. This is not about the seals vs. the "children." This is about wealthy homeowners who live near the beach and who want to prevent the public from coming to see the seals. They don't like the traffic and frankly, they apparently don't care about children either.

Tourists flock to this beach. We were both struck by that when we visited this lovely cove. It is obvious — get rid of the seals, get rid of the people, and the children as well! This is a fight about public access, and members of the public should be outraged that they will lose their ability to see this slice of nature's wonders. Coastal access is a cornerstone of the Coastal Act and essential to coastal protection.

As members of the California Coastal Commission, we strongly encourage the city to establish clear guidelines for the preservation of the seal rookery at Casa Beach in La Jolla and for public access to the area. Doing so would demonstrate strong economic and environmental judgment, and at no cost.

PATRICK KRUEER

La Jolla

SARA WAN

Malibu

----- Original Message -----

From: "Christina Fahy" <Christina.Fahy@noaa.gov>

To: "Cindy Benner" <cindybenner@cox.net>

Cc: "Michelle Zetwo" <Michelle.Zetwo@noaa.gov>; "Chris Yates" <Chris.Yates@noaa.gov>; "Sarah Wilkin" <Sarah.Wilkin@noaa.gov>; "Monica DeAngelis" <Monica.DeAngelis@noaa.gov>

Sent: Monday, November 30, 2009 5:13 PM

Subject: Re: Court victory on Friday

Hi Cindy--

I agree that having so many signs can be confusing to the public but do see the benefit in having a sign specifically designed which provides the recommended guidelines to remain at least 50' from marine mammals at Children's Pool beach, placed in strategic locations > to be most effective. Given the recent court ruling and the City's future role in managing the site, it would probably be more appropriate for the City to approach NMFS requesting signage. Please feel free to bring this up at your next meeting with the City and let them know NMFS would be open to such a request.

Thanks again for your continued interest in this issue.

Tina Fahy

San Diego Harbor Seal Rookery: Frequently Asked Questions -

Renée Owens, Wildlife Biologist

What is all the controversy about? Seals have inhabited Casa Beach in La Jolla for as long as we have records of the area. A map from 1887 identifies the rocks under the seawall as Seal Point. In 1931 the seawall was built from funding provided by a philanthropist, Ellen Browning Scripps. Concurrently a faction of local residents want use of the beach for their recreation to the exclusion of the seal colony, regulations, or the presence of anything / anyone else that may discourage such use. They have successfully lobbied their San Diego City Council district representative, and some of the local lifeguards for support in what is considered seal harassment under federal law. Official lifeguard records show that an average of 140,000 people a month come to view the seals, and many of the local businesses support their presence as an important tourist attraction. Unbiased polling of San Diego residents also reveal overwhelming support for greater protections of the harbor seal colony.

What is a rookery, and why is it important to preserve? A rookery is an area of shoreline where the seals come together to find mates, give birth, raise their pups, and protect their young from predators until they are capable of thriving on their own. It is an integral part of the seals' life, without which the population cannot survive. Hauling out is crucial not only for resting, but also for molting, nursing pups, and maintaining a healthy immune system, thermal regulation and metabolism. The time that a seal spends hauled out is directly related to the health of the individual, and studies have shown that harassment from humans causes significantly reduced haul-out durations. Unlike sea lions or elephant seals, Harbor seal rookeries never get big – leveling off at about 300 individuals maximum.

Aren't the seals protected? All marine mammals are protected under the federal Marine Mammal Protection Act (MMPA), which defines harassment as "Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal... or (ii) has the potential to disturb a marine mammal in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering." However, the branch of the federal agency in charge of enforcement of these laws – the National Marine Fisheries Service (NMFS) – has avoided taking responsibility of this issue. Over the past couple of years countless incidents of intentional harassment have been videotaped. However NMFS ignores repeated requests to stop this, and by passing the responsibility of enforcement to the City, they have cost taxpayers several million dollars in legal fees, wages for police support, and lost tourism revenue.

Why can't the seals go somewhere else? Although the rookery seal numbers are decreasing as harassment increases, some breeding seals remain. This demonstrates an

What about sharks? There have been three known fatalities (one unconfirmed) in San Diego County from a shark attack in the past century. There are no data indicating that shark populations have increased around Casa Beach, probably because the seals have historically been here for ages. According to Scripps Institute shark researchers, populations of dangerous sharks have been greatly reduced and continue to decline locally and globally. The only thing that has actually increased is the attention to this issue by those fearful of sharks. The fact is you are more likely to be hit by falling space debris than be attacked by a shark.

Where does the City Council stand? The San Diego City Council voted to open the beach for public recreation, a policy they call "shared use". This is an oxymoron: as detailed above, no rookery or community of large wild mammals who see humans as predators can thrive with humans using the same area for recreation.

Which groups are working to protect the harbor seals of Casa Beach? A "Save Our Seals" coalition of several environmental organizations are working together through positive activism and education, on the issue. The local chapter of the Sierra Club, the La Jolla Friends of the Seals and the Animal Protection and Rescue League all support full protection of the seal colony and their habitat.

Why is it important to protect the seals? Isn't it better to allow people to swim here? People have miles of beautiful coastline in San Diego where they can swim, kayak, surf and have fun on the beach. By protecting this one beach, less than 100 meters of coastline, we not only allow the seals to live unmolested, we provide a unique and free wildlife viewing opportunity for locals and visitors alike. Nowhere else in the country can you get this close to a seal giving birth without causing them to flee, and thousands of children and adults benefit from this amazing chance to see wildlife in an urban setting. Plus, keeping this small beach for the seals supports the law, saves money, and brings in many tourist dollars.

What can be done by interested people? If you'd like to help, you can contact your City Council representative (www.sandiego.gov/citycouncil/) and tell them that you support better protections for the seal colony and how "sharing the beach" is not a viable compromise for a marine mammal colony and lack of protections is costing taxpayers too much. Finally, you can contact the National Marine Fisheries Service southwest regional office and tell them it is time for them to enforce their own laws: (562-980-4000).

The Children's Pool — A former lifeguard's opinion

Your View

By John Iomac San Diego resident

Winter months I was stationed at La Jolla Shores and was one of the backup lifeguards that assist the lifeguard at the Cove or Children's Pool when assistance was needed. During the hours I worked at the Cove and Children's Pool I also rescued many swimmers and divers. With respect to the comments made at the ljcpa meeting by divers present, it is simply not true that there are no other safe places to dive in the area. The Cove is recognized as a diver's paradise with safe entry to the marine reserve. The boat launch area at the south end of La Jolla Shores is one of the safest points of entry for divers, particularly for learners. With any kind of ocean swell the diving conditions at the Children's Pool always made for dangerous diving conditions. I rescued too many divers of all experience levels to believe that public access should be preserved for scuba divers because the Children's Pool is a safe diving beach. Such is simply not so. A statement was made at the meeting by a father "who wanted to be able to take his daughter to a safe beach nearby." Based upon my experience working at the Children's Pool during winter months, I would never categorize the Children's Pool as being a safe place for children. Unless local ocean conditions are completely calm, there is always an outgoing surge off the end of the sea wall caused by the existing deep channel. If anything, parents need to be extra vigilant watching their children at the Children's Pool, no matter what depth of water. Rock and reef-associated beaches should never be considered to be safe havens for bathing, most particularly for children and toddlers. The safest bathing beach is La Jolla Shores, particularly from the lifeguard tower going south to the boat launch area. The beach is staffed year round with lifeguards who focus their attention upon watching bathers and swimmers, not, as at the Cove and the Children's Pool are required to do, keeping a mindful, binocular-eye on divers outside of the posted swimming area. Lastly, there was an absolutely incorrect statement made by one of the ljcpa trustees that "there was no problem at all with seals and people interacting with each other." Mother seals, given any provocation, can be ferocious in their protection of their young. Taking pictures and approaching seals at close distance, particularly with an accompanied child, is simply foolish. No reasonable person should ever think that a parent seal would not do what is natural based upon a perceived threat.

Harbor Seal Behavior: Site Fidelity, Haul-Out Necessity, and Disturbance Effects as pertains to La Jolla Seal Colony

Harbor seals are thought to have been in the vicinity of Casa Beach since 1887, based upon the Botsford map (San Diego Historical Society), in which the rock structure under the seawall is labeled "Seal Rock". Due to hunting prior to 1972, harbor seal numbers declined, but increased again after the Marine Mammal Protection Act (MMPA) became law. Harbor seals are a near-shore, non-migrating species, and they display a trait known as site fidelity. Harbor seals need to haul-out on a daily basis to rest, re-oxygenate their blood, thermo-regulate, give birth, nurse their young, and molt. Per Dr. Sarah Allen, Ph.D., et. al., 1998 (1), "these sites serve as resting and breeding areas. Hauling-out is also considered to aid thermo-regulation, and is essential for their annual molt." Per Diane Kopec (2), "Haul-out sites are critical habitat for the survival of harbor seals within a given region. Harbor seal physiology requires them to routinely haul-out on to land...Pupping increases the need to haul out." Casa Beach is the only mainland haul-out site, and rookery (breeding, pupping, and nursing area), south of Carpinteria along the California coast.

Human disturbance significantly affects the ability or willingness of harbor seals to haul-out at recognized sites. Effects can include site abandonment, increased pup mortality, and altered site usage (night vs. day). Per Grigg, et. al., (2002) California Fish and Game (3), "Given projected increases in the number of people living and working around San Francisco Bay (SFB), protecting the integrity of haul-out sites in SFB is an important facet of protecting the harbor seal population." They go on to say, "Allen (1991) suggested that human disturbance played a role in harbor seals' abandonment of the Strawberry Spit haul-out site in San Francisco Bay" and they also say that human disturbance includes boats, kayaks, jet-skis, foot traffic, and dogs. They cite that "If the frequency and magnitude of disturbances are sufficient, seals may permanently abandon a site, (Kenyon 1972, Newby 1973)." Further, they note that "Suryan and Harvey (1999) noted that disturbance to harbor seals may have considerable impact in areas where haul-out space is limited." Additionally, they mention that, per Allen, et. al. (1984), it is postulated that "abandonment of haul-out sites in Marin County, California might result in overall population losses". They state that "in the face of continuing urbanization, maintaining the integrity of harbor seal haul-out sites is important for protecting harbor seal populations."

