

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
 7575 METROPOLITAN DRIVE, SUITE 103  
 SAN DIEGO, CA 92108-4402  
 (619) 767-2370



# W10d

## ADDENDUM

July 10, 2012

Click here to go  
to the original staff report.

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item W10d**, Coastal Commission Permit Application  
**#6-11-078 (San Diego Children's Pool rope barrier)**, for the Commission  
Meeting of July 11, 2012.

Commission staff recommends modifications and additions to the staff report for clarification purposes. ~~Strikethrough~~ indicates text deleted from the June 21, 2012 staff report pursuant to this addendum and **bold, underlined, italic** indicates text added to the June 21, 2012 staff report pursuant to this addendum, as shown below:

1. On page 1, modify the first sentence of "Summary of Staff Recommendation" to clarify that there are six special conditions:

Staff recommends approval of the proposed development with ~~five (5)~~ **six (6)** special conditions regarding (1) permit term, (2) assumption of risk, waiver of liability and indemnity, (3) required local permits and approvals, (4) monitoring plan, ~~and (5) sign program,~~ **and (6) liability for costs and attorney fees.**

2. On page 2, modify the second paragraph, to include all applicable provisions of the 1931 tidelands trust, including the right to fish:

In 1930, Philanthropist Ellen Browning Scripps provided funding for the construction of a 300-ft. arced concrete breakwater at Children's Pool Beach in order to create a safe bathing pool for children. In 1931, as a condition of the California Legislature's grant of tide and submerged lands in which the State of California granted Children's Pool area submerged and tidelands to the City of San Diego, the area was to be devoted 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." (Statute of 1931, Chapter 937.) **The grant also provided for "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."** Subsequent to this grant, the State of California relinquished its trustee responsibilities over

these public trust tide and submerged lands. Since the completion of the breakwater in 1931, the public has used Children's Pool Beach for sunbathing, swimming, fishing, and diving.

3. A letter (attached for reference) in support of Coastal Development Permit Application #6-11-078 from Rodney R. McInnis, Regional Administrator of National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) Southwest Region, was received on June 28, 2012. This letter shall be attached as new Exhibit 12. On page 4, modify Exhibits, as follows:

Exhibit 1 – Location Map  
Exhibit 2 – Site Plan  
Exhibit 3 – Jurisdiction Map and Memo  
Exhibit 4 – Proposed Signage  
Exhibit 5 – City Submitted Photos  
Exhibit 6 – Site Visit Photos  
Exhibit 7 – City Resolution  
Exhibit 8 – Historic Maps  
Exhibit 9 – Staff Ecologist Memorandum  
Exhibit 10 – Opposition Letters  
Exhibit 11 – Support Letters  
**Exhibit 12 – NMFS Letter**

4. In consultation with the applicant, Special Condition #4 shall be modified to allow flexibility in the timing of monitoring due to the City's limited resources. On page 7, modify Item 3 of Special Condition #4A, as follows:

3. Upon installation of the rope barrier, a qualified biologist, environmental resources specialist, ~~or park ranger~~, lifeguard, or City-trained volunteer shall record the number of seals hauled out at Children's Pool Beach, the number of people present on the beach, the number of people present in the water, the number of harassment instances, the tide, the weather (including water and air temperature), and the date at least 16 days per month ~~from sunrise to sunset at hourly intervals~~ (to include weekends and holidays). **Monitoring shall be conducted a minimum of 16 days per month and measurements shall be recorded a minimum of 3 times per day, to include 10 AM, 1 PM, and 4 PM; and** [...]

5. On page 10, modify the first paragraph of "Project History and Previous Commission Action" to include all applicable provisions of the 1931 tidelands trust, including the right to fish:

Addressing the conflicts between people and seals at Children's Pool Beach has a long history. In 1930, Philanthropist Ellen Browning Scripps provided funding for the construction of a 300-ft. arced concrete breakwater at Children's Pool Beach in order to create a safe bathing pool for children. In 1931, as a condition of the California Legislature's grant of tide and submerged lands in which the State of

California granted Children's Pool area submerged and tidelands to the City of San Diego, the area was to be devoted 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." (Statute of 1931, Chapter 937.) **The grant also provided for "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."** Since the completion of the breakwater in 1931, the public has used Children's Pool Beach for sunbathing, swimming, **fishing**, and diving.

6. Based on subsequent conversations with NMFS and a letter provided by Rodney R. McInnis, Regional Administrator of National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) Southwest Region, modify paragraph 2 on page 15 to clarify that the minimum distance for viewing hauled out seals at the subject site is 50 feet:

While the Commission does not regulate the taking of marine mammals, the statutory framework provided in MMPA on this issue provides the Commission a platform from which it can evaluate whether or not a proposed development is consistent with section 30230 of the Coastal Act. In other words, the Commission finds that if there is unauthorized harassment, or incidental "taking", of the seals at the Children's Pool area, then such acts of harassment are not consistent with Chapter 3 policies of the Coastal Act. Even if there is authorization from NMFS to incidentally take seals at Children's Pool, depending on the authorized activity, it is unclear, without more detail of the activity, whether such authorization would even be consistent with Chapter 3 of the Coastal Act. The seal rookery and haul-out site at Children's Pool Beach is unique due to its location in an urban setting that is easily accessible to the public, which has resulted in ongoing disturbance and harassment of the hauled out seals. While a distance of at least 100 yards, or 300 feet, is recommended by NMFS's "Guidelines for Viewing Seals and Sea Lions in California," due to the unique nature and location of Children's Pool Beach, NMFS Enforcement Agent Michelle Zetwo has recommended that people maintain a minimum distance of 20 feet for viewing hauled out seals at the subject site **on certain days (particularly when there are too many people on the beach and/or seals hauled out close to the rope or landward of the rope) when the recommended 50 ft. distance cannot be reasonably achieved. A letter from Rodney R. McInnis, Regional Administrator of NOAA's NMFS Southwest Region, recommends that the public maintain a distance of at least 50 feet from any seal, while standing on Children's Pool Beach (as opposed to standing on the breakwater).** [...]

7. A letter (attached for reference) in support of Coastal Development Permit Application #6-11-078 from Rodney R. McInnis, Regional Administrator of National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) Southwest Region, was received on June 28, 2012. On page 17, after the third paragraph, add the following paragraph to the findings of Section C, Marine Resources:

Finally, in conversations with Commission staff, NMFS representatives from the Office of Protected Resources have stated that they are in support of the City's permit application for a rope barrier to help protect the seals not only during pupping season, but on a year-round basis. According to a letter from Rodney R. McInnis, Regional Administrator of NOAA's NMFS Southwest Region, the rope would allow at least some measure of public awareness and protection to the harbor seals hauled out on the sand; however, maintenance of the guideline rope does not ensure that harbor seals will not be harassed (Exhibit 12). To avoid harassment, NMFS recommends that the public maintain a distance of at least 50 feet from any seal, while standing on Children's Pool Beach (as opposed to standing on the breakwater). Thus, NMFS is in support of a year-round guideline rope that will provide some protection to the harbor seal rookery and year-round haul out site; however, to avoid violation of the MMPA, the public must be cognizant of maintaining a distance of 50 feet from the seals, as seals sometimes haul out on the landward, or "human," side of the rope.





**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

JUN 27 2012

**RECEIVED**

JUN 28 2012


CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Kanani Brown  
Coastal Program Analyst  
California Coastal Commission  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108

Dear Ms. Brown:

Thank you for contacting NOAA's National Marine Fisheries Service (NMFS), Southwest Regional Office, regarding the City of San Diego Park and Recreation's (City) application to the California Coastal Commission to install and maintain a rope barrier at Children's Pool Beach (CPB), located in La Jolla, California. The hearing will be held on Wednesday, July 11, 2012 in Chula Vista, California. Based on the application and subsequent amendment, the City plans to install a 4 foot high by 152 foot long rope barrier, to be placed in perpetuity, to provide a buffer between people and harbor seals (*Phoca vitulina richardii*). The rope would be attached to the seawall and extend westward 152 feet, leaving a 3 foot opening for public access at the east end near the access stairway. Per your request, this letter provides our comments on the City's application. In order to provide some context for these comments, we have added some background on the Marine Mammal Protection Act (MMPA), harbor seal biology and life history, and the historical and current use of CPB by harbor seals (Appendix 1).

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. In addition, 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 over 10 years, and the timing

EXHIBIT NO. 12
APPLICATION NO. <b>6-11-078</b>
NMFS Letter <b>89</b>
 California Coastal Commission

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.

NMFS supports the City's application to install and maintain a rope barrier year-round at CPB, 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 United States, 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. However, as a guideline, the distance also does not have the force of law. 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.

While NMFS has enforcement authority under the MMPA, limited staffing creates a challenge. NMFS has a toll-free hotline (1-800-853-1964) to reports 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 marine mammals without a transfer of management authority from the Secretary of Commerce or Interior, depending on the species. However, States and local governments are not impeded from taking actions to manage their land consistent with the MMPA, such as erecting rope barriers to protect marine mammals.

Thank you for the opportunity to provide input on the application sent before the California Coastal Commission. 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](mailto:Sarah.Wilkin@noaa.gov) or 562-980-3230 or Christina Fahy at [Christina.Fahy@noaa.gov](mailto:Christina.Fahy@noaa.gov) or 562-980-4023.

Sincerely,



for Rodney R. McInnis  
Regional Administrator

## 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)). Section 117 of the MMPA requires NMFS to prepare stock assessment reports for each marine mammal stock occurring in waters under the jurisdiction of the U.S. These reports describe the geographic range of the stock, including temporal and seasonal variation, minimum population estimates and trends, and estimates of annual human caused serious injury and/or mortality for each stock. Stock assessment reports can be found at: <http://www.nmfs.noaa.gov/pr/sars/>.

### *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.

Harbor seals 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 is one that leads 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

keeping the public at a distance from hauled out harbor seals, flushing can (in most cases) be prevented.

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. NMFS has received documented reports of abortions and premature parturition occurring in CPB harbor seals in November and December. Therefore, NMFS generally considers December 1 as the beginning of the pupping season. 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 generally considers May 30 as the end of the pupping season, as this date ensures that the majority of pups will be weaned.

93

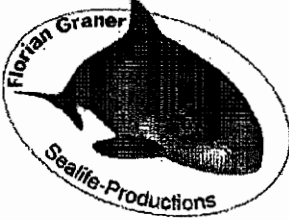
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Yochem, P. and B. Stewart. 1998. Behavioral ecology and demography of seals and sea lions at Seal Rock Marine Mammal Reserve. HSWRI Technical Report No. 98-282. Submitted to City of San Diego, Seal Rock Marine Mammal Reserve Ad Hoc Committee.

# W10d

	<p>Florian Graner, PhD 4021 Beach Drive Freeland, WA 98249 / USA Phone: +1 (360) 730 1691 Cell: +1 (831) 224 7171 UBI No: <b>602989205</b> E-mail: <a href="mailto:fgraner@sealife-productions.com">fgraner@sealife-productions.com</a></p>
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Freeland, May 31, 2012

To the

California Coastal Commission

Attention: Kanani Brown

7575 Metropolitan Drive, Suite 103

San Diego, California 92108-4402

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JUN 27 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

**Expert Letter: Pacific Harbor Seals in Children's Cove, La Jolla, CA**

**Introduction:**

My name is Dr. Florian Graner. I have a PhD in marine biology from the University of Liverpool specializing in marine mammals. My academic path has taken me from a masters degree on the identification and pup production of Manx grey seals to a complex field study of harbor porpoises in Sognefjord, Norway for my PhD work. I have studied the harbor seal population on the island Helgoland, Germany and published their status alongside the special event of grey seals establishing a new presence and eventually reproductive rockery on the island. I also worked extensively in the field during the 1988 harbor seal famine in the North Sea caused by a canine distemper virus. I worked as scientific advisor for the seal station Friedrichskoog, Germany and worked there for a year re-organizing the abandoned pup rearing and rehabilitation program.

During my 17 years as an international wildlife documentary filmmaker and producer I have worked extensively with a variety of seals but harbor seals have had a major part in many of my documentaries. It was in this context that I first came into contact with the seals at La

**LETTERS OF SUPPORT**

45

La Jolla. In March 1996 during a visit with a good friend in Carlsbad following a filming assignment in Baja California we visited the seals at childrens cove. This was the third year the harbor seals had started using the beach again and about 50% of the seals usually hauling out on the rocky outcrops in front of the cove were already using the beach. Having never seen a harbor seal population tolerating direct contact with humans on dry land, I was startled and spent much time over the years studying this phenomenon. Taking my rebreather into the water and diving with the seals there has revealed natural harbor seal behavior which had previously not been filmed anywhere, particularly male territorial displays underwater, marking their territories by special gurgling calls. I shared my images with a student of Stanford University, Teri Nicholson, who later made her master degree at Hopkins Marine Laboratories in Monterey, CA studying male territorial behavior there. I witnessed one of the first seal pups being born on the sands of children's cove in 1999, a powerful experience against the backdrop of La Jolla.

**Topic: Why is the harbor seal rookery at Children's Cove special?**

Harbor seals belong the family of true seals. Like elephant, leopard- and grey seals, they are unable to walk on land. Instead they use a caterpillar like motion dragging their bellies over the sand. This shows their extreme adaptation to life at sea. Still there are two main reasons why they come to shore: for reproduction (birthing and nursing their pups) and for rest and moulting. Absorbing plenty of sunlight while they lie on dry land is essential for making enough vitamins to maintain a healthy fur coat. Having limited capability to defend themselves on land this remaining use of land has made true seals around the planet vulnerable to predation and human exploitation from land. In California predation by grizzly bears from land was probably the main cause of death for the local seals before the bears were pushed away from the coast and eradicated many places by European settlers. Therefore all true seals are very cautious about the places they choose to haul out on land to rest and especially to give birth to their pups. Usually these are rocky outcrops surrounded by water or sheltered bays with tall cliffs and difficult or forbidding land access. During the past two centuries the coastline of California has seen dramatic changes due to human activity. Much of southern and central California has been built up, and many of the places the harbor seals used traditionally as rookeries have been altered and occupied by human activity. This is also true for Children's Cove. There is evidence that the seals

96



actually used the very rocks upon which the sea wall was built in 1931 due to the generous donation of Ellen Browning Scribbs. Surveyed by city engineer M.C. Wheeler in January 1887, the Botsford & Heald map has those rocks named as Seal Rock (Research Archives, San Diego Historical Society).

It took decades until harbor seals re-discovered this haul-out site again, this time in form as a lovely sandy beach with easy deepwater access - crucial for seals if they need a quick getaway. Yes, over the years the sea wall had trapped enough sand inside the cove to build a sandy beach.

For me as a marine biologist the truly amazing thing is why the seals even dared to use this site at the first place. Regular disturbances frequently occurred frequently flushing the seals off the beach (Yochem 2004) and to this day, after years of heated debate about the presence of the seals, organized anti seal groups even orchestrate beach parties with the aim to drive the animals back into the water. Yet the seals prevailed - why?

In my opinion there is only one plausible conclusion: The harbor seals in this area really need this site! Why else would they put up with such a commotion - no other harbor seal rockery in the world is tolerating such a circus. There is clear evidence produced by a number of accomplished marine- and wildlife biologist that harbor seals select their haul out sites based on food availability, depth and bottom relief (Grigg, et. al., 2002). Harbor seals are both sensitive to and habituate to disturbance. In some areas, they will abandon haul-out sites or switch to nocturnal use of a site to avoid high levels of diurnal human disturbance (Newby 1973; Allen et. al., 1984; Allen 1991; Grigg et al. 2002). In other areas, however, harbor seals appear to tolerate relatively high levels of disturbance; both tolerance and sensitivity to disturbance have been reported for San Francisco Bay haul-out sites (Grigg et al. 2002, 2008). In highly impacted coastal areas where disturbance levels are consistently high and limited alternate habitat exists, harbor seals' best strategy may involve habituation to predictable disturbance levels and continued use of disturbed (but profitable) foraging habitat close to the central place (Grigg, et. al., 2002, 2008).

The very high tolerance of the La Jolla harbor seals to human disturbance stands out. I have heard of suggestions that the seals have alternative haul-out sites such as Point Loma. As a marine biologist specialized in the study of marine mammals I can assure you, they would long be on those beaches if they offered the life parameters the beach at Children's Cove apparently yields. There must be something very vital to the seals right there.

97

## Conclusions:

To conclude this letter I would like to point out that you have a setting in Children's Cove no other city has to offer: A healthy reproductive harbor seal rookery right in front of your downtown streets and hotels. Visitors numbers to Children's Cove, as recorded by the lifeguard service, showed unusually high visitor numbers during pupping season. People like to see the harbor seals and their pups bringing business to the local stores. Not even Sea World can offer such a show.

I urge you to embrace the seals, give them the protection they need and deserve under the law as specified under marine mammal protection act especially during the pupping season. For the seals this is the southernmost reproductive rookery along the pacific coastline of the United States. Although exposed to frequent and sometimes deliberate disturbance, the harbor seals have remained on this site for well over a decade. This site must therefore be vital to them, probably a combination of good access from remaining feeding areas and limited availability of protected pupping sites. Give the seals a chance. They have already suffered much by the advance of civilization to this coast. You have a very unique opportunity to present your children and citizens with a spectacular pocket of wildlife right in front of your main streets. As a consequence of the marine mammal protection act protecting these seals in your middle is not only an opportunity for your community, it is also your federal duty.

The installation a year-round rope to cordon off the area used by the seals would certainly be a step in the right direction

Respectfully,



Florian Graner, PhD

98

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99

W10d

July 11, 2012 Agenda Item 10d, 6-11-78  
(City of San Diego, Park and Recreation Department)  
CHILDREN'S POOL ROPE BARRIER  
Anthony A. Ciani – IN FAVOR

California Coastal Commission

VIA EMAIL: [melissa.ahrens@coastal.ca.gov](mailto:melissa.ahrens@coastal.ca.gov), [kbrown@coastal.ca.gov](mailto:kbrown@coastal.ca.gov), [dlee@coastal.ca.gov](mailto:dlee@coastal.ca.gov)

Dear Chair Schallenger and Coastal Commissioners:

The Children's Pool Harbor Seal rookery occupies a tiny, two hundred foot wide beach in a City that boasts 16 miles of public beaches; and is the only harbor seal rookery located 170 miles south of the nearest one at Pt. Mugu. That leaves a lot of beaches for swimmers and divers! (From 1955, I grew up living one block from the Children's Pool (C.P.) and except for school, spent every nearly waking hour there learning to swim and skin dive from world class water men and women. They called themselves the "Casa Gang", and by the early '60's they were discussing conservation of the fisheries by creating rotating reserves that eventually lead to the nearby La Jolla Underwater Park. From 1959 through 1966, I was a Lifeguard in La Jolla and permanently stationed year round at the C.P. between 1963 and 1966.) Seals were central part of the scene hauling out on the rocks, reefs, beach and sometimes the lowest step of the Break Wall. I support protection of the seal habitat on a permanent basis.

By 1967, the guards, City, and geologist, Dr. Francis Shepard from Scripps Institution of Oceanography realized sand was retained by the Break Wall and had turned the Children's Pool into the Children's "Beach." That negative effect resulted in a dangerous eddy at the end of the wall that sucked swimmers into the rip current prevailing in the rocky surge channels. Efforts to dredge and haul the sand failed to change the problem. By the 1970's and into the early 1990's, C.P. became a Mecca for local SCUBA diving stores to conduct their ocean diving lessons, literally taking over the sidewalk, parking and beach...with little room for children who had to compete with groups of SCUBA divers in full gear marching into the "pool." Worse yet, many line fishermen that fished from the sea wall as well as, spear fishermen, believed the seals were interfering with their sport fishing. Fishermen cast bottles and threw firecrackers at the seals, and some shot flares at them. The harassment prompted the public's effort to protect the seals, and that led to the City's 1994 Marine Mammal Reserve, and once again, the seals began hauling out and established a rookery.

I can testify to the fact, that far and away more people – locals and visitors, enjoy the Children's Pool now - viewing the seals - than ever before, or ever could, using the beach for swimming and diving. Both the natural bluffs and Sea Wall serve as a gallery to observe the seals. Visitors do not need to go onto the beach! Ample access to the ocean exists immediately north and south of the C.P. Similar rookeries exist in Monterey Peninsula (Pacific Grove, Pt. Lobos, etc.) and people are restricted from the beaches. Why not give this rare for Southern California group the same rights – Free from people trampling through their seal-bedrooms and nurseries! I recommend that you delete permit term limit and keep the reporting program; and, delete the proposed rope barrier on the beach (it will be washed out by large winter waves over topping the wall) in favor of a barrier located the bottom of the stairs and ramp.