Per Allen (1991) (4), it is noted that seal numbers at Strawberry Spit had seriously declined since 1976, probably as a result, in part, of increased pedestrian and other traffic past the haul-out site, and increased development, and this decrease continued until the site was abandoned. Per Allen, "Haul out sites serve as resting and breeding areas for congregations of seals, and since enactment of the MMPA, protecting these areas has been an important measure for preserving populations. There is ample evidence that human-related activities can have an adverse effect on harbor seal behavior". She makes recommendations for management, indicating that more information is needed on the effects of human activities on behavioral responses and reproductive success of harbor seals, that clarification as to what constitutes disturbance and a "take" is needed, "Does a 'take' occur if habitat is degraded and rendered unacceptable to seals?", and establishing guidelines regarding acceptable distances for human activity near marine mammal habitat when enough information has been obtained on behavioral responses to human activities. Critical flushing distance is important to clarify.

Other studies pertaining to human disturbance and the effect on harbor seal behavior and survival include Allen, et. al. (1984) (5), in which it is noted that "Human activities closer than 100 meters caused seals to leave haul out sites more than activities at greater distances." [It should be pointed out that the distance of the shoreline at Casa Beach is approximately 180 feet, suggesting that the beach is too small to accommodate joint use without resulting in a negative impact on the seals.] They mention that excessive disturbance may possibly lead to increased pup mortality and site abandonment, and reference Newby (1971) attributing harbor seal abandonment of a Puget Sound site to be due in part to increased disturbance from recreational boating.

Based upon the above, scientific study points to the negative impact that human disturbance of the harbor seals at Casa Beach is likely to have. Joint use may not be a feasible option without potentially harming the seal colony at Casa Beach.

References

- (1) Monitoring the Potential Impact of the Seismic Retrofit Construction Activities at the Richmond-San Rafael Bridge of Harbor Seals May through December 1998, Allen and Markowitz
- (2) Harbor Seals in the Bay, Diane Kopec, San Francisco Bay Seal Project
- (3) Nocturnal and Diurnal Haul-Out Patterns of Harbor Seals (*Phoca Vitulina Richardsi*) at Castro Rocks, San Francisco Bay, California, Grigg, et. al., CA F&G 88(1), 2002
- (4) Harbor Seal Habitat Restoration at Strawberry Spit, San Francisco Bay, Sarah Allen, for MMC, 1991
- (5) The Effect of Disturbance on Harbor Seal Haul Out Patterns at Bolinas Lagoon, California, Allen, et. al., 1984

Summary of Conclusions regarding the Harbor Seal Rookery at
Children's Pool Beach, La Jolla, California
from

Dr. Pamela Yochem's

March 25, 2005 Hubbs-SeaWorld Research Institute Paper,
entitled:

La Jolla Cove Wall Replacement and Bluff Improvements
Project (September 21, 2004 through January 1, 2005)

Pacific Harbor Seal (*Phoca vitulina*) Monitoring
(Final Report, In Partial Fulfillment of Agreement U363A)

Summary By

James Hudnall

Save-Our-Seals Coalition

Dr. Pamela Yochem's March 25, 2005 harbor seal study at Children's Pool Beach rookery and adjacent haul-outs was conducted in association with a City of San Diego "Bluff Improvements Project" in the vicinity of Children's Pool Beach (CPB). **National Marine Fisheries Service (NMFS) issued an Incidental Harassment Authorization (IHA) for the Bluff Improvements Project on September 27, 2004.**

Dr. Yochem reports that during the monitoring period by Hubbs-SeaWorld biologists from 15 November through 30 December, 2004, **"The Children's Pool Beach site is used by the seals at all hours of the day and at all tides, with the exception of occasional high tide/ high swell events in which the entire beach is awash."**

Dr. Yochem and her team "recorded all occurrences of observed disturbance, from any source, to the harbor seals." The maximum total count of harbor seals at CPB during the baseline monitoring period was 94 on October 29, 2004, at 8:30 am. The maximum count of harbor seals at CPB during the construction period was 145 on December 8, 2004 at 3 pm.

On the basis of Dr. Yochem's team's observations during the monitoring period, Dr. Yochem reports that **"Disturbances associated with construction activities only caused seals to move into the water ("flush") ... once at Children's Pool Beach, during the week of November 22nd when demolition and heavy debris break-up and removal were occurring. In contrast, humans in the water or on land... resulted in 144 ["flush" events] at Children's Pool Beach.**

----- Original Message -----

From: Daneri, Daniel

To: ellenshively

Cc: Reese, Scott

Sent: Wednesday, August 03, 2011 1:48 PM

Subject: RE: Ranger Duties description

Hi Ellen,

Here is a description of the duties for the Park Ranger at the Children's Pool.

Under the general supervision of a District Manager, the Park Ranger at the Children's Pool in La Jolla will be responsible for patrolling and providing information and assistance to patrons at the Children's Pool/Casa beaches area, particularly in the area of seal/people interaction including patrolling the beach and explaining interaction issues, resolving disputes, monitoring park usage and incidents, writing reports and issuing citations, developing a volunteer/docent Park Ranger program, designing and preparing exhibits, designing publications and interpretive signage, providing information to community and related groups, and training and evaluating the work of volunteers.

Hi Ellen,

Below is a general outline of the responsibilities/duties anticipated on the ranger for the site. I have cc'd Dan who can add if I am missing anything.

Full-time Park Ranger whose primary responsibility is to patrol Children's Pool and to create and lead a volunteer docent program.

- Ensure visitors to the Children's Pool have a safe and enjoyable time
- Ensure visitors are provide information about seals, including behavior, etc/Ensure visitors are respectful of the seals
- Ensure visitors are educated about het City's policies and follow such policies /informed of and follow all laws governing their conduct at the Pool
- Provide a visible presence to deter any unlawful acts at the Pool
- Create an interpretive program (e.g. signs, brochures) about the wildlife in LJ and Children's Pool

Stacey LoMedico

City of San Diego Park and Recreation Director

202 C Street - MS37C, San Diego CA 92101

619.236-6643/Fax 619.525.8220



Don Edwards S. F. Bay National Wildlife Refuge

California and Nevada Region

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Kopec, Diane. 1999. Harbor Seals in the Bay. *Tideline* Vol 19 No. 1 1-3.

Harbor Seals in the Bay by Diane Kopec



Harbor Seal / FWS Photo

An early morning fog on the Bay obscures the horizon, focusing our senses on the narrow slough and bordering marsh slipping by the boat. The fog muffles the noise from the commute traffic on 101 to the west, and from the sewage treatment plant to the north. Only nearby sounds are heard, the slap of water the brush of pickleweed on the hull as we turn toward shore, and, when the boat is still, the random call a harbor seal pup. "MAAAA.....MAAAA!" The sound is ancient and wild, rooted in the history of San Francisco Bay.

Before European development, before placer mining loaded the bay with mercury-laden silt, before tidal marshes were diked for cattle and salt, and before the waste from industrialization made water quality a concern, harbor seals lived in the bay. In the south bay, harbor seal bones have been found in Native American shell mounds that are dated at approximately 3,000 years old. Through all the changes we have made to the bay, successive generations of seals have continued to inhabit it, proof of successful efforts sustain a healthy ecosystem, and evidence of the need to continue those efforts.

The harbor seals which live year-round in San Francisco Bay, *Phoca vitulina*, are found throughout the northern hemisphere, in the near-shore waters of the Atlantic and Pacific Oceans. Our local subspecies,

unnaturally low throughout their range. In fact, our oldest written record of harbor seals in the bay, from the 1890's, describes a Department of Fish and Game seal hunt in the marshes at the extreme southern of the Bay near Alviso. With passage of the MMPA, human predation was reduced to random shootings and for the next twenty years, the seal population on the outer coast began to increase steadily.

Here in the bay, the results were not as promising. Seal counts remained unchanged. Folks began wondering why the bay seals were not bouncing back to pre-exploitation levels. Many theories were proposed, from shoreline habitat loss, to disturbance at haul-out sites, to fewer prey fish in the bay, to to contaminants effecting reproduction or mortality. In the early 1990's my colleagues and I began a broad study examining San Francisco Bay's regional seal population. We made detailed counts and observations at harbor seal haul-out sites, tracked seal movements using radio transmitters, collected scat to identify seal prey, and analyzed seal blood samples for information on health and the accumulation of toxic pollutants. Some of our findings are woven into the following discussion of harbor seal natural history.

SEAL OR SEA LION?

Harbor seals are very reclusive, quiet creatures, often confused with their noisy brethren the California sea lion, which conveniently haul on now abandoned docks at Fisherman's Wharf. Unlike sea lions, harbor seals do not bark. Except for the pups' call in the spring, the only other sound harbor seals make is an occasional growl of protest, erupting when one seal is unwilling to share haul-out space with an interloper. Harbor seals may be cream, brown, grey or black, with contrasting spots and eye-spots more numerous on the back than on the belly. Sea lions are a solid color, ranging from golden to dark brown. Harbor seals do not have a discernible neck, nor do they have external ears. Their blunt snouts and wide heads blend smoothly into their torso. Sea lions have a long, narrow snout, a head shaped like a collie dog, and small external ear flaps often visible in profile.

Perhaps the greatest difference between these two pinnipeds is their method of locomotion on land. Harbor seals are extremely awkward on land. To move on land, seals lunge their upper bodies forward in a sausage-shaped inchworm. This structural limitation that results in the inability to escape land predators is the primary cause of harbor seals' extreme sensitivity to disturbance when they are hauled out on land. Sea lions are much more agile on land. They are able to lift their bodies off the ground and waddle along the shore.

In the water, harbor seals are very swift and graceful, propelling themselves forward by sweeping their powerful hindflippers back and forth in a sculling motion. When foraging, seals may dive to depths of 1,000 feet, though foraging dives in San Francisco Bay are obviously more shallow. Harbor seals are primarily bottom feeders, and forage opportunistically on a variety of fish and molluscs. Seals in San Francisco Bay feed primarily on plainfin midshipman, yellowfin goby, white croaker, Pacific staghorn sculpin and northern anchovy. During the winter herring may also make up a large part of the seals' diet. Harbor seals primarily feed at night, allowing them to rest on land during the warmer daylight hours.

SURVIVAL DEPENDS ON HAULOUT SITES

Harbor seal physiology requires them to routinely haul-out on land. When in cold ocean waters, their core body temperature is maintained by an insulating layer of blubber and increased metabolic heat production. Restricted blood flow to the skin and extremities lowers heat loss by reducing the flow of blood outside the insulating blubber layer. Despite these adaptations to conserve heat, the seals' metabolic heat production increases the longer they remain in the water. To avoid depleting their blubber layer, this increased heat production must be fueled by eating more fish, which in turn requires spending more time in the water foraging. This cycle can be potentially harmful.

Regular hauling out on land reduces the thermal stress on the seals, permitting increased blood flow to skin and extremities, which allows any cuts or wounds to heal normally, and reducing the need for metabolic heat production. These benefits underlie the seals' physiological need to haul-out on land. When captive seals are deprived of haul-out time for an extended period, they compensate for the loss by hauling almost continuously for days after the option is restored.

Pupping increases the need to haul-out. Harbor seals give birth on land and nurse only on land or in very shallow water. For the pup, adequate milk consumption during the lactation period, is crucial to its survival after weaning. When the roughly 4-week old pups are weaned, they live off their accumulated blubber reserves while they learn to catch fish and other prey, guided only by previous observations of their mother's foraging behavior. Without adequate time on land, milk consumption is lowered, pups gain less weight and pup mortality rates increase.

The physiological need to haul-out combines with the seal's reproductive cycle to create a seasonal pattern in haul-out activity. In San Francisco Bay, and along the central California coast, harbor seals peak

hours a day. The summer molt, when seals completely shed and replace their fur, extends from the first week in June through early August. During the molt, haul-out time reaches its annual peak, for normal hair growth requires unimpeded blood flow to the skin to supply the nutrients and trace elements needed for hair formation. In the fall and winter months, seals haul less frequently, every 1 - 3 days and spend shorter amounts of time on land.

These seasonal variations in haul-out activity affect our perception of the number of harbor seals in the area. During the spring pupping season and summer molt, a greater percentage of the total bay population is hauled on land at any given time, causing an annual peak in seal counts.

Established haul-out sites are used continually by generations of seals. Seals are very habitual in the shoreline areas they use as haul-out sites. This is a survival instinct that keeps them returning to an area known to be safe rather than risking their lives on an untested area of shoreline.

Seals do not haul-out at sites with high disturbance and abandon established haul-outs if disturbance develops and persists. More than half of the harbor seal haulout sites used historically in San Francisco Bay have been abandoned. At two of these sites, researchers documented disturbance as the primary cause for abandonment.

Haul-out sites are critical habitat for the survival of harbor seals within a given region. Harbor seals' physiological requirement to regularly haul on land ties them to nearshore areas, and, if shoreline haul-out areas are lost due to development or disturbance, seals will leave the area.

Depending on the season, 250 to 450 seals haul-out on land on a given day in the entire bay. San Francisco Bay retains nine primary haul-out sites, used year-round by 10 or more seals, and eight secondary sites used sporadically or seasonally.

Disturbance is a tremendous threat to the seals continued presence in San Francisco Bay. Over the years I have witnessed some incredible acts of disturbance. They range from the malicious - a cabin cruiser pulling close to shore and blasting its air horn, causing a panicked flush of 300 harbor seals - to the well intentioned but uninformed folks attempting to feed hauled seals by throwing frozen fish at them, flushing all the seals including nursing pups.

How can humans co-exist with the Bay's harbor seals? Here are some guidelines.

1. MAINTAIN A SAFETY ZONE OF 650 FEET AROUND HAULED SEALS

This is just over the length of two football fields set end to end. From this distance you will not be able to get a detailed look at the seals without field glasses or a spotting scope. That's OK, the objective is to co-exist with these wild animals. However, causing the seals to flush in order to obtain the perfect photograph can have serious consequences.

2. MONITOR HARBOR SEAL BEHAVIOR AND MOVE AWAY IF SEALS ALERT

Seals' sensitivity to disturbance is influenced by season, weather, the history of disturbance at a haul-out and recent events in the area (you may be the fourth boat today to come a little too close to the haul-out). Given these variables, you may force the seals to "alert" even if you are outside the safety zone. Seals showing alert behavior raise their heads, look directly at you, roll to their stomachs, and push up on their fore-flippers. They feel threatened and are just about to flush into the water.

Even one or two seals threatened by your presence and showing alert behavior could precipitate a flush the entire herd. Seals haul in large herds in order to benefit from the surveillance of others and they will flush solely in response to other seals.

3. AVOID HAULOUT SITES ALONG SLOUGH CHANNELS.
If possible, do not haul out along slough channels.

If possible, do not cruise by slough channel haul-out sites in your boat. The slough channels are usually too narrow to allow you to pass by without flushing the seals. If you come upon a haul-out site, turn around, go back and avoid that route in the future. If you have no alternative route, pull far to the opposite side of the slough, maintain speed, sit low in your boat and DO NOT make eye contact with the seals. They will be watching you closely. Do not threaten them by returning their stare.

Harbor seals are especially sensitive to canoes and kayaks. Even though they are quiet, these small craft flush seals as often as motorboats. Odd, but look at it from a seal's perspective. A human comes toward them, waving their arms and brandishing a large stick.

4. PREVENT BALLOONS, PLASTIC BAGS, FISHING LINES, AND NETS FROM ESCAPING INTO T

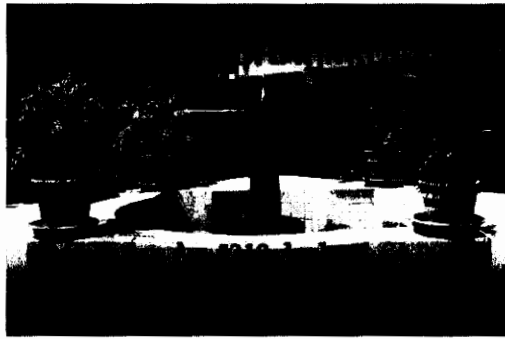
Harbor Seals, Don Edwards San Francisco Bay National Wildlife Refuge

a trailing ribbon skittered across the near-shore waters. Those devilishly indestructible mylar balloons can also get their ribbon tangled in the marsh plants bordering a haul-out, preventing any seals from hauling within sight of it. Similarly, the handles of plastic grocery bags get tangled on a branch, the bag fills with air, and blows across the water like a strange sea monster. Fishing lines and other trash can also cause serious harm to harbor seals. Seals may become entangled while swimming in the bay and accidentally ingest foreign objects.

We must provide harbor seals with undisturbed haul-out sites. If the harbor seals flourish, so will other species native to the bay. We cannot return to the historical ecosystem that thrived before European development. However, your actions can ensure the protection and gradual restoration of the remaining harbor seal habitat that survives amidst our modern industrial landscape.

Dianne Kopec is director of the San Francisco Bay Seal Project, a research, education and advocacy project of Earth Island Institute. Her work with harbor seals began in 1989, in collaboration with Jim Harvey, Sarah Allen, Lyman Fancher, Carol Spencer, Steve Obrebski, and Mike Torok, at two CSU research labs, Moss Landing Marine Laboratories and the Romberg Tiburon Center for Environmental Studies.

For more information contact:
Don Edwards San Francisco Bay
National Wildlife Refuge
9500 Thornton Ave
Newark, CA 94560
510-792-0222
or e-mail us at San Francisco Bay NWR Complex



3/7/12

AFFIDAVIT OF AUTHENTICITY

STATE of CALIFORNIA
COUNTY of SAN DIEGO

ss.

Under penalty of perjury, I, JANE ROBERTA REIDAN, MD declare:

That all the signatures on this petition were made in my presence and were observed by me, and that to the best of my knowledge and belief, such signatures are the genuine signatures of the individuals who signed the petition.

Residence of
circulator;

467 COAST BLVD.,
LA JOLLA, CA. 92037

OFFICE of FAMILY PRACTICE / GENERAL MEDICAL / SOLO
7946 IVANHOE AVE. #312, LA JOLLA, CA. 92037

Jane Roberta Reidan, MD
circulator of petition

JURAT WITH AFFIANT STATEMENT

State of CALIFORNIA
County of SAN DIEGO } ss.

Received at Commission Meeting
From: MAR 07 2012

☐ See Attached Document (Notary to cross out lines 1-8 below)

☒ See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

1 I am Jane Roberta Reldan, MD. I reside at

2 467 COAST BLVD, LA JOLLA, CA, 92037

3 I have personally collected all of the
4 signatures for the Petition to the California
5 Coastal Commission "IN SUPPORT OF THE YEAR-
6 ROUND ROPE GUIDELINE AT CASA BEACH
7 LA JOLLA from 12/15/11 - 3/1/12, totalling (444)

8 [Signature] Signature on File JR, MD

Signature of Document Signer No. 2 (if any)

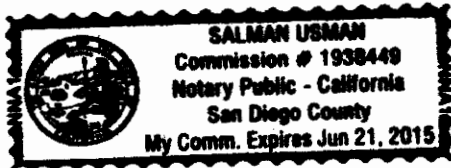
Subscribed and sworn to (or affirmed) before

me this 1st day of March,
Date Month

2012, by
Year

(1) Jane Roberta Reldan, M.D.
Name of Signer(s)

(2) _____
Name of Signer(s)



Place Notary Seal Above

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

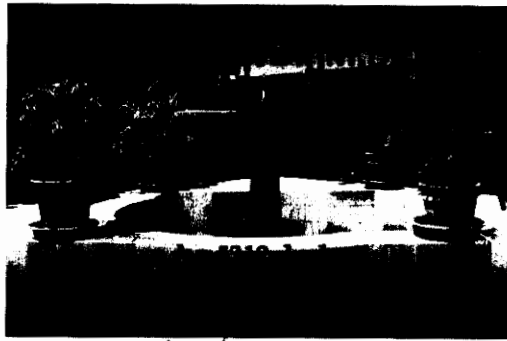
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Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

RIGHT THUMBPRINT
OF SIGNER #1
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RIGHT THUMBPRINT
OF SIGNER #2
Top of thumb here



Received at Commission
Meeting

MAR 07 2012

From: _____

3/7/12

I have submitted my petition
in support of the year round
guideline and ask the Coastal
Commission to request that

the Mayor of San Diego,

Mayor Sanders, declare an
emergency and keep the
rope guideline up from
May 15 until the issue
is formally heard by
the Coastal Commission.