Respectfully,

Tony Ciani (La Jolla resident from 1955 – 2012)  
220 Walnut Street  
Pacific Grove, CA 93950

RECEIVED  
JUL 06 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

100

Agenda item #10d, Wednesday, July 11, 2012

Permit #6-11-078

Lisa Ciani, In favor of project

July 6, 2012

California Coastal Commission  
San Diego Coast District  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4421

Attn: Kanani Brown, Coastal Program Analyst

Re: Children's Pool Rope Barrier

Dear Chairperson Shallenberger and Coastal Commissioners:

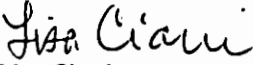
I am writing in support of a permanent rope barrier, or better, at the Children's Pool in La Jolla.

I lived in La Jolla for fifty years, moving away a few months ago, and visited there several times a year for 15 years throughout my childhood. I also raised my children there. La Jolla has a marvelous array of beaches, and the return of the seals to the Casa Beach (Children's Pool) has been a delightful development. The opportunity to view the seals and their pups from the bluff top above the beach and from the breakwall are unmatched experiences in California. (Here in Central California where I live now, the seals are protected to the extent that pupping beaches are shielded from public view during pupping season.) Far more of the public enjoys the Casa Beach year round with the seals there than when it was a "children's" beach, with the sand infill pushing the swimming area closer and closer to the rip current at the end of the breakwall.

I support the rope barrier, but I believe the *best* policy would be to close the beach completely to public use rather than erecting a permanent rope barrier, both to preserve the natural and historic appearance of the beach and because many humans aren't very good at staying behind a rope barrier. Whether they're teenagers daring each other to poke a seal or parents wanting a picture of the kids among the seals, it just seems much more clear cut if people simply stay off the beach. We took our children to the Casa Beach occasionally, but more often to the Cove because the swimming was so limited, and at times dangerous, at the Casa. The whole family was thrilled when the seals started hauling out on the Casa Beach. When we would walk past the Casa on the way to the Cove, we would try to guess as we approached the Casa how many seals were on the beach, and then count when we got there—maybe 50 or 100 or 200.

The seals, in my opinion, provide for the greatest public use of the beach. People in town and along the shoreline frequently stop us to ask where to find the seals. It's an amazing opportunity to view wildlife in a natural setting, and people are not just entertained and educated, but truly awestruck by this experience with nature. I hope you will do everything in your power to protect this seal habitat and the opportunity for the public to benefit from it. Thank you.

Sincerely,

  
Lisa Ciani

220 Walnut Street  
Pacific Grove, CA 93950

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JUL 06 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

101

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

Date July 5, 2012

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

Please approve the permit for the year-round rope guideline at the Children's Pool Beach.

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
3. Harbor seals are not migratory species and they use the beach as a haul out year round
4. I visit the Children's Pool beach with the specific purpose of watching the seals: it is a very unique opportunity to observe marine mammals in their natural habitat in Southern California and my experience of enjoying the seals resting on the beach is often disturbed by people getting too close to the animals and scaring them into the water since there is no visible guideline in sight, such guideline is much needed.

Sincerely,

Name Irina Rachow  
Address 1379 Hymettus Ave. Encinitas, CA 92024

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CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

102



July 5, 2012

Via facsimile: (619) 767-2384

Attention: Kanani Brown  
California Coastal Commission  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

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JUL 05 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

RE: **SUPPORT Year-Round Rope at Children's Pool Beach, File No. 6-11-078**

Dear Ms. Brown:

San Diego Coastkeeper, a local watchdog organization committed to protecting and restoring fishable, drinkable, and swimmable San Diego waters, strongly urges the Coastal Commission to approve Permit Application File No. 6-11-078 for a year-round rope to provide a barrier between people and seals at Children's Pool Beach in La Jolla. Coastkeeper supports the special conditions suggested by Coastal Commission staff and recommends they be adopted.

The year-round rope, along with the special conditions staff suggests, strike a balance between conflicting interests over access to the Children's Pool. The rope will remind visitors who come to view the seals to do so from a safe distance and will discourage visitors from approaching or harassing these protected animals, without restricting access to the beach. Enacting a year-round rope will help enforce the Marine Mammal Protection Act of 1972, which prohibits the hunting, harassing, capture or killing of any marine mammal or attempt to do so. The rope will also advance the goals set out in SB 428 by providing safe access to the seals for the enjoyment and educational benefit of children.

The community will directly benefit from protecting the harbor seal colony that inhabits the Children's Pool Beach. The seal colony attracts thousands of visitors annually from across the world. Protecting these seals while permitting public beach access will ensure compliance with the provisions in Coastal Act Section 30213 by providing a low cost visitor and recreational facility.

For these reasons, San Diego Coastkeeper supports the year-round rope at Children's Pool Beach in La Jolla and urges the Coastal Commission to approve the City of San Diego Park and Recreation Department's Permit Application File No. 6-11-078 with special conditions suggested by Coastal Commission staff.

Respectfully Submitted,

Jill M. Witkowski  
Waterkeeper

Substantially Prepared By,

Courtney Carter  
Student Attorney

TEL: 619.758.7743  
FAX: 619.224.4638

ADDRESS: 2825 DEWEY ROAD, SUITE # 200  
SAN DIEGO, CALIFORNIA 92106

WWW.SDCOASTKEEPER.ORG

ONE ORGANIZATION PROTECTING 100% OF THE COAST

103

15/6/29/12

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JUN 27 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

6/24

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,

*Maria Johnson*  
7363 N. Casa Blanca Dr.  
Tucson, AZ 85704

16 of this form letter were  
rec'd in our office

104



NANCY LEE  
1972-B Felspar Street  
San Diego, CA 92109  
858-270-2012

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JUN 27 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

June 24, 2012

California Coastal Commission  
7575 Metropolitan Drive Suite 103  
San Diego, CA 92108

RE: Children's Pool Harbor Seals – Application # 6-11078 – July Hearing

To Whom It May Concern:

I am requesting that the shared-beach use be rescinded and the rope put up year round at Children's Pool to protect the seals and take advantage of this great educational opportunity and nature preserve. When the rope was up, often there were as many as 200 seals on the beach. The seals were playful and relaxed.

The weekend the protective rope barrier was taken down, the activists who do everything they can to drive the seals off the beach returned. These activists encourage all the people to go down to the beach and get as close as they can to the seals. Additionally, they have bonfires on the beach.

On Saturday, June 23, 2012 at 11:00 a.m. there were zero seals on the beach. Since it was high tide and the rocks were not accessible there were a number of seals swimming off shore afraid to come onto the beach crowded with people. This is not shared access and it is not protecting the seals.

These are the issues I see created by the Activists who state they want a shared-use beach, but then give all appearances of driving the seals away.

1. Bonfires on the Beach The Activist's Facebook page stated "I wouldn't be surprised if a bunch of grateful people got together again for a beach party on May 31<sup>st</sup> to commemorate the building of the Children's Pool on the 81<sup>st</sup> Anniversary. Remember last year?"

I visited Children's Pool from 5:30 p.m. to 7:30 p.m. The Activists hauled in many cords of wood and started a bonfire in the BBQ. It wasn't cold and it wasn't yet dark. The police arrived, but were not able to cite them for not abiding by 63.20.5 (c) SDMC law. San Diego residents are not allowed to have bonfires on the beach, except in designated areas and the fire must be in a concrete fire ring. The police informed me that they were unable to cite having a bonfire on the beach because it was contained in a BBQ and that the people were not "following the spirit of the law" by having a wood fire in a BBQ, but the "letter of the law" could not prohibit it. The law was implemented to allow people to BBQ on the beach, but is being abused by having wood fires. It seems a fair statement to say that if the fire is started before dark and it is not cold, then the only purpose of the fire is to drive the seals off the beach.

2. Girl Scout troops being given free scuba lessons. It appears the activists will use any method to have children swimming in this beach that has been declared polluted. Why are there no signs stating the beach is polluted as I've seen on other beaches?
3. Flags, umbrellas, orange cones and beach chairs being set up on the beach in as wide a space as possible and as close to the water as they can get, all for a group of only 10 people. Taking up this much space forces all the other people on the beach into the area that the seals would use.
4. Activists that are divers dressed in camouflage gear with large spears entering the water.
5. Reading the Activist's Facebook page, I was shocked to read that this group is also promoting a reinstatement of the law to allow hunting of seals.

105

6. The Activist's post many displays and signage all in front of the Children's Pool. The signs posted by the Activist's on the boardwalk give the appearance that they are San Diego government sanctioned. All the information on the signs is twisted and misrepresented. Here are a few examples:

- "An advisory rope across the beach has no legal enforceability on the public beach."
- "The only 2 sides are those willing to share the beach with the seals vs. control freaks not willing to let sharing happen."
- "The City Attorney has advised the City away from closing this beach. He knows closure would make the city a sitting duck for another million dollar lawsuit."
- "State law requires shared use here. We have to share."
- "Donations to "Save the Seals" have no legitimate destination."
- "During the 17 year growth of this colony, the seals have become acclimated to people unlike any others in the world. Their trust is so complete; some bring their pups on the beach to nurse right by people. BE COOL."

These Activists appear to be a small subversive group with members who harass and bully anyone who comes to visit the seals at Children's Pool and express an opinion that the seals should be protected. Having a public shared-use beach is not effective, or even possible, if the only attendees on the beach are the Activists who create a hostile environment for both the seals and the people who would like to protect the seals. The City of San Diego needs to step up and monitor and control the activities of the Activists interfering with citizens coming to Children's Pool, as well as their interference of the seals being on a shared-use beach.

The tourists get closer and closer and closer to the seals, laughing and behaving as if they are at a petting zoo filled with domestic farm animals, seemingly unaware that these are wild animals with large teeth and should not be approached. Small children excitedly run right up to the seals, with the seals lifting their heads in fear. Parents seem unconcerned that their child is running up to a wild animal. The tourists cannot get close enough to document their experience.

NOAA, the National Marine Fisheries Service, a Federal Agency, has recommended closing the beach to people. The Park Ranger does nothing to protect the seals. He sits high above the beach in a shaded beach house. He is not even on the beach to keep the tourists and citizens away from the seals. The Park Ranger leaves at 5:00 so from that point on there is no regulation or protection of the seals or enforcement of the shared-use beach or not crossing the rope.

In closing, this situation has been going on for more than 8 years. Eight years. In 8 years, our San Diego elected officials; the State of California and the Coastal Commission have not taken a stand and make a permanent decision to leave the rope up year round and protect the seals. We could protect the seals and have a nature preserve, a treasure in San Diego, for all people to enjoy both now and for future generations. Since this area is already adjacent to the Marine Reserve, it is a natural extension of our commitment to protect and preserve our natural resources. Recently the San Diego Union Tribune newspaper published a beach use guide for the summer. There was no mention of any beaches in La Jolla, except for La Jolla Shores. With the thousands of beaches in San Diego County, it is not unreasonable to "give" one beach to the seals.

Close Children's Pool to human access. Put up the rope year-round. Do the right thing. Give the citizens of San Diego and the tourists from around the world who visit here the opportunity to view the seals living their lives in nature instead of the zoo.

Respectfully,

  
Nancy Lee

Attachments: Photos, Facebook Pages



May 23, 2012—Seal colony on beach without people.



5-31-2012—Seals on “shared-use beach” with people. Seals offshore afraid to come on the beach.



5-31-2012—Tourists and People Standing Within A Few Feet of the Seals. They cannot get close enough to these wild animals and children are unsupervised.

108



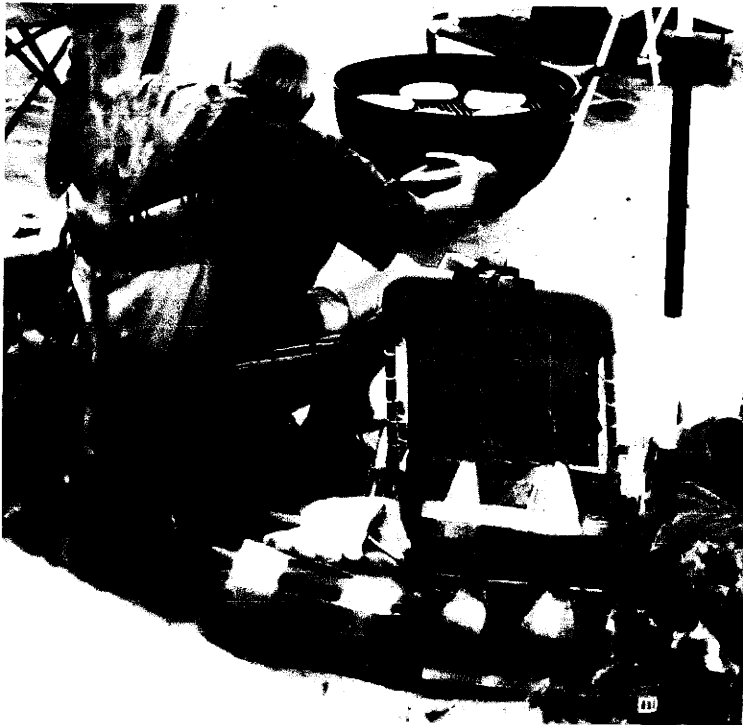
6-24-2012

Zero seals on shared-use beach.

Children climbing and  
Standing on rock where seals  
usually are.



63.20.5 © SDMC—The letter of the law is BBQs only. Bonfires are only permitted in sanctioned areas in fire pits. The police stated these people are not following the “spirit of the law”.



I was taking photos and this activist came to bully and harass me wanting me to leave.

Cords of wood for bonfires for May 31, 2012. It was not cold and it was not dark.

110

# All you need to know - now

Children's Pool was built in 1931 to provide a safe area for San Diego children. The Pool now

The City declared a "Shared Use Policy" in 2004, allowing both people and seals to use the beach. It protects seals from harm or intentional disturbance. An advisory the beach has no legal enforceability on the public.

In 2009, to avoid having to restore the Pool, the State the beach was amended to guarantee seals be allowed to use the beach and fishing rights. It's called

the beach was amended to guarantee seals be allowed to use the beach and fishing rights. It's called the beach was amended to guarantee seals be allowed to use the beach and fishing rights. It's called

During the 17 year growth of this colony, the seals acclimated to people unlike any others in the world. complete, some bring their pups on the beach to people. Be cool.

Most still are easily startled on land. Some are not stare at nearby people, indicating they are considering the water. Take a hint. Stop there.

They are playful in the water and show little fear. successful births increases here every year, so you know something right.

42,000 harbor seals in California using over 1000 secret places people can't get to.

///



**The Truth: There are no persons or programs trying to remove seals from this beach**

- Seals are allowed on this beach by State law and protected from disturbance by Federal Law.
- Money donated to "save the seals" goes to frivolous lawsuits against the City to force it to go up against State law at great expense.
- State laws require the beach be open to the public. The reason you seldom see seals and humans on the beach at the same time is we like hot weather, they won't use the sand unless it is cold.
- The only 2 "sides" are those willing to share the beach with the seals vs control freaks not willing to let sharing happen.
- The only question is whether the City will be able to maintain shared use, or be driven to ban people and be taken back to court for violating the State laws.
- The City Attorney has advised the City away from closing this beach. He knows closure would make the City a sitting duck for another million dollar lawsuit.
- No seal has ever been hurt by a human here. Everybody likes seals. They trust us enough to share the beach with us.
- Both the adjacent beaches are posted as dangerous for chronic rip currents.
- There will be stillborn pups here in December like every year. It is part of seal physiology and cannot be stopped. Live births will begin in February, like they do every year.



We gave a party and guess who came? Our friends the seals.



The 80<sup>th</sup> anniversary of Children's Pool was May 31<sup>st</sup>, 2011. We gathered on the clean side of the rope. As the seals came in, and the tide came up, we had lots of guests.

At any party there is one guy who passes out

## State law requires Shared Use here

(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.

## We have to share

Donations to "Save the Seals" have no legitimate destination

We gave a party and guess who came? Our friends the seals.



The 80<sup>th</sup> anniversary of Children's Pool was May 31<sup>st</sup>, 2011. We gathered on the clean side of the rope. As the seals came in, and the tide came up, we had lots of guests.



At any party there is one guy who passes out. →



## State law re Shared Use

(a) That said lands shall be devoted exclusively to public marine mammal park for the bathing pool for children, playground, and to such other purposes, and to such other use as may be incident to, or convenient to the full enjoyment of such purposes of the absolute right to fish the waters of the Pacific Ocean with tidelands or submerged lands said the right of convenient land said waters over said lands for purpose is hereby reserved to the people of the State of California.

**We have to share**  
Donations to "Save the Seals" have no legitimate destination

## [Childrens Pool] I wouldn't be surprised if a bunch of grateful...

From: **Ken Hunrichs** (notification+kr4mqaesk4wr@facebookmail.com)

Sent: Thu 5/31/12 5:28 AM

To: Childrens Pool (211897882224296@groups.facebook.com)

Ken Hunrichs posted in Childrens Pool



**Ken Hunrichs**

10:28pm May 30

I wouldn't be surprised if a bunch of grateful people got together again for a beach party on May 31st to commemorate the building of the Children's Pool on the 81st Anniversary. Remember last year? <https://www.youtube.com/watch?v=2q9hStm0RXo> Happy people, Happy seals. No Problem.



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115

P.O. Box 2016  
La Jolla, CA 92038

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

**RECEIVED**

JUN 25 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Re: In Support of Item # 6-11-078

Att: K. Brown

Dear Ms. Brown and Members of the California Coastal Commission,

I am contacting you to express my support for the year round rope at Casa Beach in San Diego. As a resident of San Diego for many years, including several years in La Jolla, I am aware of the value of the Harbor Seal colony and rookery at Casa Beach on a personal basis. Having grown up in New York, a city with many world class cultural offerings, I find that the seal colony in La Jolla presents a valuable, world class asset to the people of San Diego, and to tourists as well. The opportunity to view wildlife that this phenomenon provides is unparalleled, in my opinion, and I have heard it compared with the Galapagos Islands on many occasions. Indeed, many tourists have expressed to me that this destination is their first stop in a visit to San Diego.

I have had the opportunity to review and address many seal issues, and Casa Beach management issues, in conjunction with my work as a volunteer with La Jolla Friends of the Seals, a non profit education and docent organization. In my association with this group, I have held a number of positions, including the positions of Acting Executive Director, Education and Media Advisor, and most recently, Project Director.

My educational background includes work in psychology, education, animal behavior, and other areas.

It is well know, and well documented, that harbor seals are site specific, show site fidelity, and are sensitive to disturbance, with impacts from disturbance including such things as flushing and other behavioral events, interference with bonding of mothers and pups, and interference with the ability of pups to rest and nurse so as to be able to gain weight, and to wean and survive successfully. Overall, disturbance is associated with increased pup mortality, altered site usage, site abandonment, and other related impacts. Harbor Seals are coastal pinnipeds and need to haul out regularly on to a flat land surface. They need to haul out daily or regularly, on a year round basis, for rest, blood re-oxygenation, thermal regulation, and also, for the annual catastrophic molt, and during the pupping and breeding season, for giving birth and raising their pups. The functions that are performed while hauled out help to allow for dives, ability to swim in cold water, and wound healing. Characteristics of a haulout site include quick access to deep water, lack of disturbance, and proximity to food sources; it should be obvious that a site that is under water except at low tide could not provide a haulout

116

site on a routine basis.

Per Allen, S. (1998), "these sites serve as resting and breeding areas. Hauling out is also considered to aid thermal regulation and is essential for their annual molt."

Per Kopec, D., "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"

Casa Beach is known to be a rookery site as well as a haulout site. Not all haulout sites are rookery sites. Throughout the year, the seals need to use this beach for the functions listed above. In reviewing the name of the location "Seal Rock", which references the rock under the seawall, and in view of the propensity of harbor seals for site fidelity, it is reasonable to assume that they used this site over a hundred years ago before hunting reduced their numbers. The Botsford map of the area, c. 1887, (San Diego Historical Society) shows the rock structure under the sea wall as "Seal Rock", and denotes the outcroppings to the south and west as "Seal Rock Point". Recent USGS maps also label these structures in this way.

The impact of human caused disturbance on harbor seals is noted in many studies. In the fall of 2004, a study by Hubbs Research/Dr. Pam Yochem found that human actions in close proximity to the seals in the Casa Beach area, in the water and on land around the haulout site area, were associated with many disturbance events, including approx. 144 such events (flushes at Casa Beach), as compared with 2 flushes that were associated with construction only related events (one at Casa Beach).

During this time, an uncharacteristically high number of premature births were noted. Some premature birth references are noted in the Yochem study as well.

Other studies show that human activity close to harbor seal haulout sites can be associated with site abandonment and other impacts, and that seals react to different types of disturbances variably, based upon their age and class, the season, the type of disturbance in question, and other variables. For example, in some areas, boating activity can impact seals differently depending upon whether the boat is motorized or not, and other factors. Studies also indicate that impacts other than behavioral events, including physiological impacts, can occur for mammals when disturbance is a factor. Disturbance is known to be harmful to seals in many ways.