Sincerely yours,

Joe Reldan MD
JOE RELDAN

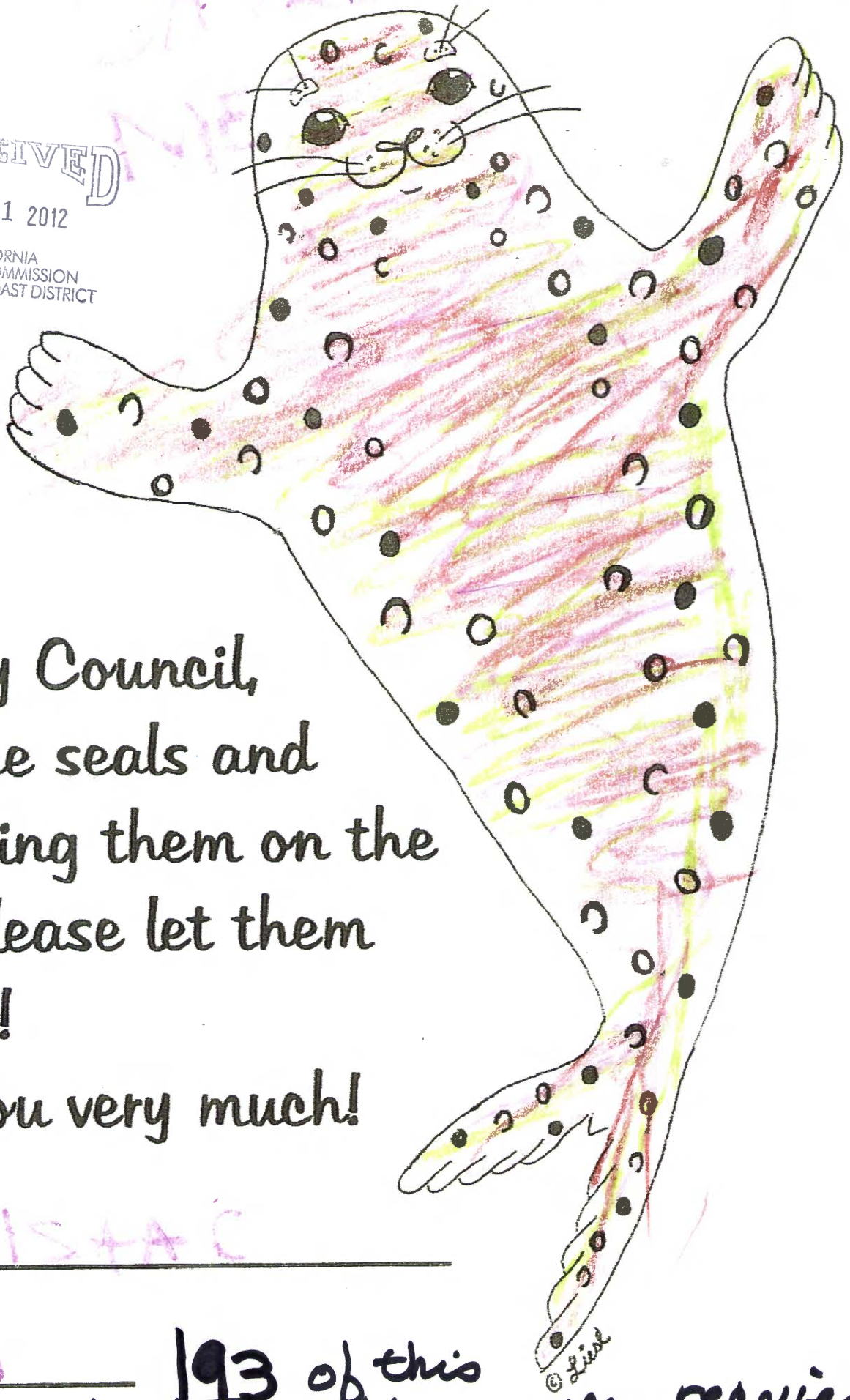
Petition to the California Coastal Commission

[illegible]

RECEIVED

MAY 31 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



Dear City Council,
I like the seals and
love seeing them on the
beach! Please let them
stay here!
Thank you very much!

Name: ISTAC

Age: 11 193 of this
form letter colored by children were received.

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

RECEIVED
MAY 29 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

May 25, 2012

Dear Members of the California Coastal Commission,

I have been observing the situation at the Children's Pool in La Jolla for about a decade now and, since harbor seals are not migratory species and haul out at the Children's Pool beach year round, there is a need for a guideline rope showing the visitors safe distance from the animals.

The rope is not enforced and people can cross it through a large gap on the bluff side of the beach; it is also easy for people to walk under or over it; therefore **the rope does not encroach into the public lands** as I can demonstrate on the pictures below:



Friends of the Children's Pool and the San Diego Council of Divers barbecuing inside the rope 2011



Public enjoying the beach crossing the rope and sitting inside the rope during pupping season 2010



Men playing Frisbee inside the rope area 2010



Divers easily walking past the rope through the wide opening on the bluff side 2012



Divers and members of the public who choose to use the land and waters of the Children's Pool by crossing the rope and some members of the public who choose to stay behind the rope guideline watching the seals February 2012.

As demonstrated, the rope guideline at the Children's Pool does not prohibit public from using the beach but can act as a useful guideline for those members of the public who choose to respect the wild seal habitat at CPB. In support of the year- round rope permit, I enclose about 2000 petition signatures backed up by the 50,000.000 signatures (I can deliver them per request) supporting the initiative before it was successfully voted on by the San Diego City Council in May 2010. The year-round rope initiative was supported by Congresswoman Susan Davis, the Humane Society of the United States, NRDC, Greenpeace, The San Diego Coastkeeper, Wildcoast, APRL, La Jolla Friends of the Seals and the Surfrider Foundation San Diego Chapter as well as the majority of the San Diego constituents who showed up in large numbers (about 500 citizens) at the City Council meeting of May 17, 2010 before it was voted on by the elected officials. Appointed clerks of the San Diego Planning Commission should not have had the right to annul the vote of the public elected officials without substantial findings; therefore this issue is brought to your attention with the hope that you will make the right decision of approving the permit for the year-round rope at the Children's Pool Beach.

Sincerely,



Dorota Valli

SealWatch San Diego

P.O. Box 32

La Jolla, CA 92038

Dorota@aprl.org

June 18, 2012

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402
RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

RECEIVED

JUN 22 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Brown:

As a current humane educator for the Massachusetts Audubon Society in Boston, MA, and former wildlife rehabilitator for Project Wildlife in San Diego, CA, I urge you to use your political influence and compassion to protect La Jolla's Harbor seal population at Casa Beach.

A permanent, year-round rope barrier is the best way to ensure safety of the Harbor seals hauling out onto the beach as well as the people who come to the cliff and pier to view them.

As a resident of La Jolla for 5 years involved in wildlife rehabilitation and humane education in San Diego County, I have spent countless hours observing the Harbor seals at Casa Beach. Visitors to the area clearly are there to catch a close glimpse of these beautiful wild marine mammals, and the majority of people observing the seals would never consider harassing them in any way. Very clearly, viewing access to the seals is more important to the general public than physical access to the beach itself.

Providing a year-round rope barrier as a visual guideline to visitors unfamiliar with seal behavior but still wanting a closer look will create a safe physical boundary for both the federally protected seals and the people visiting them. As the National Marine Fisheries Service (NMFS) states on its website in support of the National Oceanic and Atmospheric Administration, "People can positively affect changes in our ecosystems and help protect marine species by learning about the issues and changing behaviors. You can make a difference."

As there is surprisingly still question as to whether or not the Harbor seals at Casa Beach deserve protection from human harassment, I feel it is necessary to remind you that the Marine Mammal Protection Act (MMPA) as established in 1972 states among its primary objectives, "...to maintain the health and stability of the marine ecosystem; this in theory indicates that animals must be managed for their benefit and not for the benefit of commercial exploitation. The effect of this set requirements is to insist that the management of animal populations be carried out with the interest of the animals as the prime consideration." House of Representatives, No. 707, 92nd Congress, 1st Session, 18, 22 [December 4, 1971]

Harbor seals are not migratory species, so those frequenting La Jolla's Casa Beach use the beach as a haul out habitat year-round. As a federally protected species, the NMFS, responsible for enforcing the MMPA, recommends a safe viewing distance of 50 to 100 feet. Those in violation of respecting this distance should expect legal consequences.

With so many miles of public-accessible beaches available along southern California's coastline, surely the protection of tiny Casa Beach as a marine sanctuary for Harbor seals cannot possibly inhibit enjoyment of recreational beach use for residents and visitors. Yet, the controversy over who has the 'right' to occupy this small patch of sand has been burning for over a decade.

Theresa Kolpakova

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

As stretches of coastline further north in Monterey advocate protection successfully for Harbor seals in a highly touristed area, the fight to 'allow' Habor seals to occupy Casa Beach remains a mystery to animal advocates and compassionate people everywhere; locally, throughout the U.S., and even around the world, as the beach is frequented by international visitors.

Why is there a question at all as to who has the 'right' to occupy Casa Beach? We are all part of nature. Humans are but one species sharing a planet occupied by millions of non-human animal species. Despite the incredible human development throughout southern California, San Diego remains one of the top 10 most biodiverse regions in the country.

It is time for the California Coastal Commission to give voice to those animals who cannot speak out on their own behalf. The battle over Casa Beach has gone on far too long. California is one of the most environmentally progressive states in the nation. Allowing humans to harass seals by asserting a physical presence that causes the animals to flush into the water, especially during pupping season, is not only inhumane and insensitive to other beings, but is detrimental to the very survival of a species.

La Jolla's Harbor seal colony deserves the 'right' to occupy Casa Beach as nature intended. The seals depend on it for their survival. Not for their recreation.

Biologically, ethically and morally, providing a year-round rope barrier to keep human visitors a safe distance from wild marine mammals is the most logical choice for all involved.