Per Allen, S. (1991), "There is ample evidence that human-related activities can have an adverse effect on harbor seal behavior." And, per Allen, S., (1984), it is noted that, "Human activities closer than 100 meters caused seals to leave haul-out sites more than activities at greater distances." Per Suryan and Harvey, (1999), it is noted that, "disturbance to harbor seal sites can have considerable impact in areas where haul-out space is limited."

Research on harbor seals also suggests that responses to disturbance may not always manifest in displacement, and may be impacted by other variables. In other words, if seals do not flush or show other behavioral responses to disturbance, it cannot be

assumed that there is no impact. In a recent study of harbor seals in Denmark, responses to disturbance were viewed in terms of a "trade off" between varying compelling needs.

As a separate matter, with regard to the value of the seals at Casa Beach, I need to express that this colony provides a superb wildlife viewing opportunity for thousands of people a month on a year round basis. Additionally, it provides an excellent educational venue. I wish to mention that, in conjunction with my association with LJFS, I have had the wonderful and inspiring opportunity to work with many student interns, from local institutions such as Mesa College, and from institutions such as Amherst College, on educational projects at Casa Beach. The presence of the harbor seal rookery in San Diego has provided a rare and unique opportunity for students in marine biology and environmental science to learn about ethology, animal behavior, and field data collection on a first hand basis, an option that many students in other geographic areas do not have available. Many of these interns have career goals in marine science. This experience has given them an opportunity to learn about career skills and tasks on a personal basis. Additionally, I am aware of many students from grade school through graduate school who have benefited from study and observation done at Casa Beach, based upon the educational asset provided by the presence of the seals.

According to San Diego lifeguard statistic crowd counts, thousands of people come to Casa Beach throughout the year. This includes the non summer months, when "typical" beach activities would not be the draw. Additionally, there have been many demonstrated expressions of support by San Diegans for greater seal protection at Casa Beach, from petitions and a Zogby Poll, to a City Council vote in 2010.

The presence of a rope as a guideline, as a visual cue to a safe and appropriate viewing distance, is a practical and low cost method that would appear to be a win-win for the needs of the seals, throughout the year, and for the needs of the thousands of humans who travel to view them in their natural habitat on a year round basis.

Based upon the above, I support the year round rope at Casa Beach. I request that the California Coastal Commission approve this item.

Sincerely,



E. Stanton, M.A.

## 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 Fish & Game 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
- (6) La Jolla Cove Wall Replacement and Bluff Improvement Project, 2004-5, Hubbs Seaworld Institute/Yochem, in partial fulfillment of IHA
- (7) Deprivation Indicates Necessity of Haulout in Harbor Seals, Brasseur, S., 1996
- (8) Variability of Reactions of Pacific Harbor Seals (*Phoca Vitulina Richardsi*) to Disturbance, 1999, Suryan and Harvey
- (9) Behavioural Responses of Harbour Seals to Human Induced Disturbances, 2011, Andersen, S.M. et. al.

6/19/12

RECEIVED

JUN 22 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 the Year-Round Rope at Children's Pool Beach

Dear Kanani Brown,

Please make Saving the Seals in San Diego a priority.

My kids & I have loved seeing the seals at Casa Beach for years. We view them from the walkway above Casa Beach. There are MANY places in San Diego for families to enjoy the beach. Surely keeping this one small area for a group of seals who have been there for years isn't asking much.

I truly cant understand the people against the rope. Why cant they go elsewhere with their families? What have we become when we selfishly can not share the beach with its sea life? Myself & all my friends take our kids to other beaches, which again, there are MANY of in San Diego.

I am in favor of roping off the area as it still allows visitors to the beach but keeps them from harming or disturbing the seals.

Thank you for your time & attention to this important matter,

Melissa Ames

120



Tamara M. Cross

---

4020 Kendall Street  
San Diego, California 92109

TELEPHONE (858) 735-2866  
FACSIMILE (619) 342-8684

June 26, 2012

RECEIVED

JUN 29 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

California Coastal Commission  
San Diego Coast District Office  
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 Kanani Brown:

I am writing to you to request that you please vote in favor of keeping up the rope at the Children's Pool Beach year round. As I have witnessed first-hand, the rope serves as a good visual guideline to visitors unfamiliar with seal behavior, showing the safe distance from federally protected animals. The rope is not an enforced barrier and does not prohibit visitors to use the beach. This is unfortunate however, since, as a homeowner living within two miles of the cove, I know there are many other beaches for people and children to use all up and down the coast. I'm unsure why a few individuals insist on taking away this amazing tourist attraction and safe haven for the seals.

Please remember that harbor seals are not migratory species and they use the beach as a haul out year round. As a 23-year resident of San Diego (mainly Pacific Beach and La Jolla) and a 10-year homeowner living within miles of this cove, I have frequented this cove as a tourist spot to show friends and family from out of town this amazing view of seals in their natural habitat. This spot has been (and hopefully will continue to be) a spot that many individuals can come and enjoy the uniqueness of the seals. How many beaches littered with children screaming and spear fisherman are a unique tourist spot? None. Please do not give in to the demands of a few spear fisherman. La Jolla does not need another beach for children to play.

Very truly yours,

By:

Tamara M. Cross

121

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

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JUN 29 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

June 28, 2012

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

Please approve the permit for the year-round rope guideline at the Children's Pool Beach

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
3. Harbor seals are not migratory species and they use the beach as a haul out year around
4. I visit the Children's Pool beach with the specific purpose of watching the seals: it is a very unique opportunity to observe marine mammals in their natural habitat in Southern California and my experience of enjoying the seals resting on the beach is often disturbed by people getting to close to the animals and scaring them into the water since there is no visible guideline in sight: SUCH GUIDELINE IS MUCH NEEDED.

Sincerely,

  
Trisha Thielvoldt

9889 Scripps Westview way #202  
San Diego, CA 92131

122

**RECEIVED**

**JUN 29 2012**

**CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT**

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

June 26, 2012

RE: In favor of the Year Round Rope at the Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

Please approve the permit for the year round rope guidelines at the Children's Pool Beach.

1. The rope is a good visual guideline to visitors and non-visitors unfamiliar with seal behavior showing the safe distance from federally protected animals.
2. The rope is not an enforced barrier and does not prohibit visitors to use the beach. On numerous occasions I have observed the ranger watching people approach the seals and not do or say anything to the people.
3. Harbor seals are not migratory species and they use the beach as a haul out year round. We were there two weekends ago and brought some friends to see the seals and because of all of the people and the divers on the beach there was not one seal up on the beach. The seals attempted to get up on the beach to rest, but were continually scared away by all of the people.
4. My family visits the Children's Pool Beach on a regular basis, about once a month, with the specific purpose of watching the seals. It is a very unique opportunity to observe these marine mammals in their natural habitat in Southern California and my experience of enjoying the seals resting on the beach is often disturbed by people getting close to the animals and scaring them into the water since there is no visible guideline in sight. A visual year round, enforced guideline is much needed.

Sincerely,

*Christina Horneman*

Christina Horneman  
525 N. Cambridge Street  
Gilbert, AZ 85233

**23**

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

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JUN 29 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

June 26, 2012

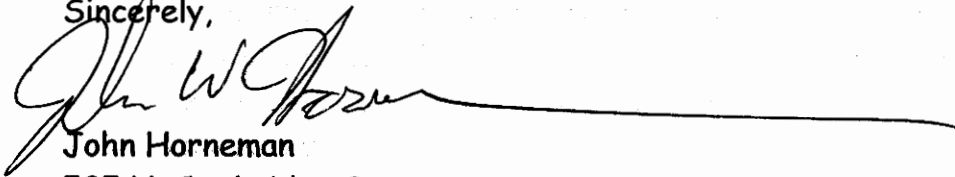
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2. The rope is not an enforced barrier and does not prohibit visitors to use the beach. On numerous occasions I have observed the ranger watching people approach the seals and not do or say anything to the people.
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Sincerely,



John Horneman

525 N. Cambridge Street  
Gilbert, AZ 85233

124

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

RECEIVED

JUN 29 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

June 26, 2012

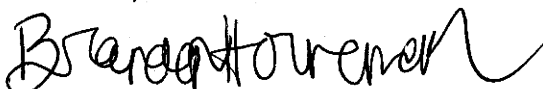
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3. Harbor seals are not migratory species and they use the beach as a haul out year round. We were there to visit the seals at the end of May. There were so many people on the beach, swimming in the water, and actively trying to touch the seals that the seals were repeatedly scared away. The seals also attempted to get up on the beach to rest, but were also continually scared away by all of the people. It saddens me the way these animals are treated.
4. My family visits the Children's Pool Beach on a regular basis, about once a month, with the specific purpose of watching the seals. It is a very unique opportunity to observe these marine mammals in their natural habitat in Southern California and my experience of enjoying the seals resting on the beach is often disturbed by people getting close to the animals and scaring them into the water since there is no visible guideline in sight. A visual year round, enforced guideline is much needed.

Sincerely,



Brandon Horneman  
525 N. Cambridge Street  
Gilbert, AZ 85233

125

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

RECEIVED

JUN 29 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

June 26, 2012

RE: In favor of the Year Round Rope at the Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

Please approve the permit for the year round rope guidelines at the Children's Pool Beach.

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Sincerely,

Kaitlyn Horneman

Kaitlyn Horneman  
525 N. Cambridge Street  
Gilbert, AZ 85233

DL

Tiffany Albers  
4079 Huerfano Ave., #213  
San Diego, CA 92117

RECEIVED

JUN 29 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,

*Tiffany Albers*

Tiffany Albers

P.S. There is more than enough beach  
for humans, let the seals have at  
least one place to be safe &  
raise their pups.

RT

IN FAVOR OF PERMIT

July 3, 2012

Hearing Date: Wed. July 11, 2012

Agenda #: W-10-D

Permit application #: 6-11-078

Submitted by:

Randy Hawley

454 21<sup>st</sup> Street

San Diego Ca 92102

RECEIVED

JUL 09 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Dear Commission members

I am in favor of the year round rope for the Children's Pool in La Jolla based on my first hand experience as the first San Diego Park and Recreation Dept employee to be assigned Ranger duties at the Pool from July, 2010 to May 2011. I was asked to come out of retirement (32 years as a park ranger and park supervisor/manager) and accept a limited term assignment to set up and evaluate the ranger role at the Pool.

While joint use was a noble experiment, the actions of individuals on both sides of the issue made any compromise impossible. The rope is the only way to provide the protection to this unique wildlife viewing opportunity which, to me, trumps the limited public access to the shoreline.

My primary suggestion is that along with allowing public access to the water through the opening at one end of the rope that you specify that only access to the water and retuning out of the water through the opening be permitted. **You should not allow anyone to "linger/loiter/or remain on the ocean side of the rope unless they are actively engaged in either entering or exiting the water".**

This omission was a glaring weakness in the rangers ability to 1) maintain safety of animals and 2) dispel attempts by "pro access" individuals to prove their point, which led to conflicts with no enforceable control.

I cannot stress the importance of inclusion of this use condition. **Without it, persons will continue to legally set up beach chairs, etc on the water side of the rope and both the welfare of the seals will be compromised and the hostile environment for the public will continue.**

Thank you for your consideration and hard work

Sincerely,

  
Randy Hawley



California Coastal Commission

7575 Metropolitan Dr. #103

San Diego, Ca. 92108-4402


Dear Ms. Brown,

Since we moved to La Jolla 22 years ago, we have walked the Coast Blvd. enjoying the wonderful beaches and seals. The coast is also the first stop when we have out of town visitors. We have spent hours watching the seal, their pups, and the beauty of such a glorious spot. We have also been horrified by those that don't seem to care about the animals and insist on taunting them. We are aware that the Coastal Commission is considering a year round rope. Our family hopes this will happen. The seals, the pelicans, and all birds deserve the right to live in harmony with us 4 legged creatures.

What I have long assumed has unfortunately been realized, that "man is not endangered, we have just endangered everything else".

We hope that you will consider the animals in your decision.

Many thanks,

  
Lynn, Mike and Joshua Bruser

9883 La Jolla Farms Rd.

La Jolla, Ca. 92037

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JUL 09 2012  
CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

129

Tiffany Moon  
PO Box 503854  
San Diego, CA 92150

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,

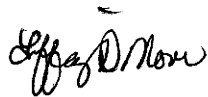
I urge you to approve the City of San Diego's permit application for the year-round rope at Children's Pool Beach in La Jolla.

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,



Tiffany Moon

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JUL 09 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

130

7/11/2012 meeting  
Item 10d  
Number 6-11-078  
Ruth Hayward  
**FOR**

7-4-12

California Coastal Commission  
7575 Metropolitan Drive #103  
San Diego, CA 92108-4421

Re: Rope barrier for seals at La Jolla "Children's" Pool Beach

Dear California Coastal Commissioners:

Please approve the San Diego Park & Recreation Department's request for installation of a rope barrier, and supporting signage, for yearlong protection of the Seals in La Jolla.

Ellen Browning Scripps was an environmentalist. She helped establish Torrey Pines State Reserve, Anza Desert State Park and the Scripps' Institute of Oceanography. If Ellen Browning Scripps were alive today she would look favorably on providing a safe place for part of nature, in this case the seals, to live, be observed and enjoyed.

When she had the sea wall built to make a place for children to swim (circa 1937), the population of La Jolla was very small and clustered near the area where we find the "Village" today. Safer beaches, like La Jolla Shores, were not developed and transportation was nil.

The seals are a treasure for San Diego, providing a rare glimpse of what used to abound in this area. Observing the seals by locals, children or adults, as well as tourists is an educational and exciting experience. I live in La Jolla, and have walked the Cove area for years. There are far far more people there to observe and marvel at the seals than ever used Casa Beach for swimming.

People tour the world searching for places to observe wildlife. Kangaroo Island, south of Australia, has built walks and platforms for tourists to view seals and sea lions. By boat you can see Harbor Seals on remote islands and spots along the Baja Peninsula. You can travel to the Galapagos Islands. We have wildlife viewing right here in La Jolla for enjoyment and education. As an additional bonus, La Jolla businesses welcome the eco-tourists to their shops.

Thanks you,

  
Ruth Hayward  
5473 Bahia Lane  
La Jolla, CA 92037

RECEIVED  
JUL 09 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COUNTY

**BI**

July 4, 2012

California Coastal Commission, Attn: Kanani Brown  
7575 Metropolitan Drive, suite 103  
San Diego, CA 92108-4402

RECEIVED  
JUL 09 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT  
File 6-11-078

RE: In Favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear California Coastal Commission Members:

I am writing to recommend that the Coastal Commission vote to keep the guideline rope up year-round at the Children's Pool Beach in La Jolla, CA.

I am a resident of Pacific Beach, just south of La Jolla, and I have been a frequent visitor to the seal colony at the Children's Pool over the past 15 years. I have also volunteered as a docent for the seals. I have had the opportunity to watch people's behavior toward the seals with the guideline rope up during pupping season, as well as with it removed during the rest of the year.

When the rope is up, it definitely helps to keep people from getting too close to the seals, thereby reducing the number of "flushing" incidents which occur on the beach. Visitors come from all over the United States and the world to see the seals, and many of them are unfamiliar with seal behavior. The rope provides a visual reminder to stay back and respect the animals' territory.

When the rope is down, people often think it is O.K. to go right up to the seals and pet them or have their photos taken right next to them. This disturbs the seals, often causing them to flush into the water. When the seals are scared off the beach, they often don't return for many hours. This means that other visitors are unable to enjoy viewing the seal colony. Disturbing the seals in this way also violates the Marine Mammal Protection Act.

The unique setting of the Children's Pool Beach in La Jolla makes it a perfect site for wildlife viewing. Keeping the guideline rope up year-round would greatly enhance that viewing experience for all visitors.

Sincerely,



Kareen Novak  
858-270-3097  
1415 Wilbur Ave.  
San Diego, CA. 92109

California Coastal Commission  
Attn: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

Date: July 5, 2012

RE: In favor of the year round rope at Children's Pool beach, File 6-11-078

Dear Members of the California Coastal Commission,

Please approve the permit for the year-round rope guideline at Children's Pool Beach. The rope is a good visual guideline for visitors unfamiliar with seal behavior to keep them a safe distance back from federally protected animals.

The seals that haul out at Children's Pool Beach are a treasure to the local community and the thousands and thousands of visitors who marvel at such an incredible up close and personal encounter with nature. It is important for the safety and viewing pleasure of visitors and the safety of these protected animals that the year-round rope at the beach stays in place as a helpful guide for the continued safe cohabitation of animals and people.

I strongly urge you to approve the permit.

Thank you.

Pamela MacPhee

1433 Hymettus Ave, Encinitas, CA 92024

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JUL 09 2012  
CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

133

To: California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

Date: July 02, 2012

**RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078**

Dear Members of the California Coastal Commission,

Please approve the permit for the Year-Round Rope Guideline at the Children's Pool Beach.

1. Rope is a good visual guideline for visitors unfamiliar with seal behavior showing the safe distance from the federally protected animals.
2. Rope is NOT an enforced barrier and does not prohibit visitors from using the beach.
3. Harbor Seals are not a migratory species and they use the beach as a haul out year round.
4. I visit and take my friends who come to visit America's Finest City to the Children's Pool for the sole purpose of watching the Harbor Seals. It gives them the unique opportunity to observe marine mammals in their natural habitat along Southern California's beautiful coastline. This experience of watching the seals resting on the beach is often interrupted by individuals who venture too close to the seals and frighten them into the water. Having a visible guideline would still allow people to venture down to the beach and give them the opportunity to observe and photograph the seals much closer than if they were viewing from the cliff line above or the wall.
5. This guideline is very much needed not only for the preservation of our indigenous marine life and their habitat but for all who come to visit this beautiful city we call home.

Sincerely,

*Patrick J. Carney*

Patrick J. Carney  
909 Georgia St.  
Imperial Beach, CA.  
91932-2340

RECEIVED

JUL 09 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

34

To: California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

Date: July 03, 2012

**RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078**

Dear Members of the California Coastal Commission,

Please approve the permit for the Year-Round Rope Guideline at the Children's Pool Beach.

1. Rope is a good visual guideline for visitors unfamiliar with seal behavior showing the safe distance from the federally protected animals.
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Sincerely,

*Patrick J. Carney*

Patrick J. Carney  
909 Georgia St.  
Imperial Beach, CA.  
91932-2340

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JUL 09 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

135

PATRICK ALEE  
535 WOODLAWN #17  
CHULA VISTA, CA 91910

6-29-12

PERMIT # 6-11-078  
APN 350-006-03

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JUL 03 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

ATTN: STACY LOMEDICO  
TO WHOM IT MAY CONCERN

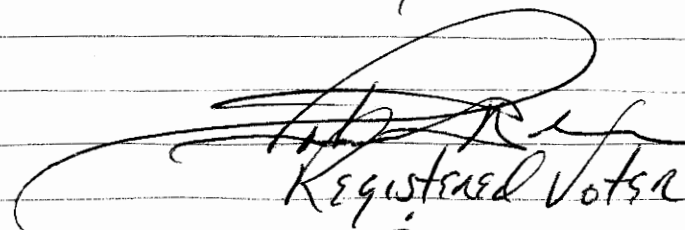
Thank you CA. Coastal Comm.

FOR NOTIFYING ME OF THE UPCOMING  
HEARING (I AM IN AGREEMENT TO  
INSTALL THE ROPE (BARRIER)

YEAR ROUND, I FREQUENT LAGOON  
SHORES AND CHILDRENS POOL AND  
WITNESS HOW INCONSIDERATE THE

PUBLIC IS WITH THE SEALS MY  
HEART GOES OUT TO THE SEALS

"PUT THE ROPE IN PLACE" YEAR ROUND...

  
Registered Voter

VETERAN USAF 44

136



Ms. Sherilyn Sarb  
Deputy Director  
San Diego Coast District Office  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108

favor

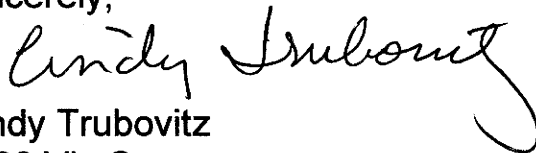
Dear Ms. Sarb,

Re: permit number 6-11-078, agenda # 10-d

I fully **support** a permanent rope barrier installed to help protect the seals in La Jolla. I am compelled to express my view because I want to the commission to consider the tremendous tourist opportunity that the seals provide. When we have guest from out of town one of the first places we take them to is to view the seals and they all marvel at the extraordinary experience. San Diego should take advantage of that unique location as other communities have with their seal/sea lion populations.

Also, I would like the commission to keep in mind that our coastline contains numerous beaches for people to swim and the relatively very small area that the seals occupy is inconsequential.

Sincerely,



Cindy Trubovitz  
4380 Via Sorpresa  
San Diego, CA 92124  
cdtrubo@yahoo.com

RECEIVED  
JUL 06 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

137

Agenda # (see Kanari Brown)

Application # 6-11-078

Elizabeth + Christopher Wills

Support (for the rope barrier)

We wish to state our support of the permanent rope barrier at the Children's Pool in La Jolla (APN 350-006-03) on a year round basis, in perpetuity, to provide a buffer between humans and seals (Coastal Permit Application permit number 6-11-078).

We emphasize that this is a unique revenue generating feature of the La Jolla environment which must be preserved and cherished!

Sincerely,

Elizabeth and Christopher Wills

8310 El Paseo Grande

La Jolla, CA 92037

July 2, 2012

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JUL 06 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

138

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

July 1, 2012

RE: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

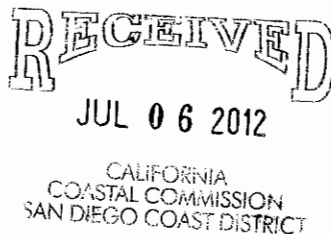
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Sincerely,

  
Tiffany Marquez

9889 Scripps Westview way #202  
San Diego, CA 92131



139

To: California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

RECEIVED  
JUL 06 2012

Date: July 01, 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

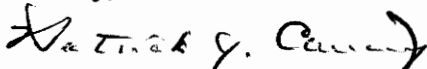
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2. Rope is NOT an enforced barrier and does not prohibit visitors from using the beach.
3. Harbor Seals are not a migratory species and they use the beach as a haul out year round.
4. I visit and take my friends who come to visit America's Finest City to the Children's Pool for the sole purpose of watching the Harbor Seals. It gives them the unique opportunity to observe marine mammals in their natural habitat along Southern California's beautiful coastline. This experience of watching the seals resting on the beach is often interrupted by individuals who venture too close to the seals and frighten them into the water. Having a visible guideline would still allow people to venture down to the beach and give them the opportunity to observe and photograph the seals much closer than if they were viewing from the cliff line above or the wall.
5. This guideline is very much needed not only for the preservation of our indigenous marine life and their habitat but for all who come to visit this beautiful city we call home.

Sincerely,



Patrick J. Carney  
909 Georgia St.  
Imperial Beach, CA.  
91932-2340

190

Agenda item #10d, Wednesday, July 11, 2012

Permit #6-11-078

Lisa Ciani, In favor of project

W10d

July 6, 2012

California Coastal Commission  
San Diego Coast District  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4421

Attn: Kanani Brown, Coastal Program Analyst

Re: Children's Pool Rope Barrier

Dear Chairperson Shallenberger and Coastal Commissioners:

I am writing in support of a permanent rope barrier, or better, at the Children's Pool in La Jolla.

I lived in La Jolla for fifty years, moving away a few months ago, and visited there several times a year for 15 years throughout my childhood. I also raised my children there. La Jolla has a marvelous array of beaches, and the return of the seals to the Casa Beach (Children's Pool) has been a delightful development. The opportunity to view the seals and their pups from the bluff top above the beach and from the breakwall are unmatched experiences in California. (Here in Central California where I live now, the seals are protected to the extent that pupping beaches are shielded from public view during pupping season.) Far more of the public enjoys the Casa Beach year round with the seals there than when it was a "children's" beach, with the sand infill pushing the swimming area closer and closer to the rip current at the end of the breakwall.

I support the rope barrier, but I believe the *best* policy would be to close the beach completely to public use rather than erecting a permanent rope barrier, both to preserve the natural and historic appearance of the beach and because many humans aren't very good at staying behind a rope barrier. Whether they're teenagers daring each other to poke a seal or parents wanting a picture of the kids among the seals, it just seems much more clear cut if people simply stay off the beach. We took our children to the Casa Beach occasionally, but more often to the Cove because the swimming was so limited, and at times dangerous, at the Casa. The whole family was thrilled when the seals started hauling out on the Casa Beach. When we would walk past the Casa on the way to the Cove, we would try to guess as we approached the Casa how many seals were on the beach, and then count when we got there—maybe 50 or 100 or 200.

The seals, in my opinion, provide for the greatest public use of the beach. People in town and along the shoreline frequently stop us to ask where to find the seals. It's an amazing opportunity to view wildlife in a natural setting, and people are not just entertained and educated, but truly awestruck by this experience with nature. I hope you will do everything in your power to protect this seal habitat and the opportunity for the public to benefit from it. Thank you.

Sincerely,

*Lisa Ciani*

Lisa Ciani

220 Walnut Street  
Pacific Grove, CA 93950

141

**DEBORAH L. BONETTI**

**1501 Creekside Court, Unit B  
Pasadena, California 91107**

**626-398-1547**

July 5, 2012

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

**RECEIVED**

JUL 10 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Re: In Support of Year-Round Rope at Children's Pool Beach  
File 6-11-078

Dear Members of the Commission:

I am a frequent visitor to La Jolla and wanted to add my support for approval of the year-around rope at Casa (or Children's) Beach.

As a native Californian, I have observed over many years how development, especially residential, has denied the public access to our beaches. However, Casa Beach is very small area that can -- and should -- be left to the seals without impairing the public's enjoyment.

In fact, there is a beach area just to the south of the lifeguard station that the public does have access to, and I have many times seen families and other members of the public enjoying this beach without undue crowding. The tourists who come to see the seals are readily able to view them from the seawall or from the Coast Boulevard vantage points, without harm to their own enjoyment or to the health of the La Jolla tourist industry.

I understand that under Federal law, the seals and other marine life are protected species, and there is no reason residents, visitors and tourists should not have to observe this law. I have many times seen people coming up very, very close to the seals, not only just to look at them, but scaring them away with flash picture-taking, and/or attempting to sit next to them, even to touch them.

I feel strongly that we must protect what little of nature is left, especially at the California coastline, and hope that as the Commission considers the issue of the seals it will keep in mind its mission to: a) "[p]rotect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for **environmentally sustainable** . . . use by current and future generations"; and b) provisions of the Coastal Act that include "specific policies [within the Public Resources Code] that address issues such as, [among others,] . . . **terrestrial and marine habitat protection** . . .".

142

July 5, 2012

Page 2

Thank you for the Commission's attention to the seals in La Jolla, as I know there are many other important issues facing the Commission as it goes forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Bonetti". The signature is fluid and cursive, with a large loop at the end.

Deborah Bonetti

143

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

Date: July 4<sup>th</sup>, 2012

Re: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

Please approve the permit for the year-round rope guideline at the Children's Pool Beach.

1. Through observation of the seal behaviors as well as human interaction, it is evident that the rope is a useful guideline that shows the safe distance from the seals and that it does not prevent the public from using the beach.
2. I have witnessed several instances when people approach the seals within a foot of the animals after the rope has been removed and either scarred the seals causing them to run into the water, or resulted in the seal coming close to biting the individual because they failed to respect the safe viewing distance.
3. There are many visitors that make it a point to come to La Jolla and in particular Children's Pool to see the harbor seals, but when the rope is not present, more times than not the seals are in the water and unwilling to haul out on the beach because there are so many people by the water and on the beach. As a result, the visitors are unable to see the seals and the seals are exhausted because they cannot come onshore and rest.
4. In addition, I have witnessed several violations of the Marine Mammal Protection Act when the rope was not enforced. Such as an individual kicking a seal while the animal was sleeping, or children running around too close to the resting seals causing them to move or go into the water. There were also several occasions when people would come too close to the seals to take a photo but resulting in the seals being disturbed or trying to defend their space.
5. The harbor seals at Children's Pool are a wonderful opportunity for adults and children to come and observe these animals in the wild without having to pay admission fees. It is a unique place where people can learn about the life and behaviors of these mammals in their natural habitat and educate the children about life in the ocean. I think a rope barrier is a great way to ensure that people can observe these animals from a safe distance and still guarantee beach access for the public. I believe it would be a great loss if one day the seals permanently leave Children's Pool and all we will have left is yet another empty beach.
6. The rope barrier is a good visual cue for people to know the proper distance that they need to have between themselves and the seals and it gives everyone a chance to safely view these animals without disturbing them. It also ensures that the mother seals are able to bond with their pups, care for them, and raise them without human disturbance that many times ends in stillborn pups and abandonments. I have witnessed people coming too close to a seal in labor causing the mom to abort the pup or abandon it. Therefore, having the rope up helps nature take care of the population of the seals and not the intrusion of the people.
7. My husband and I enjoy coming to Southern California to spend the weekend watching the seals and their babies and on numerous occasions our experience was ruined by people who neglect to keep their distance and chase the seals into the water leaving us disappointed and frustrated. I hope that the rope will be up all year round so we can continue coming to Children's Pool and enjoy watching the seals in their own domain.

Thank you for taking the time to read my letter and I appreciate you taking into consideration the well-being of the harbor seals and visitors who come to see them!

Sincerely,  
Ania Lorenc

100 Village Dr  
Brentwood, CA 94513

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JUL 10 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

144



California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108 – 4402

RECEIVED  
JUL 10 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

June 28, 2012

In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

Please approve the permit for the year-round rope guideline at the Children's Pool Beach.

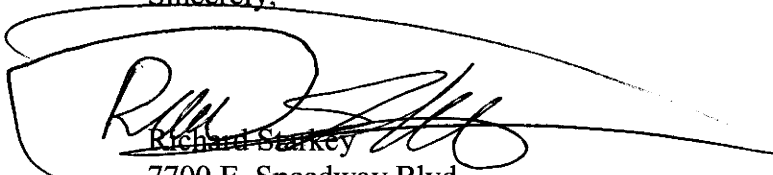
The rope is a good visual guideline to visitors unfamiliar with seal behavior showing the safe distance from federally protected animals.

The rope is not an enforced barrier and does not prohibit visitors to use the beach.

Harbor seals are not migratory they use the beach as a haul out year round.

I visit the Children's Pool beach with the specific purpose of watching & photographing the seals. This opportunity to observe marine mammals in their natural habitat is very unique. My experience of enjoying the seals resting at the Children's Pool beach is often disturbed by people getting too close to the animals and scaring them into the water since there is no visible guideline in sight. A guideline such as the Rope is much needed.

Sincerely,

  
Richard Starkey  
7700 E. Speedway Blvd.  
Tucson, Arizona 85710

145

Untitled

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402

Date: July 6th, 2012

Re: In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

It has come to my attention that sadly the City of La Jolla has removed the rope barrier from the Children's Pool beach. The rope barrier was a great way to show people what a safe viewing distance is, for both people and the harbor seals, yet it does not block access to the beach. Without the barrier, the people have no guideline and on a regular basis, deliberately or not, come within feet or inches of the seals as if they were at a petting zoo. Many times I have seen that these actions flush the seals out into the water, which deprives the seals of much needed rest. As a Northern California resident, I have always looked forward to coming to La Jolla, and have visited numerous times this year, specifically with viewing the Harbor Seals in mind. I believe that it would be a tragedy for the current seal watchers and future generations if the actions of the inconsiderate would frustrate and push the seals out and away from the beach forever. The Children's Pool beach in La Jolla is the only spot in Southern California where one can enjoy viewing seals and their pups in their natural environment at a close range from the sea wall or behind the rope barrier. I have nothing but great respect for the city of San Francisco to set aside a large area next to Pier 39 for Sea Lions to rest, though this space could just as well be used to sell prime real-estate docking spots for dozens of boats. I believe that the rope should be left up year round to serve as a guideline.

Sincerely,  
Andy Lorenc

5720 Stoneridge Dr  
Pleasanton, CA 94588

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JUL 10 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

6747 Lupton Dr

Dallas TX 75225

July 5, 2012

Dear Coastal Commission:

While we are not CA residents, we are familiar with the problem at the lovely Casa Beach, and the rope seems to be the most fair and safest answer to the situation. It will be a good visual guideline to keep the beach goes away from the seals and allow the seals to keep their home. One of the main reasons to visit the beach will continue to be the seals, and they should be allowed to stay there for that reason but mainly because that is their home.

Thank you so much.

Sincerely,

*Curtis & Jane Hoffman*

Curtis and Jane Hoffman

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JUL 10 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

147

California Coastal Commission  
Attention: Kanani Brown  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108 – 4402

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JUL 10 2012

June 28, 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

In favor of the Year-Round Rope at Children's Pool Beach, File 6-11-078

Dear Members of the California Coastal Commission,

Please approve the permit for the year-round rope guideline at the Children's Pool Beach.

The rope is a good visual guideline to visitors unfamiliar with seal behavior showing the safe distance from federally protected animals.

The rope is not an enforced barrier and does not prohibit visitors to use the beach.

Harbor seals are not migratory they use the beach as a haul out year round.

I visit the Children's Pool beach with the specific purpose of watching & photographing the seals. This opportunity to observe marine mammals in their natural habitat is very unique. My experience of enjoying the seals resting at the Children's Pool beach is often disturbed by people getting too close to the animals and scaring them into the water since there is no visible guideline in sight. A guideline such as the Rope is much needed.

Sincerely,

 6-28-12

Tracy D. Gutierrez  
7700 E Speedway Blvd #226  
Tucson, Arizona 85710

148

Marilyn H. Hamill  
2391 Dumatran Way #51  
Clearwater, FL 33763  
(727) 726-8548  
E-Mail: myrt@the.cat@yahoo.com  
July 3, 2012

California Coastal Commission  
San Diego Coast District  
7575 Metropolitan Drive, Ste. 103  
San Diego, CA 92108-4421

Dear Commissioners,

Permit # 6-11-078

Applicant(s): City of San Diego Park and Recreation Dept., Attn: Stacy Yomedico

Project Description: Installation and maintenance of a 4 ft high, 152 linear ft. rope barrier... (Refer to attached Public Hearing Notice Coastal Permit Application)

Project Location: Children's Pool Beach ( " " " " )

Refer to attached Public Hearing Notice for hearing date & location.

\* \* \* I cannot attend the hearing but I strongly approve the above project. \* \*

I lived in San Diego from 1981 - 2003, and spent a lot of time at the Children's Pool Beach, watching the seals doing their natural living: playing with each other, mating, giving birth, taking care of their young and each other.

It is very educational to watch them in their natural habitat.

\* \* \* I was pleased that the seals are able to stay there. For their safety there needs to be a barrier to provide a buffer between humans and seals.

Please approve this project.

Sincerely,  
Marilyn H. Hamill

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JUL 10 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

119

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June 30, 2012

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

W10d

RECEIVED

JUL 03 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**NO PERMANENT ROPES AT CHILDREN'S POOL (6-11-078)**

To the Coastal Commission,

Enclosed please find signatures against installation of a permanent rope at Children's Pool. These signatures were gathered in less than 2 hours. Most signing are people who would be on the ocean side of the rope (swimmers/ divers) and know the extreme changes that have happened in the ecology of the water. Many expressed concern over the same fate happening at the Cove. Sea lions have been in the Cove for over a year and all is well without ropes allowing them to haul out onto the sand.

Some could not sign because of uniforms (lifeguards) or prior employment (with the Coastal Commission), but expressed support.

We are not as organized and our voice may not be as strong, but we still want our coastal land to be untouched and protected by you.

**NO ROPE. Keep our coastal land open.**

Thank you

The undersigned

LETTERS OF OPPOSITION

/s/

PROJECT DESCRIPTION:

Installation and maintenance of a 4 ft. high, 152 linear ft. rope barrier with 3 ft. opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, to provide a buffer between humans and seals.

PROJECT LOCATION:

Children's Pool Beach, west of Coast Boulevard, southwest of Jenner Street, La Jolla (San Diego County) (APN(s) 350-006-03)

We, the undersigned, are strongly opposed to the installation of a permanent rope barrier at Children's Pool Beach in La Jolla.

Name

Address

Signature

- | Name                | Address                                 | Signature        |
|---------------------|---|------------------|
| 1 EMILY JACOBS      | 3720 Cowley Way, SD 92117               | Emily Jacobs     |
| 2 Vicki Nielsen     | P O Box 420388 San Diego 92142          |                  |
| 3 JEFF ROTON        | 14118 STONE V SD 92064                  |                  |
| 4 RON HAMILTON      | 12536 GLEN OAK RD POWAY, CA 92064       |                  |
| 5 CHAS BLASS        | 462 SAN FERNANDO SD 92106               |                  |
| 6 Danny Gabriel     | 311 Mira Monte La Jolla CA 92037        |                  |
| 7 Sandy Coventry    | 1592 Summit Ave Cardiff CA 92008        | Sandy Coventry   |
| 8 A. Zady           | 5880 La Jolla Blvd La Jolla CA          |                  |
| 9 Jeffrey C Jacob   | 3720 Cowley Way San Diego, CA 92117     |                  |
| 10 Steve Roy        | 727 N. River Dr Solana Beach CA 92075   |                  |
| 11 Phil Reg         | 1605 Gascony EU 92024                   |                  |
| 12 Maren Watts      | 5352 Mt. Burnham Dr. S.D. 92111         | Maren L. Watts   |
| 13 Fernando Ramirez | 15939 Ave Venusto sp 1213 SD 92128      | Fernando Ramirez |
| 14 LARSEN JOHNSON   | 255 GRAYSON LA JOLLA 92037              | Larsen Johnson   |
| 15 Bill ARSENAULT   | 6412 MARLIN DR CHESBURY, CA 92011       |                  |
| 1 Mark Erwin        | 1062 Golden Gate Circle San Diego 92117 |                  |



PROJECT DESCRIPTION:

Installation and maintenance of a 4 ft. high, 152 linear ft. rope barrier with 3 ft. opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, to provide a buffer between humans and seals.

PROJECT LOCATION:

Children's Pool Beach, west of Coast Boulevard, southwest of Jenner Street, La Jolla (San Diego County) (APN(s) 350-006-03)

We, the undersigned, are strongly opposed to the installation of a permanent rope barrier at Children's Pool Beach in La Jolla.

Name

Address

Signature

Julie Selkirk	Rancho Penasquitos	[Signature]
Anthony Burnage	1220 Rosecrans #943 San Diego CA 92106	[Signature]
Michelle Gonzales	418 Hightree Pl San Diego CA 92114	[Signature]
Tamara Siparicins	4242 Spring St La Mesa, CA 91941	Tamara Siparicins
Kenneth L Anderson	10917 Elderwood Ct. San Diego, CA 92131	[Signature]
John Gillick	4069 Alameda San Diego CA 92103	[Signature]
Kelly O'Sullivan	12655 Camino Mira del Mar 92130	Kelly O'Sullivan
Ronny L. Rge	10298 Walnutdale St 92131	[Signature]
Massoud Taheri	12005 Cambridge Rd 92128	[Signature]
Cyrise Sanders	11723 Alderidge Ln, San Diego CA 92131	[Signature]
Allison Graprock	3429 Burreson St 92117	[Signature]
Scott Richardson	1659 Point St Leo Pl 92070	[Signature]
Stephen Cross	5510 Rutgers Rd. CA 92037	[Signature]
TONY ALKIRE	4707 PESQUERO AVE 92107	Tony Alkire
ANDREW REYNOLDS	1343 Felicia Ln, 92025	[Signature]

153

PROJECT DESCRIPTION:

Installation and maintenance of a 4 ft. high, 152 linear ft. rope barrier with 3 ft. opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, to provide a buffer between humans and seals.

PROJECT LOCATION:

Children's Pool Beach, west of Coast Boulevard, southwest of Jenner Street, La Jolla (San Diego County) (APN(s) 350-006-03)

We, the undersigned, are strongly opposed to the installation of a permanent rope barrier at Children's Pool Beach in La Jolla.

Name	Address	Signature
1) DIANE TONS	1108 VANNUYS ST SD 92109 10311 DARDEN RD	[Signature]
2) ROBERT ADAMS	SAN DIEGO CA 92126	[Signature]
3) Andrea Astudillo	5451 Foxtail Loop CARLSBAD, CA 92010	[Signature]
4) Sharon Chaix	5745 Friars Rd SD 92110	[Signature]
5) Elwega Chaix	5745 FRIARS RD S.D. 92110	[Signature]
6) DAMON PERINA	2844 Princeton San Diego CA 92106	[Signature]
7) Brian Misiner	3585 Felicita Rd. Escondido CA 92029	[Signature]
8) Richard Guarascio	621 Sea Lane La Jolla CA 92037 4141 Jackson St	Richard Guarascio
9) Donald Pedraza	San Diego CA 92103	[Signature]
10) Steve Powell	3745 Mississippi St Unit 5 San Diego 92104	[Signature]
11) Chris Frymann	La Jolla 7138 Kay Ave 92037	[Signature]
12) Cy Miller	7120 Shasta Dr 92122	[Signature]
13) Michael Gould	9429 Carlton Hills Blvd SanTEE CA 92071	[Signature]
14) Tom Lamm	3566 Canyon 92109	[Signature]
15) TIM KLINE	9156 BEAMBERD LA MESA CA 91942	[Signature]
16) Dana A Joseph	3302 Ogilvie Ave San Diego, CA 92117	Dana A Joseph BT

PROJECT DESCRIPTION:

Installation and maintenance of a 4 ft. high, 152 linear ft. rope barrier with 3 ft. opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, to provide a buffer between humans and seals.