Thank you for making the decision to do what is right and good, and for doing your job as a representative of an organization that promotes conservation of California's coast and its wildlife inhabitants who call it home.

I greatly appreciate your attention to my comments and suggestions.

Sincerely,

A handwritten signature in black ink that reads "Theresa Kolpakova". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Theresa Kolpakova, M.Ed.

22 Cambria Road
West Newton, MA 02465
619-890-9636
tkolpakova@aol.com

California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, California 92108

RE: In favor of a year round rope at Children's Pool application. File No. 6-11-078

May 31, 2012

Dear CC Commissioners:

Approval of the year-round rope will help protect the seals by sending a clear message to the anti-seal group and visitors to stay a safe distance away from the seals. It may also allow the ranger and docents from La Jolla Friends of the Seals (LJFS) to educate the public about harbor seals and respect for their habitat rather than having to constantly monitor people who get too close to the seals.

However, you should be aware that the anti-seal group regularly ignores the rope and deliberately gets too close to the seals, intentionally driving them off the beach. Seal harassment and disturbance has been observed and documented in the form of photos, videos, and reduced numbers of seals on the beach (seal counts) by several environmental groups, including La Jolla Friends of the Seals, Animal Protection and Rights League, and SealWatch.

According to SealWatch, which has an almost daily presence at the beach, the overall seal count this past year has been decreased compared to previous years. Instead of 150 - 250 seals on the beach during the day, we may see numbers ranging from 0 - 120. The reduction in overall seal count correlates with escalated harassment from the anti-seal group. This harassment includes placing an "Open" sign on the beach and umbrellas and beach chairs close to the water line on week-ends and holidays. Tactics such as encouraging visitors to ignore the rope and approach the animals up-close has contributed to the reduced number of seals present on the beach round the clock.

However, the anti-seal faction does not just harass the seals. They harass the pro-seal advocates as well. Harassment towards seal supporters, including outrageous insulting and stalking behavior. Below you will find several personal testimonies which clarify this situation:

Please approve the guide line rope year round. The children and citizens of San Diego who love the seals, and the thousands of tourists who come from all over the world to see the seals are asking for your approval.

Respectfully submitted,

Carol Archibald
Carol Archibald, PhD
Member, La Jolla Friends of the Seals
PO Box 2016
La Jolla, Ca 92038

PERSONAL TESTIMONIES

Testimony #1 July 4, 2011

RECEIVED

JUN 04 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

San Diego's fireworks display is a frightening experience for most animals, whether on land or in the water. I chose to watch the 4th of July show from Casa Beach in La Jolla. Many families had spread blankets and had their picnic before the event. The show takes place just off shore slightly to the north. The diving community had their grills burning and signs declaring the beach to be open.

At about 6 pm, I noticed a few harbor seals swimming close to the shore line, looking for a place to enter the beach for their much needed daily rest/sleep. The extra large number of people combing the rocks and sand became a barrier for the animals. I made an effort to talk to people about opening up a corridor near the seawall to allow the seals a cleared space. Several people moved back and it was rewarding to see the animals edge in more closely.

But, it was to no avail when the habitual divers and swimmers came running over to block my efforts. They paired off very close to me and countered every statement I made to visitors. Soon, beach chairs and a portable grill appeared in the corridor, just a few feet inland from the seals usual entry spot. The opposition continued to heckle about 6 of us who were trying to make a "shared" beach available to the animals. So many visitors had come to see the seals, but were prevented from seeing them out of the water because of the selfish obstructionist tactics of the pro-beach activists.

As expected, the few seals who had managed to slip up on submarine rock fled as soon as the fireworks started. But even for an hour after the close of the loud noise of the firecrackers, no seals were seen on the beach.

If this were a once or twice a year display of obstructive tactics by the anti-seal faction, it wouldn't be so bad. But the activities of the group protesting against the seals have increased to the point of some actions to prevent the seals from the beach occur almost every night. La Jolla Friends of the Seals docents have been excluded from prime places near the steps to the sand by pro beach (anti-seal) members placing signs that take up all the space. They intercept conversations between the public and the docents and counter our statements in a rude and confrontational manner.

Casa Beach has become a turf between opposing interest groups. The city's policy doesn't help one bit - on the one hand declaring it to be a shared beach, and on the other, providing no clear instructions on how to implement the policy fairly for the animals. People are encouraged to use the beach, they take flash photos at all times day and night and have no distance signage for their safety as well as the animals. I predict that this "laissez faire" policy by the local government will eventually deter the seals and we will be left with only another pretty place to frolic. One more amazing opportunity to bond with another wild species vanishes.....

Ellen Shively
President, La Jolla Friends of the Seals
PO Box 2016
La Jolla, Ca 92038

Testimony #2 July 4, 2011

On July 4th I was personally stalked by several anti-seal members. They got right in my face, i.e.; within a few inches of my face. They followed me wherever I went, videoed me

continuously. There was no ranger present. When I complained to the lifeguard in charge, he listened politely and told me there was nothing he could do; that he had been told by the City Attorney to just maintain the status quo. I called the police about this infringement on my personal privacy, but they also did nothing. All I was doing at the time was politely asking people to stay back from the seals.

This is not just an isolated event. This kind of intimidation from the anti-seal group goes on every weekend. Many docents from La Jolla Friends of Seals have quit because of it. It is against the law to harass marine mammals but no law enforcement is in place to prevent or cite this harassment. Furthermore, it seems there is also no law enforcement against the anti-seal group harassing people.

Carol Archibald, PhD
Member, La Jolla Friends of Seals
PO Box 2016
La Jolla, Ca 92038

Testimony #3 July 4, 2011

The main thing I experienced was that about 4 of them kept encircling me when I would go and talk to beachgoers, adults and children and tell them that "This lady is lying to you, etc." They followed me constantly, interrupting and yelling to disrupt the conversation -- multiple times.

Their tactics of intimidation are difficult to tolerate and very upsetting. I have high blood pressure and was forced to quit as a docent for La Jolla Friends of Seals partly due to the harassment from the anti-seal group.

Marcia Patt
Past member, La Jolla Friends of Seals
PO Box 2016
La Jolla, Ca 92038

Testimony #4 July 4, 2011

I blame the anti-seal group for their tactics (and possibly the degree of malice in their attitude). Their tactics are immoral and evil. They are inflammatory. They are like yelling fire in a crowded theater.

Our rights (at least 1st Amendment) are being stomped on! When I go down to the waters edge to quietly and calmly talk to someone, I do not ever want someone sticking their head between me and the intended person and taking over the conversation!!! And I don't want it for my associates either!

Not sure if the government (the "state") can help me in recovering my rights; this is a subtle domain in which the law is probably not clear. (It seems to me that the state has an interest in keeping people from deliberately badgering others to the point that the badgered one becomes livid.) But I'm certainly not willing to merely accept any part of the antis' nasty tactics as being within the law.

Mike Davis
Member, La Jolla Friends of the Seals
PO Box 2016
La Jolla, Ca 92038

Testimony #5 August 06, 2011

1 - When you approach someone on the beach to ask them to stay back from the seals, one of the anti-seal guys loudly interrupts you, and tells the person not to listen to you or let you harass them; that they can go wherever they want on the beach, and it doesn't disturb the seals.

2 - If you tell the anti-seal person who is blocking your path to a visitor to move out of the way, they say "stop harassing me, and yell out don't you touch me or you hit me", even though you have not touched them.

3 - The anti-seal people stand at the water's edge to deliberately not allow seals to haul-out, and encourage visitors to do so also. Again, if you approach visitors to educate them about the need for the seals bobbing their heads in the water to haul-out, the anti-seal person will loudly interrupt and accuse you of harassing the visitor.

4 - When you're trying to speak to someone, they put a video camera in your face, and tell the person not to listen to you.

5 - If you confront them, one on one, and ask them why they declare they "Love the Seals" on their signs, but do not allow them to rest on the beach, they tell you all the old history of why they are mad at APRL, Bryan Pease, e.g. David Pierce paid court costs and fines for a TRO against him, claims his tires were slashed etc. When you say, but your actions hurt the seals not APRL, he says:

- a) Seals can sleep in the water
- b) This is an artificial habitat, and the seals would be better off going somewhere else
- c) Sea World dumped all the seals here
- d) The seal numbers are growing exponentially, and are not sustainable (implying that it doesn't matter if harm comes to them)
- e) The seals keep coming back and having babies, so they must be OK

** And all this is said by the person with the sign on their table "We Love The Seals!".

Deb Saracini
Docent, La Jolla Friends of Seals
PO Box 2016
La Jolla, Ca 92038

Testimony #6 August 14, 2011

This past week I've been in La Jolla helping out Seal Watch and what I've witness is appalling, I had grown men harass me and get in my face. People are deliberately harassing the seals; I witnessed one man run up and hit a seal. They chase them into the water and don't allow them to come back onto the shore. We could really use some help out here...

Name not given
Member, SealWatch

Testimony #7 August 20, 2011

I had a shadow session last night at 6:30 pm.

When I arrived about 15 seals had hauled out on the west side of the beach due to the high tide and rough surf. There was a crowd of people inches from them. I bought 12 - 9 inch orange sports cones from Target, and ran down and carved out an buffer zone horse-shoe around the seals. It was amazing how people for the most part adhered to the boundaries to take their pictures!

I returned to my trainee and went over the log book etc for about 15 minutes, then we returned to the beach to talk with people. A couple of the large males who hauled out higher on the beach were quite agitated, and lunged at children as I put up the cones and if people crossed them and got too close.

Things were going pretty well though, and I thought this was finally "sharing" the beach. Suddenly, a man and two teenage boys came up. One of the boys walked past the cones toward the seals, and I asked him to step back. The man walked up to a cone and kicked it toward a seal, and then put his fist in my face and said, "Doesn't that make you angry?" I just replied that I'm not angry, just want the seals to have a bit of space. He walked away and then back with extra aggression, and kicked the cone and hit one of the larger resting seals, and proceeded to pick up half my cones and place them in a stack on the seawall. I told people not to say anything or he would act out more.

He left, and a woman, her husband and 2 children came down, and she said the lifeguards said what I was doing is illegal. She proceeded to pick up the rest of the cones and threw them in the kelp at the water's edge. Within minutes people started closing in on the seals, and the two aggressive males started lunging at her family. The husband quickly picked up a little girl and they left. By now, it was getting dark and the crowd was dissipating and those left were easy to keep a distance back.

After clearing the beach, I climbed the wall and retrieved the pole (Pierce had thrown over there last night) and picked up a cone from Baha Road (next to the seawall). I placed them at the top of the stairs, and stayed until about 10:15 pm, and no one walked past them. Three ladies thanked me for my efforts, and one woman, Karen, said she would drop by this morning to remove the cone and pole.

I went on the seawall and counted at least 70 seals (about 65 on the beach and another 5 on the rocks below the seawall and submarine rock). Karen reported that at 9:30 am today, with rough surf conditions, about 108 seals were on the beach, seawall, and submarine rocks. I asked her to put the cones on the lower landing, so I could use them again on Thursday night when I train two more docents.

In the name of shared use, we should request authorization to use cones as markers on the beach for crowd control and closing off the beach at night!

Thanks.

Deb Saracini
Docent, La Jolla Friends of Seals
PO Box 2016
La Jolla, Ca 92038

Testimony #8 September 17, 2011

Hello,

I've been to the beach recently and found that, even with the rope placed to protect the seals, some people still go behind it and bother the poor animals. For instance, there is one guy whom I've observed on numerous occasions who sets up his grill, chair and umbrella close to the Wall and scares off the seals. He intimidates the visitors who try to talk to him (I heard him using derogatory terms to a Hispanic guy who politely asked him about his presence on the beach), he scares off the seals. It is apparent that he chose these tactics on purpose to prove some point and is not there to enjoy the day at the beach.

This past Saturday, my friends and I actually saw him there with a young gentlemen (maybe his son) playing Frisbee with a very close and dangerous proximity to the seals!!

Overall, this hostility and anger from the "grilling gentleman" above has driven many people away from the beach. I've heard on numerous occasions my friends and colleagues commenting on how the anti-seals activists are making the La Jolla seal experience incredibly negative and unpleasant.

Is there anything that can be done? Does the aforementioned "gentleman" have the rights to be in such close proximity to the seals, especially during the pupping season? Thanks.

Incredibly frustrated with the situation,

Katya M.
Member, SealWatch

Testimony #9 Sunday, January 29, 2112

If anyone wants to read my testimony of yesterday's incident with the diver, here it is!

Yesterday when I was down at the beach around 4:00 pm, I was standing at the opening of the rope pointing out to visitors the two babies with their moms - one nursing on the east side of the beach and the other in the pool close to Submarine rock. A diver with a spear gun approached and I asked him to please not enter the beach from here as it could cause a major flush, and pointed out the babies. He said "How cute!" and then said, "Let's see what happens!" And with that comment, he proceeded to walk straight through the center of the resting seals, flushing 50 of the 75 seals on the beach. The baby that had been nursing, followed its mom into the water by Pelican rock. Later the seal pair that had been around Submarine rock came onshore near the Seawall to nurse. I stayed until 5:30 pm, but did not see the other pair come back onshore or the diver return.

Deb Saracini
Docent, La Jolla Friends of Seals
PO Box 2016

Gaspar de Portola Middle School
11010 Clairemont Mesa Boulevard
San Diego, CA 92124
May 31, 2012

Dr. William A. Burke
California Coastal Commission
45 Fremont St, Suite 2000
San Francisco, CA 94105

RECEIVED
JUN 20 2012

Dear Dr. Burke:

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I went to the La Jolla Children's Pool about a week ago and saw the seals playing and swimming in the ocean and I thought, "Wouldn't it be so sad if people made all of these playful seals leave this beach." I personally think that the seals are the best part of the La Jolla Children's Pool and it would be a shame to see them go. I think that the seals should be allowed to stay at the La Jolla Children's Pool for their safety and so they can stay at their home.

As you know, The La Jolla Children's Pool was established in 1930. It was originally made for the children to swim in the ocean and play in the tide pools, so they named it the Children's Pool. Later, in the 1990's a colony of harbor seals migrated to this beach from a rock in the ocean and started living there. The debate on the seals is they should either be allowed to stay at the beach, or make the seals leave. Non-seals activists are saying that the seals are taking up too much space on the beach and the other people that want the seals to stay are saying that they are not doing any harm to people and the beach is their natural habitat. Another one of the arguments is whether they should close the beach for pupping season. The government has been working on it, but they said that it would cost too much money to close the beach. Most people find this beach so special because it is the only beach where the seals are actually living on it, and they aren't enclosed in a protected area.

The main reason that the seals should be allowed to stay at this beach is it is their natural habitat. The seals originally came to this beach to start their own community and to live here. The people that want the seals to leave this beach do not have the right to remove an animal from its natural habitat. This is true because removing an animal from its natural habitat is wrong, cruel, and harmful to the animal. I believe that if a seal makes an area its home, it should be allowed to stay there.

Another reason the seals should be allowed to stay at the beach is they are innocent. Most people don't want the seals to stay because they think the seals will attack them. I do not think that this is true because at the end of the day, the seals are just hanging out on their side of the beach caring for their pups and it would not be fair to just make them leave the beach where they were born and have lived all of their lives. People just have to remember that the only time a seals might try to hurt them is if they hurt them. In the end, the seals have never hurt anyone on this beach and they are innocent.

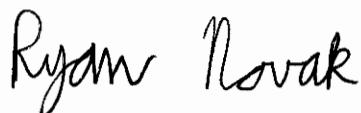
I realize that not everyone agrees with my position. They say that the La Jolla Children's Pool was not made for the seals to live there. When the Children's Pool was first established, it was a place for children to swim and play in the tide pools. The beach was not made for the seals so basically they just invaded and claimed the area for themselves. They also claim that the seals are eventually going to take over the beach, so no people will be allowed on it.

The opposing side does have a point, but their argument contains several flaws. Even though the beach wasn't made for the seals, the seals were in the area long before the Children's Pool was even established. Also, it would be very wrong to remove these harmless animals from a place they decided to call home. Another thing is that if they chase the seal away with noises and cruel contraptions, then the seals are at risk of being eaten by sharks or killer whales. Finally, people only think that the seals will take over the beach, but those people are only guessing about what will happen. The anti-seals activists are wrong about the seals and have no right to remove them from this beach.

In conclusion, I believe that the seals should be allowed to stay at the La Jolla Children's Pool because how would you feel if someone forced you out of your home and forbade you to come back? People enjoy the seals at that beach and I think it would take all of the excitement out of the Children's Pool if the seals were gone. Please vote to allow the seals to stay at the Children's Pool.

Thank you for your concern.

Sincerely,

A handwritten signature in black ink that reads "Ryan Novak". The script is cursive and fluid, with the first name "Ryan" and last name "Novak" clearly distinguishable.

Ryan Novak

Gaspar De Portola Middle School
11010 Clairemont Mesa Boulevard
San Diego, CA 92124
May 17, 2012

Jana Zimmer
45 Fremont St., Ste. 2000
San Francisco, CA 94105

RECEIVED
JUN 20 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Zimmer:

I am a 6th grader who is concerned about the La Jolla seals. The harbor seals should be able to keep living at the La Jolla Children's Pool.

The Children's Pool is located along the rocky bluffs of the Pacific Ocean below the Casa De Manana. It is one of La Jolla's most popular destinations. The Children's Pool was created in 1930 through a trust by Ellen Browning Scripps. Miss Scripps was very wealthy and wanted to put funds aside to build and maintain a concrete break water area where children could safely swim at the beach.

The concrete break water became a setting for a big debate over 60 years after its completion. The debate involved group harbor seals that inhabited the beach since the mid 1990's. A group of people think the seals are amusing and should stay on the beach since it is their natural home. Another group of people think the seals take up too much space, they are dirty and dangerous, and should be removed from the beaches.

I believe Harbor seals should be able to stay in their natural habitat. Ever since the Marine Mammal Protection Act of 1972 (MMPA), seal populations have increased along the West coast. The seal pup, breed and fish at or close to the mainland, making them more to cause human disturbance. Harbor seals inhabit the waters of North America's West coast from the Bering Sea to Baja California This means harbor seals naturally live here in San Diego, and they breed and feed here in San Diego. They should be able to stay in their natural home.

Another reason the seals should be able to stay is because the tourists enjoy them. Aproxamently 80,000 people watch the seals a month. B Tourism is an important part of the local economy.


Not everyone agrees with me. Some people point out the California constitution; Children's Pool Trust and City Resolution require the beach to be shared. They say environmental extremists are costing the city of San Diego millions of dollars in attorney fees to defend the lawsuits against the city to close down the beach. These funds can be put to better use. Also the continuing presence of seals and their increasing numbers proves the seals are safe with shared use. I think a permanent rope barrio would

solve these problems.

The MMPA established a moratorium on the taking of marine mammals. What they mean by take is to hunt, capture, harass, or kill any marine mammal. Harbor seals in fact are a marine mammal so there for are protected from being removed. The seals should be able to stay at the La Jolla Children's Pool. They are a great attraction of La Jolla. Please vote to erect a permanent rope barrier between humans and the seals.

Sincerely,

Matt Bender

A handwritten signature in black ink that reads "Matt Bender". The signature is written in a cursive, flowing style with a large, stylized "M" and "B".

Gaspar De Portola Middle School
11010 Clairemont Mesa Boulevard
San Diego, CA 92124
May 31, 2012

RECEIVED
JUN 20 2012

Mr. Brian Brennan
California Coastal Commission
45 Fremont St.
Suite 2000
San Francisco, CA 94105

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Mr. Brennan:

Have you ever noticed that the La Jolla seals are there for a reason? To me, they are precious little animals that shouldn't need to be moved from their natural habitat. I believe that you should vote for a permanent barrier between the seals and humans.

The seals inhabit the beach year-round. Most people are amazed by the seals are others are not. San Diego's Planning Commission turned down permits for the year-round rope in December 2010, which prevented full beach access. The Founder of the La Jolla Children's Pool say "That the name says it all, the pool was originally made for the children of La Jolla." The city of San Diego puts the rope up on Dec. 15, and May 15 is viewed as the last day of the six-month period for the seals to give birth and wean their young, after this the rope is taken down after the pups have matured to an age that they may go away from their mothers.