PROJECT LOCATION:

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We, the undersigned, are strongly opposed to the installation of a permanent rope barrier at Children's Pool Beach in La Jolla.

Name

Address

Signature

- 1) GLEN KEITH 1207 WESTPORT RD Glen Keith
- 2) DON CEDRODT 313 LIZON AVE Del Mar Don Cedrodt
- 3) Medy Wundrow 4520 Miami Way SD 92115 M Wundrow
- 4) Mark Wilkinson 424 Recluse Ln 92024 Mark Wilkinson
- 5) Monica Manning 4935 Niagara Ave #24 SD CA 92107 Monica Manning
- 6) Andy Schmitt 354 Glenmont Dr 92075 Andy Schmitt
- 7) Claudio Majewski 12645 Futura Street SD. CA 92130 Claudio Majewski
- 8) William Walsh 12065 World Trade Dr #3 SD CA 92128 William Walsh
- 9) Sylvia Jonsson 12065 World Trade Dr #3 San Diego CA 92128 Sylvia Jonsson
- 10) M. Clanner 723 Cella Martin Encinitas 92025 M. Clanner
- 11) Stephanie Adamson 3939 Mission Blvd. Apt. H, San Diego, CA 92109 Stephanie Adamson
- 12) Andrea Helligan 4036 Jackdaw St SD 92103 Andrea Helligan
- 13) Will Dalling 4036 Jackdaw St SD. 92103 Will Dalling
- 14) Will Newbauer 7660 Fay # H. 525 92037 Will Newbauer
- 15) JOAN BARNETT 245 N EL CAMINO REAL ENCINITAS CA. Joan Barnett
- 16) Jerry Anderson 1429 N. Coast Hwy OCEANSIDE 92036 Jerry Anderson

PROJECT DESCRIPTION:

Installation and maintenance of a 4 ft. high, 152 linear ft. rope barrier with 3 ft. opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, to provide a buffer between humans and seals.

PROJECT LOCATION:

Children's Pool Beach, west of Coast Boulevard, southwest of Jenner Street, La Jolla (San Diego County) (APN(s) 350-006-03)

We, the undersigned, are strongly opposed to the installation of a permanent rope barrier at Children's Pool Beach in La Jolla.

Name	Address	Signature
1) Victoria Khasnas	5325 Toscana Way	[Signature]
2) Tim Barry	5816 Box Canyon 92037	[Signature]
3) Jane A. Noon	1802 VIKING WAY 92037	[Signature]
4) D. Sergio Avnn	5560 La Jolla Blvd Ste. 5	Sergio
5) LOUIS KASDEN JR	8678 LEPUS RD 92126	[Signature]
6) MARTIN BOURN	2828 HOWARD AVE, 92109	[Signature]
7) SCOTT WARWICK	8873 PROMENADE NORTH PL. 92123	[Signature]
8) Vanessa Homyak	4243 33rd St SD, CA 92104	[Signature]
9) Steven M'Brayer	9906 Scripps Westview SD 92131	[Signature]
10) Wender Pratt	551 Grayilla St. La Jolla CA	[Signature]
11) Jose P. Osorio	2002 Balboa Ave San Diego, CA	[Signature]
12) James A. Ruppel	1696 CAMINITO ALVADO SAN DIEGO, CA 92037	[Signature]
13) WISUZU ITI	727 SAN JOSE SD. CA 92109	[Signature]
14) J ARMANDO VALENCIA	5391 Renaissance AVE S.D. CA 92122	[Signature]
15) AD Marshall	13724-F Ruelle Le Parc Del Mar CA 92014	[Signature]
16)		[Signature]

BL

PROJECT DESCRIPTION:

Installation and maintenance of a 4 ft. high, 152 linear ft. rope barrier with 3 ft. opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, to provide a buffer between humans and seals.

PROJECT LOCATION:

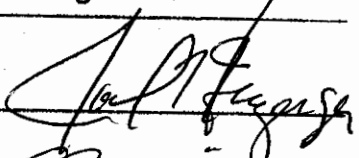

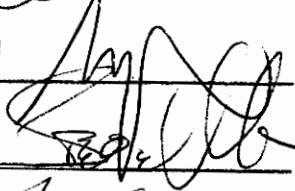
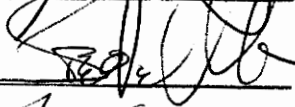
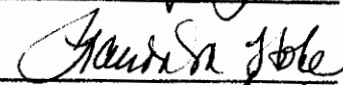

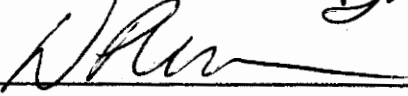
Children's Pool Beach, west of Coast Boulevard, southwest of Jenner Street, La Jolla (San Diego County) (APN(s) 350-006-03)

We, the undersigned, are strongly opposed to the installation of a permanent rope barrier at Children's Pool Beach in La Jolla.

Name

Address

Signature

- |     |                  |                             |   |
|-----|------------------|-----------------------------|---|
| 1)  | Joel T. Huizenga | 3546 Aviella St. La Jolla   |    |
| 2)  | Chuck Patton     | 5505 Bellevue Ave           |    |
| 3)  | GEORGE NAJJAR    | 1618 LAW ST., SAN DIEGO, CA |    |
| 4)  | STEVENS HOBE     | 4905 DIXIE DR. SD. CA.      |    |
| 5)  | KARREN Hobe      | 4905 DIXIE DR SD. CA        |   |
| 6)  | Stephen Liptin   | 7916 Crystal Dr, SD, CA     |  |
| 7)  | WILLIAM PIEREN   | 1108 VANNUTS ST             |  |
| 8)  |                  |                             |   |
| 9)  |                  |                             |   |
| 10) |                  |                             |   |
| 11) |                  |                             |   |
| 12) |                  |                             |   |
| 13) |                  |                             |   |
| 14) |                  |                             |   |
| 15) |                  |                             |   |
| 16) |                  |                             |   |

157

Coastal Commission

San Diego Coast District Office

7575 Metropolitan Drive, Ste. 103

San Diego, CA 92108-4402

July 1, 2012

Hello:

**RECEIVED**

JUL 03 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

I am writing to express my view on the Children's Pool Human/Seal/Sea Lion Argument:

I taught SCUBA Diving in the 1970's for a local dive shop. We regularly taught advanced SCUBA classes at the Children's Pool. We regularly drove by the Children's Pool while gathering information for our daily recorded SCUBA diving conditions. It was a rare occasion to see these animals in the water and rare to see any of them on the beach. To those who cry, "the seals/sea lions were there first," I say hogwash. It is funny that some of these people making such statements do so. They should know better. They were SCUBA diving at the Children's Pool during the 1970's.

Presently it is politically correct to rope off the beach allowing humans about three feet of beach access to the ocean. To paraphrase others who have contacted the commission, roping off the beach does not meet the intent of Ellen Browning Scripps who provided the donation to build the wall to be used by children. Hence the name, "The Children's Pool."

I do not speak for anyone but myself. I support using "The Children's Pool" in the manner intended.



Chuck Molnar

2570 Burgener Blvd.

San Diego, CA 92110

158

**RECEIVED**

**JUL 03 2012**

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

June 30, 2012

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

1108 Van Nuys St  
San Diego, CA 92109

**RE: REMOVE THE ROPES AT CHILDREN'S POOL (6-11-078)**

To the Coastal Commission,

I strongly oppose a permanent rope at Children's Pool and believe the ropes should be removed altogether. Children's Pool was created to provide a protected beach for kids to play in La Jolla and this facility should be returned to this original purpose. Protecting the seals with an artificial barrier has allowed the seal population to increase beyond a sustainable level. The local fish population is devastated and the water quality is terrible. 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.

Please remove the Ropes.

Thanks,



Bill Pieren

159



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JUL 02 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

## La Jolla Community Planning Association

June 29, 2012

California Coastal Commission  
San Diego Area  
ATTN: Kanani Brown, Coastal Program 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 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 consider these actions, to deny this proposal, and to preserve the Children's Pool sandy beach and coastal waters during the non-pupping season months of the year.

Sincerely,  
La Jolla Community Planning Association

Tony Crisafi, President

cc. Deborah Lee, District Manager



George Greer  
Permit # 6-11-078  
Agenda #W10D  
OPPOSED

**GEORGE GREER**  
34221 San Simeon St  
Temecula, CA 92592-5593  
[ggreer1@yahoo.com](mailto:ggreer1@yahoo.com)

---

July 1, 2012

California Coastal Commission  
San Diego Coast District  
7575 Metropolitan Dr  
Suite 103  
San Diego, CA 92108-4421

Honorable Commissioners:

The area around La Jolla and the Childrens Pool has always been a haul out area for seals. The area developed for children in 1931 is a very small part of the seal habitat and one of the few places in Southern California especially safe for small children for them to learn to swim and to be comfortable with the ocean.

There are countless haul outs for the seals along the coast and on the Channel Islands...especially San Miquel Island.

Humans and seals have cohabitated there from the beginning.

Increased seal hauling has created an unhealthy surf and beach with the regular excrement from the seals.

This is unhealthy for the seals as well as for humans as the seals become unfortunately habituated to humans putting them at risk wherever they go.

I strongly urge you to reconsider your recommendation to construct the rope fence and to forgo approval by the Commission or the City of San Diego pending the outcome of any pending litigation.

Sincerely,

  
George Greer

RECEIVED

JUL 06 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

161

To: Kanari Brown

Fax: 619-767-2384

RECEIVED

JUL 03 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

### Life in the trenches at Coast Blvd and Children's Pool

July 5, 2012

Imagine that when you walk out the front door of your home there are blaring megaphones and hawking of wares by unlicensed vendors in an area where a license is required. Imagine that it has been going on for the past 10 years and that pleas for peace and quiet in your own front yard to the police, the city government and the coastal commission go unanswered.

Imagine the frustration every time you go to write a check to pay taxes that go toward law enforcement and protection of access to parks and the waterfront. Taxes that pay policemen to protect people like me from intimidation by bullies that harass and tell people who do not know better where they can and cannot go on public parkland and the city attorney has told the law enforcement that they need to "stay out of it".

Know that these activist are profiting between \$300,000 to \$400,000 annually and have been paid \$70,000 and \$30,000 to "go away" and drop their lawsuits against the city. It should be clear why activists fight so rabidly and openly break the law - their "killin' it" in a recession through their lucrative source of income.

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 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 people in the area would hear
- 2) the activists ran up to other people who were enjoying the views from the jetty and sidewalk and coerced them to chime in yelling 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.

Just for background: 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 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.

Please keep this in mind when you look out into the room and ask why don't more people come forward and stand up to the activists and wonder why more people do not show up to fight for access. The activist fight a dirty and destructive fight and cause irreparable damage to your name, your image, and mark you as a criminal for anybody doing a google search of your name to see. There is no law enforcement protection against the damage that they inflict. That is why.

Allison Wilson  
Resident of La Jolla

62



## COUNCILMEMBER SHERRI S. LIGHTNER

FIRST DISTRICT  
CITY OF SAN DIEGO

July 6, 2012

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

RECEIVED  
JUL 09 2012

Re: CDP Application 6-11-078

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Dear Commissioners:

As the San Diego City Councilmember who represents La Jolla and has followed this issue closely for many years, I urge you to consider the community's request to deny the Coastal Development Permit for the year-round rope barrier at the Children's Pool.

La Jolla community organizations, including the La Jolla Community Planning Association, La Jolla Town Council and La Jolla Parks and Beaches Committee, have all formally opposed this barrier because they believe it will not achieve the desired goal of encouraging safe shared use of this beach between people and seals, especially in the summer months when the majority of the seals are in the water during the day and there is a much greater demand for public use of this beach.

In addition, the proposed year-round rope does not meet the goals of the La Jolla Community Plan/Local Coastal Program, which identifies the Children's Pool as a public beach access point on page 170 and also states:

*La Jolla's relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved...*

*New development should not prevent or unduly restrict access to beaches or other recreational areas...*

*The City's beach and parkland along the shoreline should be expanded whenever possible...*

*Public access to the shoreline should be increased (or improved) wherever possible...*

Please note that the San Diego Planning Commission unanimously rejected the City's application for this year-round rope barrier on December 9, 2010, citing concerns that this was an overly burdensome restriction on year-round public access to the beach and did not meet the goals of the La Jolla Community Plan/Local Coastal Program.

163



The La Jolla community is currently working to develop a better solution to this long-standing issue. Should you choose to approve this CDP, I strongly encourage you to approve the permit for a one-year term instead of a three-year term. In the interim, I believe the community will be able to craft a proposal for Coastal Commission consideration that will achieve all the goals of the Coastal Act in providing public access to the beach and ocean while also keeping both seals and people safe.

In addition, the City of San Diego does not have funds budgeted in FY2013 for the preparation of a monitoring plan as required in Special Condition #4. I respectfully request that you accept the proposal by the City's Park and Recreation Department to allow the Ranger to perform monitoring on the days and times when he is already on duty so that the City does not have to incur additional costs to fulfill this permit condition.

Please contact me at (619) 236-6611 or [sherrilightner@sandiego.gov](mailto:sherrilightner@sandiego.gov) if I may provide additional information.

Sincerely,

A handwritten signature in black ink, reading "Sherri S. Lightner" with a long horizontal flourish extending to the right.

Sherri S. Lightner

KENNERSON & GRANT, LLP  
ATTORNEYS

750 B STREET, SUITE 3300

SAN DIEGO, CALIFORNIA 92101

TELEPHONE (619) 236-1255

FAX (619) 236-0555

W10d

California Coastal Commission July 11, 2012  
Agenda Item 10d  
Application No. 6-11-78

July 6, 2012

California Coastal Commissioners  
c/o California Coastal Commission Staff  
California Coastal Commission  
San Diego Coast District Office  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108

Re: Application No. 6-11-78  
City of San Diego, Parks and Recreation Department,  
San Diego Children's Pool Rope Barrier

Honorable Commissioners:

This office represented Valerie O'Sullivan in a previous case against the City of San Diego (*Valerie O'Sullivan v. City of San Diego*, San Diego Superior Court case No. GIC 826918) which, after success in court, was met with the California Legislature's amendment of subsection (a) of the 1931 Trust (Stats. 1931, ch. 937.), purportedly giving the City of San Diego the discretion to devote the Children's Pool to a marine mammal park and a bathing pool for children. (Stats. 2009, ch. 19; see exhibit 1.) The Legislature left intact subsection (b) of the Trust (except for capitalizing the word "ocean," showing it considered the matter). Subsection (b) of the Trust provides that the absolute right to fish in the waters described above, with the right of convenient access to said waters over said lands for said purpose, is reserved to the people of the State of California. The reason for the presence of that language in subsection (b) of the Trust is that the Constitution of the State of California, article I, section 25 provides, in part, "no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon." (See exhibit 2.) The Children's Pool is property transferred by the State in trust to the City of San Diego, who thus must preserve, without any qualification, the absolute right to fish in those waters with convenient access to them.

Letter of Comment

165

KENNERSON & GRANT, LLP  
ATTORNEYS

California Coastal Commissioners

July 6, 2012

Page 2

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A fisherman named Volker Hoehne, a California-licensed fisherman, has been deprived of access to the Children's Pool because of the existing rope and presence of seals on the beach. He has filed an action in the San Diego Superior Court, *Volker Hoehne v. City of San Diego and State of California*, San Diego Superior Court case No. 37-2012-00096556-CU-MC-CTL, filed May 1, 2012. (See exhibit 3.) The remedy he seeks is the City's mandatory partial clearing of the beach of seals so fishermen can lawfully access the Ocean.

The City of San Diego, by this application, is seeking a permit to erect a permanent, year-round rope effectively barring access to anyone at the Children's Pool. The City intends by a permanent barrier to tell all comers that the beach forward of the rope is out of bounds. Indeed, the City of San Diego made a motion in the Volker Hoehne case to stay that case pending the outcome of this hearing. (See exhibit 4.) The court summarily denied the City's motion for a stay. (See exhibit 5.) If the Hoehne action is successful, the City will be prohibited from employing a rope or any other device to bar access to the beach, and permitting it to erect this rope will have been a pointless act.

As the City was unsuccessful in staying the Volker Hoehne case pending this hearing, it is the position of the undersigned that this honorable Commission should consider staying the hearing on this permit or tabling it (whatever the correct remedy), until the outcome of the Volker Hoehne case is known.

There is yet another reason to consider staying this matter. This Commission is charged with enforcing the Coastal Act. But the provisions of the Constitution of the State of California, as well as the Trust statute discussed above, must also be taken into account in any eventual overall resolution of the problems at the Children's Pool. One of the problems for access by fishermen is the presence of seals across the entire beach barring their entry into the water, entry which they are constitutionally guaranteed. The City of San Diego, as an official governmental agency, is exempt from the prohibition contained in the Marine Mammal Protection Act from disturbing seals on the beach. In other words, if a fisherman disturbed a seal in the exercise of his California Constitutional right on the way to fishing in these waters, he would be subject to ticketing by NOAA under the Marine Mammal Protection Act. If the City, on the other hand, in pursuit of promoting the health or welfare of its citizens, disturbs the seals, it is not subject to federal enforcement. Fishing is "welfare." It may be that the upshot of the Volker Hoehne case, relief which Mr. Hoehne and other fishermen seek, is that the City will be required to disturb the seals, free from any federal cognizance, in order to make way to

166

KENNERSON & GRANT, LLP  
ATTORNEYS

California Coastal Commissioners  
July 6, 2012  
Page 3

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the ocean for affected fishermen.

Finally, there is a proposal now aborning from the San Diego lifeguard union that the beach be segregated into different portions of territory as between summer and winter, with a clear path for fishermen at all seasons of the year to the waters of the Children's Pool, by separating seals into one part and having the other remain open to people. This proposal deserves very close attention and may well be a remedy which Mr. Hoehne, as plaintiff in the above-titled case, would favor. The option deserves careful consideration by all affected parties and is another compelling reason to table this action.

For all the foregoing reasons, the undersigned registers his opposition to permitting a permanent rope at the Children's Pool, with a request that the action be stayed or tabled until the most recent proposal of the lifeguards can be explored and until the judicial outcome of the Hoehne case is known.

Most respectfully.

Sincerely,



Paul Kennerson  
of  
KENNERSON & GRANT, LLP

PK/eav  
Exhibits  
Original and 12 copies enclosed.

167

# Exhibit 1



Senate Bill No. 428

CHAPTER 19

An act to amend Section 1 of Chapter 937 of the Statutes of 1931, relating to tide and submerged lands.

[Approved by Governor July 20, 2009. Filed with  
Secretary of State July 20, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 428, Kehoe. Tide and submerged lands: San Diego.

Existing law grants to the City of San Diego all of the right, title, and interest of the state in and to a specified portion of the tide and submerged lands bordering on and situated below the ordinary high water mark of the Pacific Ocean, to be held by the City of San Diego and its successors in trust for specified uses and purposes pursuant to specified conditions, including that those tide and submerged lands are required to be devoted exclusively to public park, bathing pool for children, parkway, highway, playground, and recreational purposes, and for other uses that may be incidental to, or convenient for, the full enjoyment of those purposes.

This bill would include in that list of uses and purposes a marine mammal park for the enjoyment and educational benefit of children.

*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 with Jenner Street as said monument, said Coast 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 for, mine, and remove such deposits from said land.

# Exhibit 2

171

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.

172

# Exhibit 3

*M3*

1 Paul R. Kennerson (SB #45430)  
2 **KENNERSON & GRANT, LLP**  
3 750 B Street, Suite 3300  
4 San Diego, California 92101  
5 Telephone: (619) 236-1255  
6 Facsimile: (619) 236-0555  
7 pk@kennersongrant.org

**F I L E D**  
Clerk of the Superior Court

MAY 01 2012

By: M. SCOTT, Deputy

Attorneys for Plaintiff VOLKER HOEHNE

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

10 VOLKER HOEHNE,

11 Plaintiff,

12 v.

13 CITY OF SAN DIEGO, a municipal  
14 corporation;  
15 STATE OF CALIFORNIA;  
16 and FOES 1 through 500, inclusive,

Defendants.

Case No. 37-2012-00096556-CU-MC-CTL

**COMPLAINT FOR:**

1. **BREACH OF CONSTITUTIONAL AND STATUTORY DUTIES**
2. **BREACH OF FIDUCIARY DUTIES**
3. **BREACH OF OWNERSHIP AND TRUST OBLIGATIONS**
4. **DECLARATORY RELIEF**

17  
18  
19 Plaintiff Volker Hoehne alleges as follows:

20 **STATEMENT OF FACTS**

21 1. This action is brought as a private attorney general by Volker Hoehne who at all  
22 times herein mentioned was and now is a resident of the County of San Diego, City of San Diego,  
23 State of California, and at all times herein mentioned was and now is a person licensed by the State  
24 of California as a fisherman and, in season, as a fisherman authorized to take lobster.

25 2. The action involves a portion of a beach area on the Pacific Ocean generally located  
26 at the intersection of Coast Boulevard and Jenner Street in the village of La Jolla, City of San  
27 Diego, County of San Diego, State of California, known as the Children's Pool. In 1931 the State  
28

# Exhibit 4

115

1 JAN I. GOLDSMITH, City Attorney  
DONALD R. WORLEY, Assistant City Attorney  
2 GEORGE SCHAEFER, Deputy City Attorney  
California State Bar No. 139399  
3 Office of the City Attorney  
1200 Third Avenue, Suite 1100  
4 San Diego, California 92101-4100  
Telephone: (619) 533-5800  
5 Facsimile: (619) 533-5856

Exempt from fees per Gov't Code § 6103  
To the benefit of the City of San Diego

6 Attorneys for Defendant  
CITY OF SAN DIEGO  
7

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
9

10 VOLKER HOEHNE,

11 Plaintiff,

12 v.

13 CITY OF SAN DIEGO, a municipal  
corporation; STATE OF CALIFORNIA; and  
14 FOES 1 through 500, inclusive,

15 Defendants.  
16

) Case No. 37-2012-00096556-CU-MC-CTL  
)

) **DEFENDANT CITY OF SAN DIEGO'S**  
) **EX PARTE APPLICATION FOR A**  
) **STAY OF PROCEEDINGS PENDING**  
) **CONCLUSION OF COASTAL**  
) **COMMISSION PROCEEDINGS**

) **DECLARATION OF GEORGE F.**  
) **SCHAEFER**

) **IMAGED FILE**  
)

) I/C Judge: Hon. Joel M. Pressman

) Date: June 27, 2012

) Time: 8:30 a.m.

) Dept.: 66

) Complaint filed: May 1, 2012

) Trial: Not Scheduled  
19

20  
21 Defendant City of San Diego applies *ex parte* for an order staying proceedings in this  
22 case pending the conclusion of related administrative proceedings before the California Coastal  
23 Commission. This *ex parte* application is supported by the attached Declaration of the  
24 undersigned counsel, George F. Schaefer.

25 The following grounds support this *ex parte* application:

26 1. Plaintiff Volker Hoehne's Complaint against the City alleges four causes of action  
27 arising out of the City's management of the La Jolla Children's Pool: 1) breach of constitutional  
28

176



# Exhibit 5

11

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL

MINUTE ORDER

DATE: 06/27/2012

TIME: 08:30:00 AM

DEPT: C-66

JUDICIAL OFFICER PRESIDING: Joel M. Pressman

CLERK: Lori Urie

REPORTER/ERM: Angelka Scofidio CSR# 10896

BAILIFF/COURT ATTENDANT: A. Quidilla

CASE NO: 37-2012-00096556-CU-MC-CTL CASE INIT.DATE: 05/01/2012

CASE TITLE: Hoehne vs. City of San Diego [IMAGED]

CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

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EVENT TYPE: Ex Parte

---

EVENT TYPE: Status Conference (Civil)

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**APPEARANCES**

Paul R Kennerson, counsel, present for Plaintiff(s).

George F Schaeffer, counsel, present for Defendant(s).

Christina Bull Arndt, counsel, present for Defendant(s) telephonically.

---

Counsel before the Court ex parte to 1) stay the proceedings by the City of San Diego, and for 2) a Demurrer Conference.

The Court denies the application to stay the proceedings without prejudice. No action is taken on the demurrer conference. All future dates remain as set.

118

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DATE: 06/27/2012

MINUTE ORDER

DEPT: C-66

Page 1  
Calendar No. 4

**CALIFORNIA COASTAL COMMISSION**

7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108  
VOICE (619) 767-2370  
FAX (619) 767-2384



# W10d

[Click here to see correspondence  
regarding this project.](#)

Filed:	12/15/11
180 <sup>th</sup> Day:	6/12/12
Staff:	K. Brown-SD
Staff Report:	6/21/12
Hearing Date:	7/11/12

## STAFF REPORT: REGULAR CALENDAR

<b>Application No.:</b>	<b>6-11-078</b>
<b>Applicant:</b>	<b>City of San Diego Park and Recreation Department</b>
<b>Agent:</b>	Stacey LoMedico
<b>Location:</b>	Children's Pool Beach, west of Coast Boulevard, southwest of Jenner Street, La Jolla, San Diego, San Diego County.
<b>Project Description:</b>	Installation and maintenance of a 4 ft. high, 152 linear ft. rope barrier with 3 ft. opening for ocean access, support posts, foundations and informational signs, on a year-round basis, in perpetuity, to provide a buffer between humans and seals.
<b>Staff Recommendation:</b>	Approval with conditions.

---

## SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with **five (5) special conditions** regarding (1) permit term, (2) assumption of risk, waiver of liability and indemnity (3) required local permits and approvals, (4) monitoring plan, and (5) sign program.

The City of San Diego Park and Recreation Department proposes to install and maintain a year-round rope barrier on the beach, in perpetuity, to provide a barrier between people and seals at Children's Pool Beach in the La Jolla community of the City of San Diego (Exhibit 1). The ½-inch diameter rope would be attached to the seawall/breakwater and extend westward 152 feet, leaving a 3 ft. opening for public access at the east end near the access stairway (Exhibit 2). The rope would be strung between a total of four (4) posts, not to exceed 4 ft. in height. The posts, with attached concrete foundations, would be placed in hand dug holes approximately 18-inches in depth and covered with sand. Informational signs would be placed on the posts (Exhibit 4). The objective of the proposed project is to extend the protection that the existing rope barrier provides the harbor seal colony during pupping season (December 15 to May 15) to include the rest of the year.

In 1930, Philanthropist Ellen Browning Scripps provided funding for the construction of a 300-ft. arced concrete breakwater at Children's Pool Beach in order to create a safe bathing pool for children. In 1931, as a condition of the California Legislature's grant of tide and submerged lands in which the State of California granted Children's Pool area submerged and tidelands to the City of San Diego, the area was to be devoted 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." (Statute of 1931, Chapter 937.) Since the completion of the breakwater in 1931, the public has used Children's Pool Beach for sunbathing, swimming, and diving.

Controversy arose in the early 1990s when seals began to regularly "haul out" (exit the water) onto Children's Pool Beach and in greater numbers. However, historic maps from 1887 and 1894 show that the sandstone reef and adjacent rocks on which the breakwater was built were identified as Seal Rock Point and Seal Rock (Exhibit 8). These maps demonstrate that seals most likely utilized this area as a natural haul out site prior to the breakwater's construction. Harbor seals can haul out any time of the day or night on a year-round basis; however, the number of seals hauled out at a given moment may vary dependent upon several factors, including tide height, weather, season, and level of disturbance. Haul out sites provide essential habitat that seals utilize for a variety of functions, including rest, sleep, thermal regulation, skin maintenance and molting, social interaction, predator evasion, giving birth, and nursing and weaning pups. As a result of the seals' increased use of Children's Pool Beach as a haul out site, there has been ongoing disagreement whether the seals and their habitat should be protected, whether public access should be protected, or whether seals and people should share the beach.

On December 2, 2009, the City of San Diego approved a coastal development permit for the annual placement of a temporary rope barrier at Children's Pool Beach to provide a buffer between people and seals during the seal pupping season (December 15 to May 15). The rope barrier was subsequently installed on December 16, 2009. On May 17, 2010, the City Council adopted a resolution establishing a new Seasonal Shared Use Policy at Children's Pool Beach and directing City staff to: 1) acquire a coastal development permit to maintain a year-round rope barrier; 2) amend the Local Coastal Program (LCP) to prohibit public access to the beach during seal pupping season; 3) prohibit dogs on the beach year-round; 4) seek grant or private funding for a full-time Park Ranger or Lifeguard position and create a Volunteer Docent Program led by this Park Ranger or Lifeguard; and 5) establish clear signage explaining the rules to the public (Exhibit 7). The subject coastal development permit application is for the installation and

maintenance of a year-round rope barrier to protect harbor seals that haul out at Children's Pool Beach from harassment and disturbance.

Although a rope barrier is proposed to be installed and maintained year-round, in perpetuity, public access to the beach and ocean will be maintained and remain open year-round. In addition, Commission staff is recommending **Special Condition #4** that would require the City to prepare a monitoring plan and submit annual monitoring reports that measure the level of use by seals of the haul out site and the effectiveness of the rope. Furthermore, in order to avoid and minimize any potential adverse impact to public access, **Special Condition #1** would limit the permit term for three (3) years and require the City to apply for an amendment or new coastal development permit upon expiration of the permit. With these two conditions, the City will be required to monitor the site to determine the rope barrier's effectiveness and then, based on the monitoring results, come back to the Commission in three years to extend and/or modify the permit.

Based on a jurisdictional boundary determination conducted by the Commission's mapping department, the proposed project is located in an area where the Commission has retained coastal development permit jurisdiction, even though the City of San Diego has a certified LCP (Exhibit 3). The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified La Jolla Community Plan and Local Coastal Program Land Use Plan (LUP) serve as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

## TABLE OF CONTENTS

<b>I. <u>MOTION AND RESOLUTION</u></b>	5
<b>II. <u>STANDARD CONDITIONS</u></b>	5
<b>III. <u>SPECIAL CONDITIONS</u></b>	6
1. PERMIT TERM	6
2. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY	6
3. REQUIRED LOCAL PERMITS AND APPROVALS	7
4. MONITORING PLAN	7
5. SIGN PROGRAM	8
6. LIABILITY FOR COSTS AND ATTORNEY FEES	8
<b>IV. <u>FINDINGS AND DECLARATIONS</u></b>	9
A. PROJECT DESCRIPTION AND AREA	9
B. PROJECT HISTORY AND PAST COMMISSION ACTION	10
C. MARINE RESOURCES	12
D. PUBLIC ACCESS AND RECREATION	18
E. VISUAL RESOURCES	24
F. LOCAL COASTAL PROGRAM	24
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT	25

## APPENDICES

Appendix A – Substantive File Documents

## EXHIBITS

Exhibit 1 – Location Map  
Exhibit 2 – Site Plan  
Exhibit 3 – Jurisdiction Memo and Map  
Exhibit 4 – Proposed Signage  
Exhibit 5 – City Submitted Photos  
Exhibit 6 – Site Visit Photos  
Exhibit 7 – City Resolution  
Exhibit 8 – Historic Maps  
Exhibit 9 – Staff Ecologist Memorandum  
Exhibit 10 – Opposition Letters  
Exhibit 11 – Support Letters

Click on the link at left to go  
to exhibits 10 and 11.

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-11-078 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*The Commission hereby approves coastal development permit 6-11-078 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. 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

This permit is granted subject to the following 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 of 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.

### **III. SPECIAL CONDITIONS**

This permit is granted subject to the following special conditions:

1. **Permit Term.**

- A. This coastal development permit authorizes development on a temporary basis only. The development is authorized for a period of three (3) years, commencing upon the date of Commission approval of Coastal Development Permit No. 6-11-078, after which time the authorization for continuation and/or retention of any development approved as part of this permit shall cease. After the authorization for the development expires, the retention of a rope barrier at Children's Pool Beach will require the issuance of a new coastal development permit or an amendment to this coastal development permit.
- B. If the applicant does not obtain a coastal development permit or amendment from the California Coastal Commission to continue installation and maintenance of a year-round rope barrier at Children's Pool Beach prior to the date that authorization for the development expires, the City shall cease use of the rope barrier (except as already authorized during the pupping season of December 15 through May 15).
- C. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved project plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is legally required.

2. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.



- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.
3. **Required Local Permits and Approvals.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, all necessary local permits and/or approvals that may be necessary for all aspects of the proposed project, or evidence that no such approvals are required.
4. **Monitoring Plan.**
- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a Monitoring Plan for the management and monitoring of the shared use policy at Children's Pool Beach. The plan shall include, but not be limited to, the following criteria:
1. A physical description of the approved rope barrier with an exhibit delineating the precise location of the rope barrier at Children's Pool;
  2. A discussion of the goals and objectives of the plan, which shall include the method by which the applicant will assess the level of use by seals of the haul out site at Children's Pool Beach throughout the year and the method of determining the effectiveness of the rope barrier at minimizing harassment of hauled out seals with both methods employing, at a minimum, the procedures described in section 3 and 4, below, of this special condition;
  3. Upon installation of the rope barrier, a qualified biologist, environmental resources specialist or park ranger shall record the number of seals hauled out at Children's Pool Beach, the number of people present on the beach, the number of people present in the water, the number of harassment instances, the tide, the weather (including water and air temperature), and the date at least 16 days per month from sunrise to sunset at hourly intervals (to include weekends and holidays);
  4. Provisions for taking measurements of the number of harassment instances, including what activities would qualify as harassment consistent with relevant regulatory definitions of harassment (e.g. seals flushing into water).
- B. The City shall submit, for the review and approval of the Executive Director, on an annual basis, a written monitoring report from a qualified biologist or other qualified experts, as necessary to comply with the requirements of the monitoring report. Each monitoring report shall contain the following:
1. All records of measurements, analyses and conclusions created in conformance with the approved Monitoring Plan;

2. An evaluation of the condition and performance of the approved structure, including an assessment of whether any weathering or damage has occurred that could adversely impact future performance of the structure;
3. Recommendations for repair, maintenance, modifications, or other work to the device; and
4. Photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the condition, performance, and/or effectiveness of the structure.

If a monitoring report contains recommendations for repair, maintenance, modifications, or other work, the permittee shall contact the San Diego Coastal Commission Office to determine whether such work requires an amendment or new coastal development permit.

- C. The permittee shall undertake development in accordance with the approved final Monitoring Plan. No changes to the approved final Monitoring Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
5. **Sign Program.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a comprehensive sign program. As part of the sign program, signs shall not exceed eight (8) feet in height and a maximum of two (2) signs may be posted on the beach, atop the rope barrier support posts.

The applicant shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit, unless the Executive Director determines that non amendment is legally required.

6. **Liability for Costs and Attorneys Fees**

By acceptance of this coastal development permit, the Applicants/Permittees agree to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION AND AREA**

The City of San Diego Park and Recreation Department proposes to install and maintain a year-round rope barrier on the beach, in perpetuity, to provide a barrier between people and seals at Children's Pool Beach in the La Jolla community of the City of San Diego (Exhibit 1). The ½-inch diameter rope would be attached to the seawall/breakwater and extend westward 152 feet, leaving a 3 ft. opening for public access at the east end near the access stairway (Exhibit 2). The rope would be strung between a total of four (4) posts, not to exceed 4 ft. in height. The posts, with attached concrete foundations, would be placed in hand dug holes approximately 18-inches in depth and covered with sand. Informational signs would be placed on the posts (Exhibit 4). The objective of the proposed project is to extend the protection that the existing rope barrier provides the seal colony during pupping season (December 15 to May 15) to include the rest of the year.

The purpose of the proposed rope barrier is to reduce the number of conflicts between beach visitors and seals, while maintaining public access to the beach and ocean via the proposed 3 ft. opening. The access stairway leading to the beach and the beach upland of the rope would remain open and available to the public. The ocean would remain open for swimming; however, warning signs have been posted that advise against swimming due to bacteria levels in excess of health standards. The rope barrier is not intended to keep people off the beach or out of the ocean and public access would still be available on a year-round basis, just more directed so as to provide a safe distance from the hauled out seals. This is both for the protection of the seals and the public. Individuals are not prohibited from crossing the rope; however, the rope serves as a guideline to alert people of the haul out site and the appropriate distance for safe and respectful viewing of the seals. Without such a rope guideline and informational signage, visitors can move about the entire beach which could potentially result in seal harassment. Although the rope serves as a visual barrier for people, seals do not always haul out into the area roped off, but sometimes haul out past the rope, especially during high tide events.

The project site is located at Children's Pool Beach (also known as Casa Beach), west of Coast Boulevard and southwest of Jenner Street in the La Jolla community of the City of San Diego (Exhibit 1). Children's Pool Beach is a 0.7-acre artificial pocket beach held in place by a seawall/breakwater constructed in 1931. Children's Pool Beach is designated as "Parks, Open Space" in the City's certified Land Use Plan. Children's Pool Beach provides recreational opportunities for swimmers, divers, tourists, and the general public through its provision of lifeguard facilities, access stairway from Coast Boulevard, parking along Coast Boulevard, viewing gazebo along Coast Boulevard, benches, portable restrooms, pedestrian walkway atop the seawall, and an emergency beach access ramp that has remained closed by the City via a gate. It is bounded on the north and west by the Pacific Ocean; on the east by Coast Boulevard and Casa de Manana Retirement Community; and on the south by South Casa Beach. In addition, an adjacent haul out site (Seal Rock) is located approximately 500 feet northeast of Children's Pool Beach. Several beaches are located adjacent to or in close proximity to Children's Pool, including La Jolla Shores, Marine Street Beach, La Jolla Cove, Whispering Sands Beach, Shell Beach, South Casa Beach and Windansea.

Based on a jurisdictional boundary determination conducted by the Commission's mapping department, the proposed project is located in an area where the Commission has retained coastal development permit jurisdiction, even though the City of San Diego has a certified LCP (Exhibit 3). The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified La Jolla Community Plan and Local Coastal Program Land Use Plan (LUP) serve as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

## **B. PROJECT HISTORY AND PREVIOUS COMMISSION ACTION**

Addressing the conflicts between people and seals at Children's Pool Beach has a long history. In 1930, Philanthropist Ellen Browning Scripps provided funding for the construction of a 300-ft. arced concrete breakwater at Children's Pool Beach in order to create a safe bathing pool for children. In 1931, as a condition of the California Legislature's tide and submerged lands grant, in which the State of California granted Children's Pool area tide and submerged lands to the City of San Diego, the area was to be devoted 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." (Statute of 1931, Chapter 937.) Subsequent to this grant, the State of California relinquished its trustee responsibilities over these public trust tide and submerged lands and the City of San Diego became the successor trustee for these tide and submerged lands. Since the completion of the breakwater in 1931, the public has used Children's Pool Beach for sunbathing, swimming, and diving.

Controversy arose in the early 1990s when harbor seals began to regularly "haul out," or exit the water to rest, onto Children's Pool Beach, and in greater numbers. Historic maps from 1887 and 1894 show that the sandstone reef and adjacent rocks on which the breakwater was built were originally identified as Seal Rock Point and Seal Rock (Exhibit 8). These maps demonstrate that seals most likely utilized this area as a natural haul out site prior to the breakwater's construction. As a result of the seals' increased use of Children's Pool Beach as a haul out site, there has been ongoing disagreement whether the seals and their habitat should be protected, whether public access should be protected, or whether seals and people should share the beach. The City has been trying to develop a solution to address the issue of competing uses.

Harbor seals have also used a flat-topped, offshore rock that is known as Seal Rock, located between Children's Pool Beach and Shell Beach, as a haul out site. In 1993, the Commission approved the City of San Diego Park and Recreation Department's permit application (CDP #6-93-026) to establish Seal Rock Marine Mammal Reserve for five years. In 2001, the Commission approved another five-year permit (CDP #6-00-126) to continue the reserve. The reserve protected 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. Signs were installed for identification purposes and for public education and information.

Since the seals started using this area more heavily, the water quality of the "pool" has deteriorated to such a point that the San Diego County Health Department has deemed the water unsafe, as it poses a serious health risk. It was determined that due to limited tidal exchange in

the pool and use of the area by so many seals, the water has become contaminated with high levels of bacteria that exceed health standards. Since September 1997, a water quality advisory has been posted at Children's Pool Beach advising against water contact.

After a number of legal challenges, the City was ordered to clean the water in the pool and return the beach to its 1941 configuration. As such, the City began the environmental review and permitting process to dredge the pool and return it to its historic configuration (refer to withdrawn CDP Application No. 6-05-098). Subsequently, Senate Bill 428 was passed by the State Legislature and signed by the Governor into law effective January 1, 2010. This law amended the conditional uses of the 1931 Tidelands Grant of the tide and submerged lands at Children's Pool, giving the City Council the discretion to allow Children's Pool Beach to be used as a "marine mammal park for the enjoyment and educational benefit of children." (Statute of 2009, Chapter 19.) As a result of this law, the court order to dredge the pool was vacated and the City Council denied the request to dredge the pool to return it to its 1941 configuration.