The San Diego City Council voted 6-0 for the \$30,000 needed to fund the costs required to obtain legal permits to close the Children's Pool during pupping season.

Also if we move the seals the people that like the seals will throw a riot. These people love the seals and if they move the seals this will diffidently happen.

Some people say they want the seals gone. They feel that the many seals at the La Jolla Children's Pool think that they are a huge disturbance. They also think that the seals pollute the beach by going to the bathroom they also eat they leave debris of food in the ocean which builds up after time. These people do have rights, but so do the seals.

I am against the seals leaving because they are cute and innocent. They also attract many people which brings in money. They are also a great learning experience for the young kids. And if we move them, what will they do with the pups? They will come back.

In conclusion, the seals really should be able to stay because they will just come back to the La Jolla Children's Pool. My partner and I have been studying these amazing animals for a while now. People like me and my partner are willing to fight for the seals. And we will make sure they get their rightful place where they will belong in our world. Please vote in favor of the permanent rope barrier on July 11th.

Thank you for considering my request!

Sincerely,

A handwritten signature in black ink that reads "Alicia Sestito". The script is fluid and cursive, with the first name "Alicia" and last name "Sestito" clearly legible.

Alicia Sestito

Judith Ravetti
7432 Rainswept Lane
San Diego, CA 92119
619-461-4005

June 15, 2012

Re: In favor of the year-Round Rope at
Children's Pool Beach, File 6-11078

California Coastal Commission
Attn: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, Ca 92108-4402

RECEIVED

JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms Brown,

We humans are visitors in the habitat of marine wildlife. I fail to understand why we humans continually destroy their homes, migration and mating seasons.

Yes, I enjoy watching the seals as much as the next person. The operative word is "watching" not "comingling." We need to keep our distance and let these creatures be!

The Bible tells us to be good stewards of our planet.

I strongly urge the Coastal Commission to keep the ropes. Even better, make it an educational site for school children with an information booth. Then they can watch and learn.

I'm also in favor of changing the name from Children's' Pool to Seal Bay, or something similar.

Most sincerely


Judi Ravetti

RECEIVED

JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

File 6-11-978

California Coastal Commission
7575 Metropolitan Dr, Suite 103
San Diego CA 92108-4421

June 13, 2012

Dear California Coastal Commission,

I support the City of San Diego's year-round rope permit application File 6-11-078. Please approve the city of San Diego's Parks and Recreation Department permit to erect a year-round 20-foot viewing guideline distance rope from the seals with a three-foot public access, guaranteed in perpetuity along the east wall, at Children's Pool Beach.

Thank You,
Brian Nixon
11894 Cypress Canyon Road
San Diego, CA 92131

RECEIVED

JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST

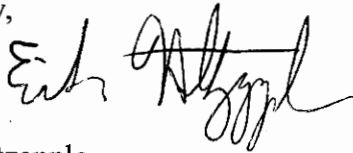
California Coastal Commission
C/O File6-11-078
7575 Metropolitan Drive, #103
San Diego, CA 92108-4402

June 13, 2012

To whom it may concern:

I am writing on behalf of the rope barrier meant to separate people and seals at Children's Pool in La Jolla. I believe the rope barrier needs to be in place all year round to separate humans and the seals. I was recently watching Children's Pool from a sidewalk this past weekend (June 10th), and noted several instances when people were taking close-up photos of seals. The lifeguard on duty had to frequently remind beach guests to step back to the required 5 feet distance from the seals. It is just a matter of time when a seal will seriously bite/ attack a curious bystander. In addition, the use of this public beach for swimming during the summer is possibly a health hazard if the coliform counts are high due to the high concentrations of seal sewage in the water.

Sincerely,



Erik Holtzapple
2625 1/2 E Street
San Diego, CA 92102

Eliel Lopez

402 63rd St., #127

San Diego, CA 92114-4261

June 14, 2012

RECEIVED

JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To the California Coastal Commission;

In Regards to the *Children's Pool* area in La Jolla, CA.

"I support the City of San Diego's year-round permit application; file 6-11-078."


I believe that the combination of wildlife and people, especially children, presents itself as a possible danger to public safety. The water quality of this area may also not be the best for human recreational use as it may contain various contaminants from the seals in the immediate area.

Although this small spit of beach area may have been envisioned as a *children's pool* in the past, it is hardly that now as the seals have obviously established a refuge there. Over the years the state of California has not taken steps to prevent this from happening. Now that the seals have naturally appropriated this site, we should consider the public's safety first, as well as the continuing safety of the seal's rookeries.

Perhaps in the near future we should consider remaking this site to be closed to public access altogether, putting a good end to this issue.

This site is a great tourist attraction and could be a model beacon of good will of the people of San Diego to show the world what can be done in the way of responsible conservancy of our coastal habitats and the marine life there.

Sincerely;

Eliel Lopez, 

Native San Diegan

RECEIVED

JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

June 14, 2012

Dear CA coastal commission,

I support San Diego's year round
rope permit application File 6-11-078.

Please approve SD Park & Rec Dept permit
to erect a Year round 20 foot viewing
guideline distance rope from the seals with
a 3 foot public access, guaranteed in
perpetuity along the east wall, at
Children's Pool Beach,

Thank you,

Katherine White, MD
1020 Robmson Ave, #3
San Diego, CA 92103

California Coastal Commission

Attention: Kanani Brown

7575 Metropolitan Drive, Suite 103

San Diego, CA 92108-4402

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

17 June 2012

To Whom It May Concern:

I have been a La Jolla resident for over 30 years. I walk regularly around our fair Village and the Cove. My favorite area to take a rest is at the Children's Pool to watch the seals. There are always so many people there to watch our seals resting and, if you are lucky, feeding their babies. Children are especially delighted to see them wobbling about on the sand and then gracefully entering the ocean.

I have rarely ever seen people on the beach there, ever. The water is too rough and deep. There are plenty of places along our coast for people to have a good time at the beach. People don't need this small area to do so. As a people, we have taken up so many areas of our coastline for our own personal use. Surely, this small area can be left to our brethren, the ones we share this earth with. The area is educational and a wonderful respite from the daily lambasting of buying and hurry and long lines and traffic. Here, there is peace.

Please, let it be peaceful again. If a rope will give us that peace, let it be there. It will prove to be a blessing for everyone including the Marine Mammal Protection Act. It is a good compromise. People have a good view of the seals from the vantage points but some just can't resist the desire to get up close and personal. I do think a rope will at least provide them with a 'caution' sign to be wary of these wild, beautiful animals. I am in favor of closing the whole area for the use of the seals, but, if we cannot do that, a rope will help allow us to keep them there and should satisfy the ones who desire to end this wonderful view of nature in its entirety.

Thank you for your consideration.


Saracia Shannahan

1245 Virginia Way

La Jolla, CA 92037

RECEIVED

JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COUNTY

June 16, 2012

From: Lisa Mallen
943 Coast Blvd. South
La Jolla, CA 92037

To: California Coastal Commission
C/O File 6-11-078,7575
Metropolitan Drive, #103
San Diego, CA 92108-4402

Dear California Coastal Commission:

I am writing to express my support of a year round seal barrier rope at the La Jolla Children's pool.

I take this position because of excessive water contamination from sewer run off (blocked by a pedestrian sea wall), and seal fecal material. Public use of the pool could result in an outbreak of pathogenic coliform bacteria (E. Coli). If this should occur, the city could possibly face a multitude of lawsuits which the city of San Diego cannot afford.

Mixed public use of the beach could also precipitate aggressive protective behavior from the seals resulting in more problems for the city. The seals after all are wild animals protecting their territory and their young.

This controversy has been going on far too long costing the county too much money which could have been put to better use.

Thank you,

Lisa Mallen
Lisa Mallen

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JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To: California Coastal Commission

Date: June 14, 2011

From: Dr. Jeanne Cherbeneau
634 Arenas St.
La Jolla, CA 92037

Re: File 6-11-078

I am writing in support of keeping the rope up year-round at the Children's Pool, aka the Seal Rookery in La Jolla.

It is such an honor from nature and pleasure to have the benefit of watching the seals on this miniscule section of beach. There are miles of beach for people to enjoy in the same area and there is no need for people to use it for sunbathing or swimming. It is clearly unsafe for children, polluted and should be avoided. Again, there are plenty of other safe areas to enjoy for those activities.

It would break your heart if you came down and actually saw the harassment of the seals during the summer. Tourists, ignorant of the danger, walking up to the seals with their children, where they could easily be injured if a seal snapped back. As well as adults who think it's cute to drop or throw things or shush the seals, so they flush to the water. The disgusting thing to watch as well, is a few middle-aged "territorial imperative-driven" males down there jamming their umbrellas in the sand at the water's edge and beckoning everyone to come down in the midst of the seals.

I implore you to approve keeping the rope up year-round. It is only a guide for reasonable people to understand a safe distance. It is not a barrier that actually prevents anyone to disregard it.

I know I represent the views of hundreds of La Jollans and visitors alike. I am grateful for your consideration and hope so much you will approve the year-round rope.

Sincerely,
Jeanne Cherbeneau.

Jeanne Cherbeneau

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST

Greg Howard
5260 Caminito Vista Lujo
San Diego, CA 92130
858-945-4298

June 11, 2012

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

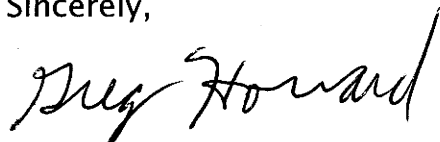
To whom it may concern:

I grew up in La Jolla. I swam in the Children's Pool as a youngster. I scuba dove there as a young adult. I am supportive of the permanent and year-round placement of the "guideline" rope at this beach to prevent harassment of the seals for the following reasons:

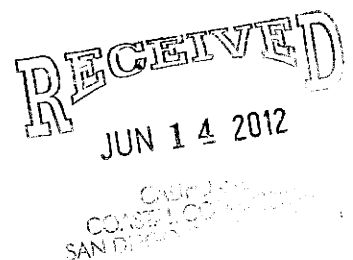
1. A guideline rope is a good visual cue to visitors unfamiliar with seal behavior.
2. Seals have to "haul out" or come out of the cold water to rest at regular intervals in order to survive.
3. The guideline rope will help protect the seals from being "flushed" into the water by keeping from people getting too close.
4. A public benefit of a marine mammal viewing experience in a natural setting far outweighs those who persist in using the beach for their "recreational" enjoyment of swimming or sunbathing. There are many other available beaches in La Jolla.
5. Use of the rope will help enforce the Marine Mammal Protection Act, which states that it is against the law to disturb marine mammals.

Once again, there are beaches to the north and south that are available for swimming and scuba diving. Having the seals on our beach is an asset. Please help to protect it.

Sincerely,



Greg Howard



Gary Smith
939 Coast Boulevard, #20E
La Jolla, CA 92037
(206) 465-2995

June 4, 2012

California Coastal Commission
C/O File 6-11-078, 7575
Metropolitan Drive, #103
San Diego, CA 92108-4402

RE: Rope Barrier at Children's Pool.

Dear Sirs:

I am writing in favor of maintaining a year-round, rope barrier to separate humans from the harbor seals at the Children's Pool, in La Jolla, CA. Reasons why this makes sense include public safety, protection of the harbor seals, and recognition of the value of the seal colony to La Jolla tourism.

My home overlooks the Children's Pool, so I have ample experience watching human-seal interactions. When there is no rope barrier, humans often ignore common sense and get too close to the animals hauled out on the beach. Tourists get close—often only 3-4 feet away—for the purpose of taking photographs. Some beach users intentionally harass the seals.

Just this last week--on Friday morning, June 1st, and Saturday morning, June 2nd--a woman beach user arrived early in the morning and repeatedly walked around and around the seals (within 2-3 feet), and splashed water around and on the seals. Her intent was clearly to annoy or torment the animals, perhaps to move them off of the beach.

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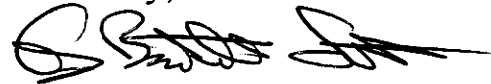
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Harbor seals, as marine mammals, are supposed to be protected by the Marine Mammal Protection Act of 1972. My own view is that it is quite special to have a large breeding colony of seals so close to our urban environment. They deserve our protection.

The harbor seals of Children's Pool have become a popular tourist attraction. La Jolla already attracts tourists from around the world who come to enjoy the cove's scenic beauty. Tourists seem to be quite enthralled to be able to view such a large number of seals so close, and to watch birthing of seal pups in the early spring. This is a sight that really does connect people and Nature, something our society badly needs.

I urge you to support maintaining the rope barrier year-round.
Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary Smith', with a long horizontal flourish extending to the right.

Gary Smith

June 6, 2012

RE: File 6-11-078
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Commissioners:

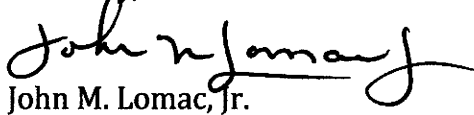
Please accept this late submission for your consideration regarding the City of San Diego's permit application for the year-round rope at the Children's Pool beach in La Jolla, California.

I have enclosed a letter that I wrote to the editor of the local paper that I think provides a personal "inside" perspective on the issue.

I am very much in support of having a year-round rope at the Children's Pool to:
(i) protect the seals, particularly during the birthing and nurturing season; (ii) enhance the incredible educational opportunity for young children to observe from a reasonable distance 'nature at its best' and; (iii) eliminate the 'shared-use' strategy that the city of San Diego attempted that simply does not work.

Your consideration to this request is very much appreciated.

Sincerely,


John M. Lomac, Jr.

832 West Montecito Way
San Diego, CA 92103

619.699.9101

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The Children's Pool ~ A former lifeguard's opinion

At a recent La Jolla Community Planning Association ("LJCPA") meeting to discuss a City of San Diego proposal to close the Children's Pool beach during seal pupping season there were several statements made by community members in opposition.

I offer these rebuttals based upon first-hand experiences as a former city Lifeguard II in the La Jolla area. While I spent most of my lifeguard hours at the Shores, Scripps and Black's beaches, I spent many weekends at the Cove and Children's Pool. During the winter months I was stationed at La Jolla Shores and was one of the backup lifeguards that assist the lifeguard at the Cove or Children's Pool when assistance was needed. During the hours I worked at the Cove and Children's Pool I also rescued many swimmers and divers.

With respect to the comments made at the LJCPA meeting by divers present, it is simply not true that there are no other safe places to dive in the area. The Cove is recognized as a diver's paradise with safe entry to the marine reserve. The boat launch area at the south end of La Jolla Shores is one of the safest points of entry for divers, particularly for learners. With any kind of ocean swell the diving conditions at the Children's Pool always made for dangerous diving conditions. I rescued too many divers of all experience levels to believe that public access should be preserved for scuba divers because the Children's Pool is a safe diving beach. Such is simply not so.

A statement was made at the meeting by a father "who wanted to be able to take his daughter to a safe beach nearby". Based upon my experience working at the Children's Pool during winter months, I would never categorize the Children's Pool as being a safe place for children. Unless local ocean conditions are completely calm, there is always an outgoing surge off the end of the sea wall caused by the existing deep channel. If anything, parents need to be extra vigilant watching their children at the Children's Pool, no matter what depth of water. Rock and reef associated beaches should never be considered to be safe havens for bathing, most particularly for children and toddlers.

The safest bathing beach is La Jolla Shores particularly from the lifeguard tower going south to the boat launch area. The beach is staffed year round with lifeguards who focus their attention upon watching bathers and swimmers, not, as at the Cove and the Children's Pool are required to do, keeping a mindful, binocular-eye on divers outside of the posted swimming area.

Lastly, there was an absolutely incorrect statement made by one of the LJCPA

trustees that "there was no problem at all with seals and people interacting with each other." Mother seals, given any provocation, can be ferocious in their protection of their young. Taking pictures and approaching seals at close distance, particularly with an accompanied child, is simply foolish. No reasonable person should ever think that a parent seal would not do what is natural based upon a perceived threat.

Respectfully,

A handwritten signature in cursive script, appearing to read "John Lomac". The signature is fluid and stylized, with a long horizontal stroke extending from the end of the name.

John Lomac

Jessica Powell
2515 Old Quarry Rd Apt 1334
San Diego, CA 92108

6/8/2012

California Coastal Commission
Attention: Kanani Brown
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4402

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JUN 12 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

*RE: In favor of the Year-Round Rope at Children's Pool Beach.
File 6-11-078*

Dear Ms. Brown,

I am writing to express my concern regarding the seals at Casa Beach in La Jolla. I recently visited there and am deeply saddened and disappointed. The tiny beach is no longer home to the vibrant and playful seals enjoying safety. Rather, it is now taken over by people who are placing their own needs over nature's.

Seal-watching has been a long-enjoyed pastime in San Diego. It brings more enjoyment to both the tourists and residents here; watching sunbathing adults or kids provoking seals in the water does not.

We have an abundance of beaches in San Diego for humans to enjoy. Why can't we keep just one to use a picture window into our beautiful oceans and coast life?

Please, let the rope be put back up at Casa Beach. It is a good visual guideline to visitors unfamiliar with seal behavior, showing the safe distance from federally protected animals. Additionally, the rope is NOT an enforced barrier and does not prohibit visitors to use the beach.

The seals at Casa Beach do not have a voice to speak up for their own well-being. They cannot stop humans from overtaking a small safe haven they have for their youth. Let this rope speak for them, their safety, and for the small, precious piece of nature we are lucky enough to have in our backyard.

Best regards,

Jessica Powell

Jessica Powell

Gregory Maul

ABR, CMAS, CRS, GRI
Senior Associate Broker

(520) 471-8088
gmaul@flash.net



Gregory Maul

Sold & Closed Over 750 Homes

*I sell 8 times more homes
than the national average.*

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To whom this may concern;

I understand that the Commission may be closing the Children's Pool. This would be a tragedy of massive proportions. I just finished reading a few of the letters posted on the net. Interesting to say the least.

Why in the world would anyone want to cater and endorse the smallest of the population and what they want while disregarding the rest of the people, California and the Nation.

I have been coming to San Diego since 1982. In the good years I visit there 15-20 times a year. Traveling from Colorado and Tucson AZ. I have raised my daughter at the pool. Swam the pool to pier, kayaked, been diving in the reserve many times. By the way, spent a great deal of money in that area, way more than the residents spend for sure. Total visits to the pool has to be at least 40-50 times. In these visits the noise was never offensive, never to loud, and never an issue. I have never discovered name calling, ever. If it does exist it is not a regular event.

The locals may own property there but they do not own the gifts of nature that are part of America. Selfish self-interest to wipe out a special place. Sounds like Washington to me. I know Washington too, lived there for two horrible years.

Seals and people can live together, yes extra care should be taken when the pups are out but extra care should be taken when babies are at play anyplace. Is it not the government's job to serve all the peoples, state, and natural resources... for all?

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Page 2

I have snorkeled all along the coast north and south of the pools. Many good memories there. Dozens of times the Seals have come very close and never a threat, they are very curious animals. Many times while on a dive they swim by, not one negative encounter. These animals need to be shared by all; they are plentiful and not endangered. The real issue is parents that do not do their job.

If it is a money issue to the state, the revenue loss will eclipse the savings. You will go from having little parking to having no money.

I can just as easy go to Florida or Hawaii. I am scheduled for a visit this summer, I plan on diving at the pools, will I be allowed?

Jay Murch

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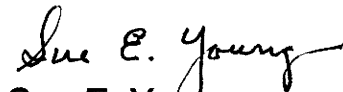
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
7575 Metropolitan Dr, Suite 103
San Diego CA 92108-4421

Re: File 6-11-978

Dear Commissioners,

I support the City of San Diego's year-round rope permit application File 6-11-078. People travel the world to see similar sights. We have them in our front yard. Protect them, please.



Sue E. Young
5473 Bahia Ln.
La Jolla, CA 92037

California Coastal Commission
7575 Metropolitan Dr, Suite 103
San Diego CA 92108-4421

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JUN 18 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: File 6-11-978

Dear Commissioners,

I support the City of San Diego's year-round rope permit application File 6-11-078. The Seals are a local treasurer and need protecting.



Ruth Hayward
5473 Bahia Ln.
La Jolla, CA 92037