However, while the City was pursuing the necessary permits for the dredging project, a new issue arose, which was separating the seals from people on the beach during the seal pupping season. To address this issue, the City first installed a rope barrier directly upland of the Mean High Tide Line (MHTL). After consultation with Commission staff, the City was informed that installation of the rope barrier constituted development (physical development and change of intensity of access to the water) and thus required review pursuant to a coastal development permit. Subsequently, in 2006 and 2007, the City issued emergency coastal development permits for the temporary installation of the rope barrier during seal pupping season. A subsequent legal challenge prevented the installation of the rope barrier for the 2008 pupping season. However, on March 10, 2008, the Ninth Circuit Court of Appeals stayed the earlier ruling preventing the placement of the rope barrier and allowed the rope to be placed until May 30, 2008. The City then issued an emergency permit for the temporary rope barrier and the barrier was installed.

Subsequently, the City approved a regular coastal development permit (CDP No. 545642) as a follow-up to the emergency permit for the installation of the rope barrier during the 2008 seal pupping season. On July 7, 2008, the Coastal Commission's San Diego District Office received a Notice of Final Action from the City of San Diego for this after-the-fact coastal development permit and the 10 working day appeal period was opened. On July 15, 2008, an appeal was filed by John Leek (Appeal No. A-6-LJS-08-065). Because this was a follow-up to an emergency permit, and the emergency permit only allowed the rope barrier to remain until May 30, 2008, by the time the follow-up CDP was approved and the Notice of Final Action was received in the Commission's San Diego District Office, the rope barrier had already been removed, making the appeal moot and no longer in need of review by the Commission. The applicant (City of San Diego Park and Recreation Department) subsequently waived the right to a hearing within 49 days and thus, the matter has never been brought before the Commission. Because this appeal was for essentially the same development as a subsequent appeal (Appeal No. A-6-LJS-10-009 discussed in the following paragraph that the Commission determined there was no substantial issue), Appeal No. A-6-LJS-08-065 is moot and no longer in need of review by the Commission.

On December 2, 2009, the City of San Diego approved Coastal Development Permit No. 701673 for the annual placement of a temporary rope barrier at Children's Pool Beach to provide a buffer between people and seals during the seal pupping season (December 15 to May 15). The rope barrier was installed on December 16, 2009. The City's decision on the coastal development

permit was appealed to the Planning Commission; however, on January 21, 2010, the Planning Commission upheld the Hearing Officer's decision for the annual placement of the rope barrier. On February 3, 2010, an appeal was filed with the Commission by John Leek (Appeal No. A-6-LJS-10-009) and on March 10, 2010 the Commission determined that there was no substantial issue with respect to the grounds on which the appeal was filed.

On May 17, 2010, the City Council adopted a resolution establishing a new Seasonal Shared Use Policy at Children's Pool Beach and directing City staff to: 1) acquire a coastal development permit to maintain a year-round rope barrier; 2) amend the Local Coastal Program (LCP) to prohibit public access to the beach during pupping season; 3) prohibit dogs on the beach year-round; 4) seek grant or private funding for a full-time Park Ranger or Lifeguard position and create a Volunteer Docent Program led by this Park Ranger or Lifeguard; and 5) establish clear signage explaining the rules to the public (Exhibit 7).

As a result of the City's adoption of this resolution, the subject Coastal Development Permit Application No. 6-11-078, for the installation and maintenance of a year-round rope barrier at Children's Pool Beach, was submitted on October 19, 2011. Upon submission of the subject permit application, the City of San Diego specifically requested that the Coastal Commission consider the coastal development permit application prior to the City's approval and pursuant to Section 13053 of the California Code of Regulations, the Commission waived the requirement for preliminary approval by the City of San Diego. Thus, **Special Condition #3** has been added to put the City on notice that prior to issuance of this permit, the City must first provide copies of all required local discretionary permits. On December 15, 2011, the file was deemed complete. Pursuant to Government Code Section 65957, on February 8, 2012 the applicant signed an agreement extending the deadline for Commission action an additional 90 days from June 12, 2012 to September 10, 2012.

## C. MARINE RESOURCES

Section 30230 of the Coastal Act states:

*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 of the Coastal Act states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(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.*

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

*“Environmentally sensitive area” 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 degraded by human activities and developments.*

In addition, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan contains policies regarding the protection of marine resources which include the following:

*The City should limit public access in open space areas that contain sensitive resources to scientific or educational use. Access should be confined to designated trails or paths and no access should be approved which would result in the disruption of habitat areas.*

*The City shall ensure the preservation of portions of public and private property that are partially or wholly designated as open space to the maximum extent feasible. Development potential on open space lands shown on Figure 7 shall be limited to preserve the Park, recreation, scenic, habitat and/or open space values of these lands, and to protect public health and safety...*

*The City should preserve and protect the coastal bluffs, beaches and shoreline areas of La Jolla assuring that development occurs 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...*

The project site is located at Children’s Pool Beach (also known as Casa Beach), west of Coast Boulevard and southwest of Jenner Street in the La Jolla community of the City of San Diego (Exhibit 1). Children’s Pool Beach is a 0.7-acre artificial pocket beach held in place by a seawall/breakwater constructed in 1931. Children’s Pool Beach is designated as “Parks, Open Space” in the City’s certified Land Use Plan. Children’s Pool Beach provides recreational opportunities for swimmers, divers, tourists, and the general public through its provision of lifeguard facilities, access stairway from Coast Boulevard, parking along Coast Boulevard, viewing gazebo along Coast Boulevard, benches, restrooms, pedestrian walkway atop the seawall, and an emergency beach access ramp that has remained closed by the City via a gate. It is bounded on the north and west by the Pacific Ocean; on the east by Coast Boulevard and Casa de Manana Retirement Community; and on the south by South Casa Beach. In addition, an adjacent haul out site (Seal Rock) is located approximately 500 feet northeast of Children’s Pool Beach. Several beaches are located adjacent to or in close proximity to Children’s Pool, including La Jolla Shores, Marine Street Beach, La Jolla Cove, Whispering Sands Beach, Shell Beach, South Casa Beach and Windansea.

Harbor seals (*Phoca vitulina*) and other pinnipeds used Seal Rock and Children’s Pool Beach as haul out sites prior to the construction of the breakwater, but started to haul on in greater numbers in the early 1990s. Historic maps from 1887 and 1894 show that the sandstone reef and

adjacent rocks on which the breakwater was built were identified as Seal Rock Point and Seal Rock (Exhibit 8). These maps demonstrate that seals utilized this area as a natural haul out site prior to the breakwater's construction. In response to the increased use of Seal Rock as a haul out site in the 1990s, the Coastal Commission approved the City of San Diego's request to designate that area as a Marine Mammal Reserve in November 1993 pursuant to CDP No. 6-93-026. As of 1996, when National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) began to regularly survey the number of seals present at Children's Pool Beach, data indicates that haul out numbers ranged from as little as 11 seals on a day in November 1996 to as many as 160 seals on a day in June 1996.<sup>1</sup> More recent data, collected by the Park Ranger in spring 2012, indicates that it is not unusual for over 200 seals to haul out onto Children's Pool Beach, as demonstrated by counts on March 18, April 2, April 14, April 29, April 30, and May 1. Although peak haul out numbers have been recorded predominantly during the pupping season (December 15 to May 15), seal count data from a variety of sources (refer to substantive file documents) indicates that seals use Children's Pool Beach as a haul out site on a year-round basis.

Harbor seals are generally non-migratory and occur on both the U.S. east and west coasts. On the west coast, harbor seals are found in near-shore coastal and estuarine waters off Baja California, north to British Columbia, west through the Gulf of Alaska and in the Bering Sea. Since the passage of the Marine Mammal Protection Act (MMPA) of 1972, the California coast stock has begun to stabilize at approximately 34,233 seals.<sup>2</sup> NOAA's National Marine Fisheries Service (NMFS) is the agency that manages the California stock of harbor seals and is responsible for enforcement of the MMPA. The Southwest Region of NMFS has created a map depicting pinniped haul out areas and rookeries (pupping sites) in California. According to NMFS data, the Children's Pool Beach is the only mainland rookery and haul out site in San Diego and Los Angeles Counties. The next closest mainland rookery is located at Point Mugu Lagoon within the Point Mugu Naval Air Weapons Station; however, public access is restricted. The City of Carpinteria is also home to a mainland rookery; however, the beach is not as readily accessible to the public who must walk over half a mile to reach the bluff top overlook. Additionally, the City closes the beach 750 feet to the east and west of the site during pupping season (December 1 through May 31) pursuant to Municipal Code 12.23.090. Offshore, there are harbor seal rookeries located at the Channel Islands.

The Legislature enacted the MMPA to prevent the extinction or depletion of marine mammal stocks as a result of human activity. (Title 16 U.S.C. section 1361(1); *Natural Resources Defense Council, Inc. v. Evans* (2003) 279 F.Supp.2d 1129, 1141.) In achieving this goal, the MMPA generally prohibits the "taking" of marine mammals, with limited statutory exemptions, with an act of "taking" meaning "to harass, hunt, capture, collect or kill, any marine mammal." (Title 50 C.F.R. section 216.3; Title 16 U.S.C. section 1362(13); see, e.g. *Natural Resources Defense Council, Inc. v. Evans* (2003) 279 F.Supp.2d 1129, 1141.) Harassment, as defined under

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<sup>1</sup> NOAA's National Marine Fisheries Service Southwest Regional Office. *California Pinniped Rookeries and Haul-out Sites*. <http://www.arcgis.com/home/webmap/viewer.html?webmap=2ff3fabe20cf4c83959cae1597500b09>. May 30, 2012.

<sup>2</sup> NOAA's National Marine Fisheries Office of Protected Resources. *Harbor Seal Population Trends*. <http://www.nmfs.noaa.gov/pr/species/mammals/pinnipeds/harborseal.htm>. Updated April 24, 2012. Accessed May 30, 2012.



the MMPA, is “any act of pursuit, torment or annoyance which – (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) 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.” (Title 16 U.S.C., section 1362(18).) No person has an authorized incidental take permit from NMFS to incidentally take the seals at Children’s Pool; there is no option for intentional take permits, (See 16 U.S.C. section 1371(5)(A)(i) [procedures related to incidental take permits].)

While the Commission does not regulate the taking of marine mammals, the statutory framework provided in MMPA on this issue provides the Commission a platform from which it can evaluate whether or not a proposed development is consistent with section 30230 of the Coastal Act. In other words, the Commission finds that if there is unauthorized harassment, or incidental “taking”, of the seals at the Children’s Pool area, then such acts of harassment are not consistent with Chapter 3 policies of the Coastal Act. Even if there is authorization from NMFS to incidentally take seals at Children’s Pool, depending on the authorized activity, it is unclear, without more detail of the activity, whether such authorization would even be consistent with Chapter 3 of the Coastal Act. The seal rookery and haul-out site at Children’s Pool Beach is unique due to its location in an urban setting that is easily accessible to the public, which has resulted in ongoing disturbance and harassment of the hauled out seals. While a distance of at least 100 yards, or 300 feet, is recommended by NMFS’s “Guidelines for Viewing Seals and Sea Lions in California,” due to the unique nature and location of Children’s Pool Beach, NMFS Enforcement Agent Michelle Zetwo has recommended that people maintain a minimum distance of 20 feet for viewing hauled out seals at the subject site. Efforts by the public to closely approach or otherwise interact with seals have lead to harassment of the hauled out seals, which is illegal under the MMPA. According to observations by the Park Ranger, although the seals at this location are more acclimated to human presence than other areas of the coast, harassment and flushing of the seals into the water does occur which disturbs the seals’ behavior pattern to haul out so that they can rest, sleep, thermal regulate, maintain skin and molt, socially interact, evade predators, give birth, and nurse and wean pups; however, due to the shared use nature of the beach, NMFS only pursues harassment penalties in cases of extreme or malicious harassment. Activities that have caused hauled out seals to flush into the water, thus disrupting their behavior patterns, include people making loud noises, approaching or surrounding seals to take pictures, pet, feed, chase, follow, throw rocks/sand/seaweed at, and entering and exiting the water. A study conducted at Children’s Pool found that disturbances associated with construction activities (for the replacement of the wall and bluff improvements) only caused seals to flush into the water once during the week when demolition and heavy debris removal was conducted; however, humans in the water or on land resulted in 144 flush events.<sup>3</sup> Not only are seals at risk, but public health and safety are also at risk from seal bites and nips when people attempt to interact too closely with the seals.

Although Harbor seals are neither endangered nor threatened, the haul out sites and pupping sites, otherwise known as rookeries, that they use provide valuable habitat for the seal life cycle. Harbor seals may use rocks, reefs, beaches, intertidal sandbars, and drifting glacial ice as haul out and pupping sites. Harbor seals can haul out any time of the day or night on a year-round

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<sup>3</sup> Yochem P. 2005. Summary of conclusions regarding the harbor seal rookery at Children’s Pool Beach, La Jolla, CA. La Jolla Cove Wall Replacement and Bluff Improvements Project (Sept 21, 2004 – Jan 1, 2005). March 25, 2005. Hubbs-SeaWorld Research Institute Paper.

basis; however, the number of seals hauled out at a certain moment may vary dependent upon several factors, including tide height, weather, time of day, season, and level of disturbance.<sup>4</sup> Haul out sites provide essential habitat that seals utilize for a variety of functions, including but not limited to rest, sleep, thermal regulation, skin maintenance and molting, social interaction, predator evasion, giving birth during the spring and summer, and nursing and weaning pups.<sup>5 6</sup>

The potential adverse impacts of disturbance to hauled out seals are particularly significant during pupping season when seals haul out and remain on the beach for longer periods of time in order to prepare for birth, go through the birthing process, and nurse the seal pups once they are born. Through the entire range of harbor seals, pupping is typically from January to October; however pupping season occurs earlier in southern areas such as San Diego.<sup>7</sup> At Children's Pool Beach, pupping season is typically from December 15 to May 15, as determined by the City in consultation with NMFS representatives as part of the permit approval for the annual placement of a rope barrier during seal pupping season. Pups are capable of swimming immediately after birth and they are weaned from their mothers after approximately three to six weeks of nursing.<sup>8</sup> During that time, seal pups are frequently left on the beach by their mothers, who spend time in the water foraging for food. Additionally, during this period, the mother seals become more aggressive due to their instinct to protect themselves and their pups from people who get too close. Harbor seals will usually return to breed in the same location as they were born, unless frequent disturbances cause them to abandon the site. Further, harassment during the pupping season may cause mothers to abandon their pups. When a disturbance causes the seals to flush quickly into the water, a seal pup may become separated from its mother and abandoned. Additionally, too many disturbances on the beach may prevent a mother from returning from the water to reunite with her pup after hunting. Abandonment severely decreases the pup's chance for survival. At Children's Pool Beach there have been several cases of seal pup abandonment. To avoid potential adverse impacts such as seal pup abandonment and pursuant to CDP #701673, the City installed a rope barrier with an opening during pupping season.

Although the potential adverse impacts of harassment to hauled out seals are not as significant during the non-pupping season, disturbance and flushing does have the potential to disrupt the natural habitat that seals require for a variety of life cycle functions. As discussed above, as a part of seals' behavior patterns, they use haul out sites on a year-round basis for rest, sleep, thermal regulation, skin maintenance and molting, social interaction, predator evasion, giving

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<sup>4</sup> Watts, P. 1993. Possible Lunar Influence on Hauling-Out Behavior by the Pacific Harbor Seal (*Phoca vitulina richardsi*). *Marine Mammal Science* 9(1):68-76.

<sup>5</sup> NOAA's National Marine Fisheries Office of Protected Resources. *Species: Harbor Seal*. <http://www.nmfs.noaa.gov/pr/species/mammals/pinnipeds/harborseal.htm>. Updated April 24, 2012. Accessed May 30, 2012.

<sup>6</sup> Terhune, J.M. and M. Almon. 1983. Variability of Harbour Seal Numbers on Haul-Out Sites. *Aquatic Mammals* 10(3):71-78.

<sup>7</sup> NOAA's National Marine Fisheries Service Southwest Regional Office. *California Seal and Sea Lion Viewing Guidelines*. <http://swr.nmfs.noaa.gov/psd/rookeryhaulouts/CASEALVIEWBROCHURE.pdf>. May 30, 2012.

<sup>8</sup> NOAA's National Marine Fisheries Service Southwest Regional Office. *California Seal and Sea Lion Viewing Guidelines*. <http://swr.nmfs.noaa.gov/psd/rookeryhaulouts/CASEALVIEWBROCHURE.pdf>. May 30, 2012.

birth during the spring and summer, and nursing and weaning pups. The City asserts that the installation of a rope barrier on the beach on a year-round basis would extend the protection offered by the existing permit (CDP #701673) and provide a necessary visual barrier between the public utilizing the sandy beach and accessing the ocean at Children's Pool Beach, and the seals that haul out on the sand on a year-round basis to enhance the public's awareness that the seals deserve particular treatment under the MMPA.

As discussed above, the proposed rope barrier would help to maintain and enhance the seal rookery and haul out site at Children's Pool Beach, consistent with Section 30230 of the Coastal Act, by minimizing human-seal interaction. Although harbor seals are not an endangered or threatened species, the haul out site at Children's Pool Beach provides habitat of biological and economic significance. It is the only mainland rookery in San Diego and Los Angeles counties and has become a destination for visitors, residents, scientists/researchers, and students. The proposed year-round rope barrier would help maintain a healthy seal population, adequate for long-term recreational, scientific, and educational purposes. Again, the purpose of the rope barrier is to provide a guideline of the appropriate distance for safe and respectful viewing of the seals, while at the same time maintaining public access.

The Commission imposes **Special Condition #4** requiring the preparation, submission to the Executive Director for review and approval, and implementation of a monitoring plan. The monitoring plan will help the City establish baseline data for the three years specified by the permit term condition and assess a) the level of use by seals of the haul out site at Children's Pool Beach, and b) the effectiveness of the rope barrier at minimizing harassment of hauled out seals. A qualified biologist, environmental resources specialist, or park ranger shall record the number of seals hauled out at Children's Pool Beach, the number of people present on the beach, the number of people present in the water, the number of harassment instances, the tide, the weather (including water and air temperature), and the date, a minimum of 16 days per month. The monitoring reports will assist the City and Commission with determining the effectiveness of the year round barrier and whether changes are necessary in the future.

In conclusion, the Coastal Act policies regarding Marine Resources and Environmentally Sensitive Habitat Areas ensure protection of the valuable habitat that Children's Pool Beach provides harbor seals in the form of a rookery, for giving birth to pups, and a haul out site that seals use for other important life functions/behavioral patterns, including rest, sleep, thermal regulation, skin maintenance and molting, social interaction, predator evasion, nursing and weaning pups. One of the main objectives of the proposed rope barrier is to maintain and enhance the harbor seal habitat, consistent with Section 30230 and Section 30240 of the Coastal Act. The other stated objective of the proposed project is to protect public access to the beach and ocean at Children's Pool Beach, which the City will maintain via a 3 ft. opening in the rope barrier, to be discussed in greater detail in the Public Access and Recreation section of this report. Furthermore, the proposed year-round rope barrier has been sited and designed to prevent adverse impacts that would degrade adjacent parks and recreation areas, as well as coastal waters and bluffs. Commission's staff ecologist, Dr. John Dixon, has reviewed the proposed project and concurs with the staff recommendation that the rope barrier is necessary to ensure that the use of the marine environment, Children's Pool area, will sustain the biological productivity of coastal waters and will assist to maintain healthy populations of the seals, as mandated under section 30230, because it will reduce or eliminate the existing periodic harassment of the seals (Exhibit

9). In addition, in conversations with Commission staff, NMFS representatives from the Office of Protected Resources have stated that they are in full support of the City's permit application for a rope barrier to help protect the seals not only during pupping season, but on a year round basis. Therefore, the proposed permit application, as conditioned, is consistent with the applicable Coastal Act policies regarding protection of Marine Resources.

#### **D. PUBLIC ACCESS AND RECREATION**

Section 30604(c) of the Coastal Act states:

*Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200)*

Section 30210 of the Coastal Act states:

*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 of the Coastal Act states:

*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 30212(a) of the Coastal Act states, in part:

*Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby...*

Section 30213 of the Coastal Act states, in part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...*

Section 30214(a) of the Coastal Act states, in part:

*(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public*

*access depending on the facts and circumstances in each case including, but not limited to, the following:*

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain sue and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*

Section 30220 of the Coastal Act states:

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221 of the Coastal Act states:

*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.*

Upon reliance of these policies of the Coastal Act, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan contains policies to protect public access as well, which include the following:

*La Jolla's relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved...*

*The City should preserve and protect the coastal bluffs, beaches and shoreline area of La Jolla assuring development occurs 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...*

*The City should ensure that new development does not restrict or prevent lateral, vertical or visual access to the beach on property that lies between the shoreline and first public roadway...*

*New development should not prevent or unduly restrict access to beaches or other recreational areas...*

*The City's beach and parkland along the shoreline should be expanded wherever possible...*

*Construction, grading, or improvements of any sort, except those mentioned in this plan, should be discouraged at beach areas. Public access to the shoreline should be increased (or improved) wherever possible...*

The rope barrier, as proposed by the City of San Diego Park and Recreation Department, would be located on the sandy beach and would provide enough area landward of the rope to accommodate public access to a large number of people. This distance also provides a safe distance, or at least 20 ft., from the seals during most tidal levels (Exhibit 2). However, at the highest spring tides, seals may be forced to haul out on the landward side of the rope and visitors may be unable to access the entire landward section of the beach depending on the tide and haul out pattern of the seals.

As discussed previously, the proposed project is for the installation and maintenance of a year-round, 152 ft. rope barrier to provide a buffer between the people and seals using the beach; however public access to the beach and ocean would remain open year-round via a 3 ft. opening in the rope barrier near the east end of the beach, adjacent to the access stairway. The City previously approved CDP #701673 for installation of a 130 ft. rope barrier with 3 ft. opening for public access during seal pupping season; however, the distance was inadvertently miscalculated as 130 ft., instead of the correct 152 ft. To remain in compliance with the permit, a 130 ft. rope was installed with a nearly 25 ft. opening. The implementation of this alternative configuration with a 25 ft. opening during pupping season of 2012 was problematic and did not provide the same level of protection as did the 3 ft. opening implemented in previous years. According to the City, the original 3 ft. gap “made the rope presence unmistakable and made its purposes clear while still providing a large enough opening for beach visitors to pass through.” The current 25 ft. gap is large enough that some visitors do not see the rope at all or miss the informational signage posted on the support posts.

In addition, the City has indicated that since the seals started hauling out on Children’s Pool Beach, there have been ongoing conflicts between people who want to protect the seals and people who want to view the seals up close and/or use the beach and ocean at this location. As these conflicts arise, the park ranger and lifeguards are regularly called to intervene and/or mediate. While lifeguards are asked to diffuse conflicts over the seals at Children’s Pool Beach, it takes them away from providing essential public services as lifeguards to protect swimmers from danger and drowning. Additionally, in April 2010, the San Diego Police Department provided information regarding the number of calls for service at Children’s Pool Beach. The report showed that from February 1, 2009 through January 31, 2010, there were 184 designated runs, 37 calls for disturbing the peace, and 4 calls for battery incidents. Out of service time for that same period was approximately 185 hours as compared to 2005 (70 hours); 2006 (95 hours); 2007 (40 hours); and 2008 (79 hours). This is a significant increase in calls for service at Children’s Pool Beach from 2005 to 2009 which takes police time away from more important public safety issues.

According to the City, observations by the City’s park ranger show that the greatest number of disturbances of seals by people occur on the weekends when visitors are encouraged onto the beach by people in support of unimpeded beach access. To demonstrate this, the City submitted a photo taken in April 2012 by the park ranger of a typical Saturday (Exhibit 5). In this photo, pro-access individuals have placed banners, umbrellas, and non-official signage on the beach to demonstrate that the beach is open for public use and that the rope is only a guideline, not a legal or enforceable barrier. This encourages visitors onto the beach without reading the official signage that explains the

guidelines directing people to maintain a safe distance to avoid disturbing the seals. In contrast, another photo shows the beach on the following day without umbrellas, banners, and non-official signage (Exhibit 5). According to the City, without the presence of pro-access individuals, visitors tend to observe the seals from behind the rope and maintain a safe distance that varies with the tide and also the location of the hauled out seals. According to the City, it has been their observation that the rope is an effective visual deterrence from people getting too close to the seals on the beach, absent the presence of people who encourage people to bypass the rope.

The City asserts that the rope barrier is intended to reduce the number of conflicts between beach visitors and the seals, while maintaining public access to the beach and water. The stairway leading to the beach and the beach upland of the rope would remain open and available to the public. The beach would remain open for swimming; however, warnings are posted that swimming is not recommended due to bacteria levels exceeding health standards. The rope barrier is not intended to keep people off the beach or out of the ocean and public access would still be available on a year-round basis, just more directed so as to provide a safe distance, or buffer, from the hauled out seals. This is both for the protection of the seals and the public. Individuals are not prohibited from crossing the rope; however, the rope serves as a guideline to alert people of the haul out site and the appropriate distance for safe and respectful viewing of the seals.

To ensure that the public is aware of the shared use policy at Children's Pool Beach, signage is proposed to be placed on the support posts of the rope barrier. One of the proposed signs states:

*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.*

While the existing signage does include warnings to avoid disturbing the seals and that the water is contaminated, it does specifically acknowledge that the beach is open for public use and swimming is allowed, but not recommended (Exhibit 4). In addition, the City has also placed signs on the stairway leading to the beach that make it clear that public access on the beach is allowed at all times. Any signs that do not have the official City Seal are not approved or sanctioned by the City. Therefore, the proposed signage in combination with existing signage will ensure that public access is conspicuously posted consistent with Section 30210 of the Coastal Act, cited above.

Additionally, the City has hired a park ranger who works Saturday through Wednesday and is normally on site from 11 AM to 5:30 PM to educate visitors about the shared use policy at Children's Pool Beach, ensure visitors are respectful of the seals, inform visitors and ensure visitors follow all regulations, and provide a visible presence to deter any unlawful acts. City staff notes that in the ranger's absence, there is no replacement, and the position is for a limited term, depending on budgetary constraints. The park ranger can issue citations for misdemeanor violations and infractions of the City of San Diego Municipal Code, but has no jurisdiction to enforce any Federal MMPA laws. The public must call the NMFS enforcement hotline in order to report those types of violations. Although the park ranger does not have enforcement authority, his presence at Children's

Pool Beach ensures that the public is aware that access to the beach and water are available; however, certain guidelines should be followed while sharing the beach with seals.

As noted in Sections 30212 and 30214 of the Coastal Act cited above, in implementing the public access policies of the Act, the Commission must take into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case. This is one circumstance where it is appropriate to rope off a portion of beach in order to provide a buffer between people and seals. Again, the intent of the rope is not to keep the public from reaching the beach or ocean at Children's Pool Beach, but to provide a buffer to help protect the seals that haul out on the beach year-round and the people who use the beach. The public will still be able to access the beach and ocean at Children's Pool Beach. Thus, the Commission finds that placement of the rope barrier on the beach, as proposed, does not result in adverse impacts on public access. Therefore, confining the rope barrier to the pupping season only is not necessary.

As provided for in Sections 30210, 30212, and 30214 of the Coastal Act cited above, public access shall be provided for all people consistent with public safety needs and the need to protect natural resource areas from overuse. Children's Pool Beach provides a natural haul out site for harbor seals and as mandated by the Coastal Act, the provision of public access must be balanced with the protection of fragile coastal resources at the subject site. The proposed year-round rope barrier, as conditioned, is consistent with Sections 30210, 30212, and 30214 of the Coastal Act because it maintains public access to the beach while providing protection of the haul out site, or natural resource area, from overuse by people.

In addition, Children's Pool Beach is not the only beach located in La Jolla. There are several beaches located adjacent to or in close proximity to the subject site including La Jolla Shores, Marine Street Beach, La Jolla Cove, Whispering Sands Beach, Shell Beach, South Casa Beach, and Windansea. Many of these beaches are within walking distance of or a short drive from Children's Pool Beach and offer public amenities such as permanent restrooms, showers, additional parking, and lifeguard facilities. Furthermore, the water quality at these adjacent beaches is better than Children's Pool Beach and the San Diego County Health Department does not have ongoing advisory warnings for water contact at these alternative beaches.

Finally, the Commission finds that the seals at Children's Pool Beach have become a public access and recreation amenity in and of themselves and the year-round rope barrier would provide protection of this amenity. Ever since the seals began hauling out on the beach at this location, they have become a major tourist attraction. If viewing the seals is the primary purpose of a visit to Children's Pool Beach, which it often is, visitors can view the seals from several areas without even going onto the sand. These areas include the gazebo along Coast Boulevard, the walkway along Coast Boulevard, the access stairway at the east end of the beach, the access stairway landing, and the breakwater. From the breakwater, visitors can view the seals up close; however, due to the breakwater's height above the sand, the seals do not flush as easily when viewed from this location. Viewing the seals has drawn huge numbers of people to this coastal area, both locally and from around the world. According to the San Diego Convention and



Visitors Bureau's most recent data, approximately 2.6 million people visited La Jolla in 2009. This figure includes day visitors, visitors staying overnight in La Jolla, and visitors staying in other parts of San Diego, but visiting La Jolla at some point during their trip. Thus, the seals encourage public access by attracting the public to the shore and providing a lower cost visitor amenity, consistent with Coastal Act Section 30213. Most visitors to Children's Pool Beach come to view the seals in their natural setting and the seals can be closely viewed

**Special Condition #4** is proposed to require the preparation, submission to the Executive Director for review and approval, and implementation of a monitoring plan. The monitoring plan will help the City establish baseline data for the three years specified by the permit term condition and assess a) the level of use by seals of the haul out site at Children's Pool Beach, and b) the effectiveness of the rope barrier at minimizing harassment of hauled out seals. The monitoring reports will assist the City and Commission with determining the effectiveness of the year round barrier and whether changes are necessary in the future.

Although the City has proposed a year-round rope barrier, in perpetuity, the Commission imposes **Special Condition #1** limiting the permit term for three (3) years and requiring the City to apply for an amendment or new coastal development permit to continue maintenance of the rope barrier on a year-round basis. By initially limiting the permit to three years, the City will be able to closely monitor implementation of its new shared use policy at Children's Pool Beach and determine how effective and necessary the rope is by collecting baseline data.

Further, the Commission is recommending **Special Condition #5** requiring the City to submit, for review and approval of the Executive Director, a comprehensive Sign Program with clear signage to alert the public of the shared use policy at Children's Pool Beach. Several existing signs are posted at the entrance to the beach on the access stairway; however, it is important that signs be posted atop the rope barrier support posts so that visitors understand the guidelines to avoid seal harassment and that public access to the ocean is open (Exhibit 4).

In conclusion, the Coastal Act policies regarding Public Access and Recreation require that public access to the beach and ocean at Children's Pool Beach be maintained and protected for recreational use. As part of the resolution adopted by the City, their shared use policy is a management strategy that allows both people and seals to use Children's Pool Beach (Exhibit 7). However, the applicant has designed the proposed project to maintain and protect public access to the beach and ocean year-round, consistent with Section 30211 of the Coastal Act. A 3 ft. opening in the rope barrier would allow public access to the water at the east end of the beach. Additionally, the rope barrier has been sited to allow the public unimpeded access to the upland portion of the beach for sunbathing or viewing the seals. As provided for in Sections 30210, 30212, and 30214 of the Coastal Act cited above, public access shall be provided for all people consistent with public safety needs and the need to protect natural resource areas from overuse. As the only mainland harbor seal rookery south of Point Mugu, the rookery and haul out site at Children's Pool Beach is a unique and important natural resource area, and the City's proposed project would ensure that access is maintained, but that it is not overused.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with all of the applicable Coastal Act policies regarding Public Access and Recreation.

## **E. VISUAL RESOURCES**

Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of the setting.*

The area above Children's Pool Beach is identified as a viewshed area in the La Jolla Community Plan and Local Coastal Program Land Use Plan; however, the proposed project would not result in any adverse impacts to visual resources. The proposed rope would be attached to the seawall/breakwater and extend westward 152 feet, leaving a 3 ft. opening for public access at the east end near the access stairway (Exhibit 2). The rope would be strung between a total of four (4) posts, not to exceed 4 ft. in height. The posts, with attached concrete foundations, would be placed in hand dug holes approximately 18-inches in depth and covered with sand. Additionally, the rope diameter would not exceed ½-inch. Given this height and diameter, the rope would not block any public views from Coast Boulevard or Jenner Street as identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan.

The applicant proposes to install informational signs on the support posts to alert the public of the shared use policy at Children's Pool Beach (Exhibit 4). Several existing signs are posted at the entrance to the beach on the access stairway; however, it is important that signs be posted atop the rope barrier so that visitors understand the guidelines to avoid seal harassment and that public access to the ocean is open. In order to avoid any adverse impacts to visual resources, the Commission imposes **Special Condition #5** requiring the City to submit, for review and approval of the Executive Director, a Sign Program. As part of the Sign Program, the City shall limit the height of signs posted. Additionally, the number of signs posted on the beach shall be restricted to a maximum of two (2) signs.

As discussed above, the proposed project, as conditioned, is consistent with all applicable policies of the Coastal Act regarding Visual Resources.

## **F. LOCAL COASTAL PROGRAM**

The proposed project is located within the City of San Diego; however, based on a jurisdictional boundary determination conducted on August 19, 2011 by the Commission's Mapping Department, Children's Pool Beach is located in an area where the Coastal Commission has retained permit jurisdiction (Exhibit 3). The Commission's permit jurisdiction is based on the

existence of tidelands, submerged lands, and public trust lands. According to the Commission's Coastal Zone Boundary Determination No. 14-2011, the subject site, including the sandy beach, is located on tidelands submerged land and land that is potentially subject to the public trust. Based on this boundary determination, the Coastal Commission is asserting jurisdiction over Children's Pool Beach, even though the City of San Diego has a certified Local Coastal Program (LCP). Thus, the standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified City of San Diego Land Use Plan (specifically the La Jolla Community Plan and Local Coastal Program Land Use Plan) serve as guidance. As conditioned, the proposed project is consistent with the certified LCP and all applicable Chapter Three policies of the Coastal Act and will not prejudice the ability of the City of San Diego to continue to implement its LCP for the La Jolla area.

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental impacts have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of the Coastal Act to conform to CEQA.

## **APPENDIX A: SUBSTANTIVE FILE DOCUMENTS**

La Jolla Community Plan and Local Coastal Program Land Use Plan; 1931 Tidelands Trust; Senate Bill 428 effective as of January 1, 2010; CDP #6-93-026; CDP #6-00-126; CDP #6-05-098; CDP #545642; CDP Appeal No. A-6-LJS-08-065; CDP #701673; CDP Appeal No. A-6-LJS-10-009; City of San Diego Resolution R-305837 passed by the City Council on May 17, 2010; Spring 2012 Harbor Seal Counts conducted by Park Ranger Richard Belesky; Historic Maps circa 1887 and 1894; Marine Mammal Protection Act of 1972

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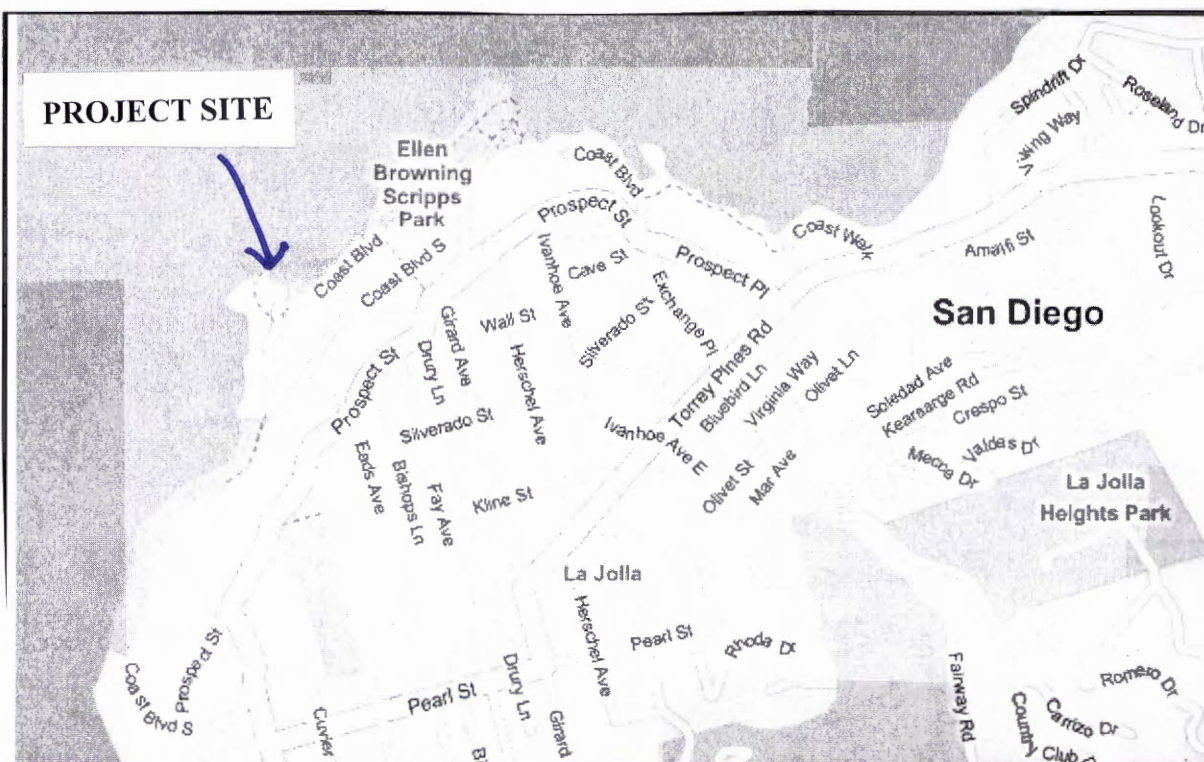
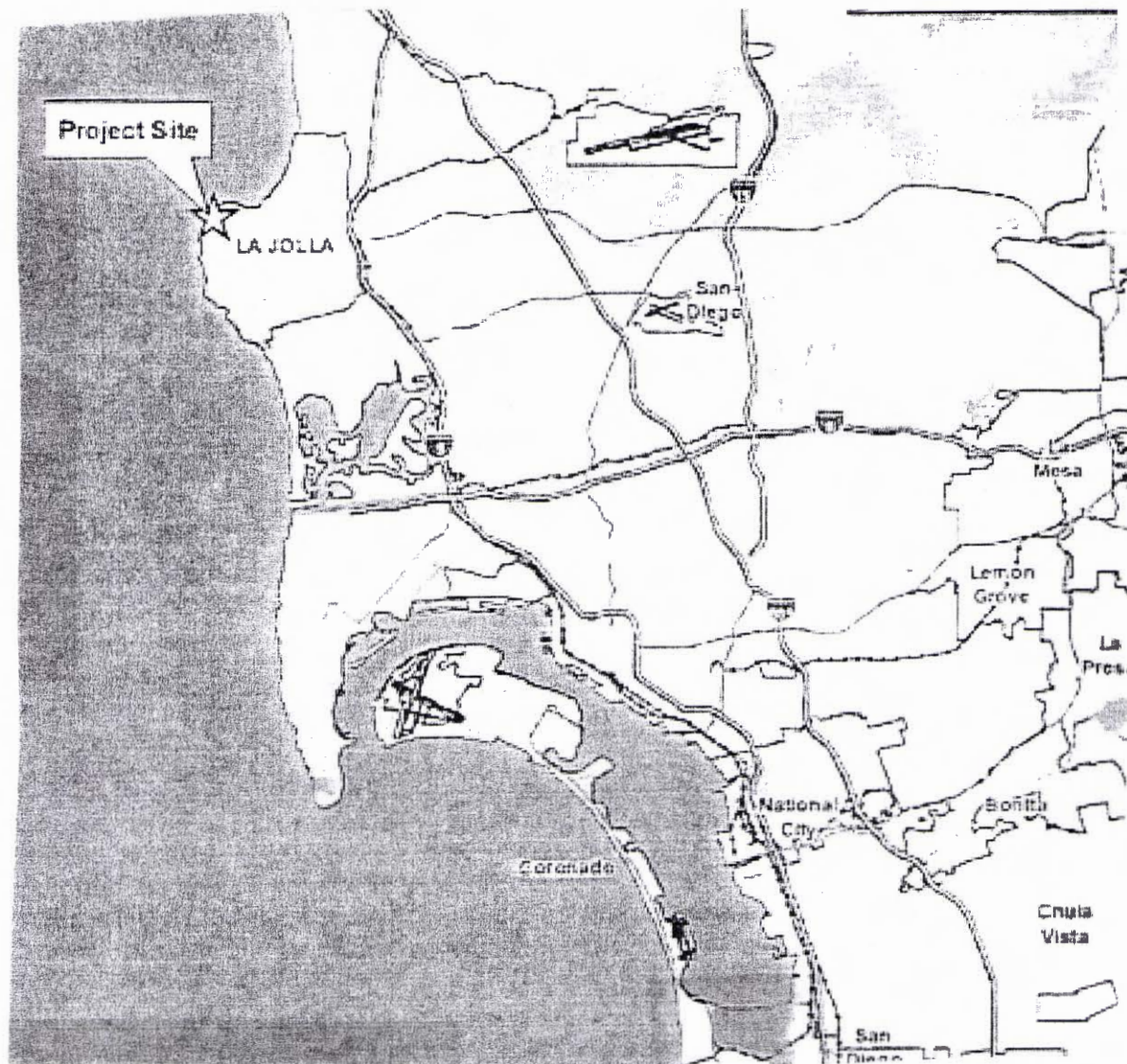


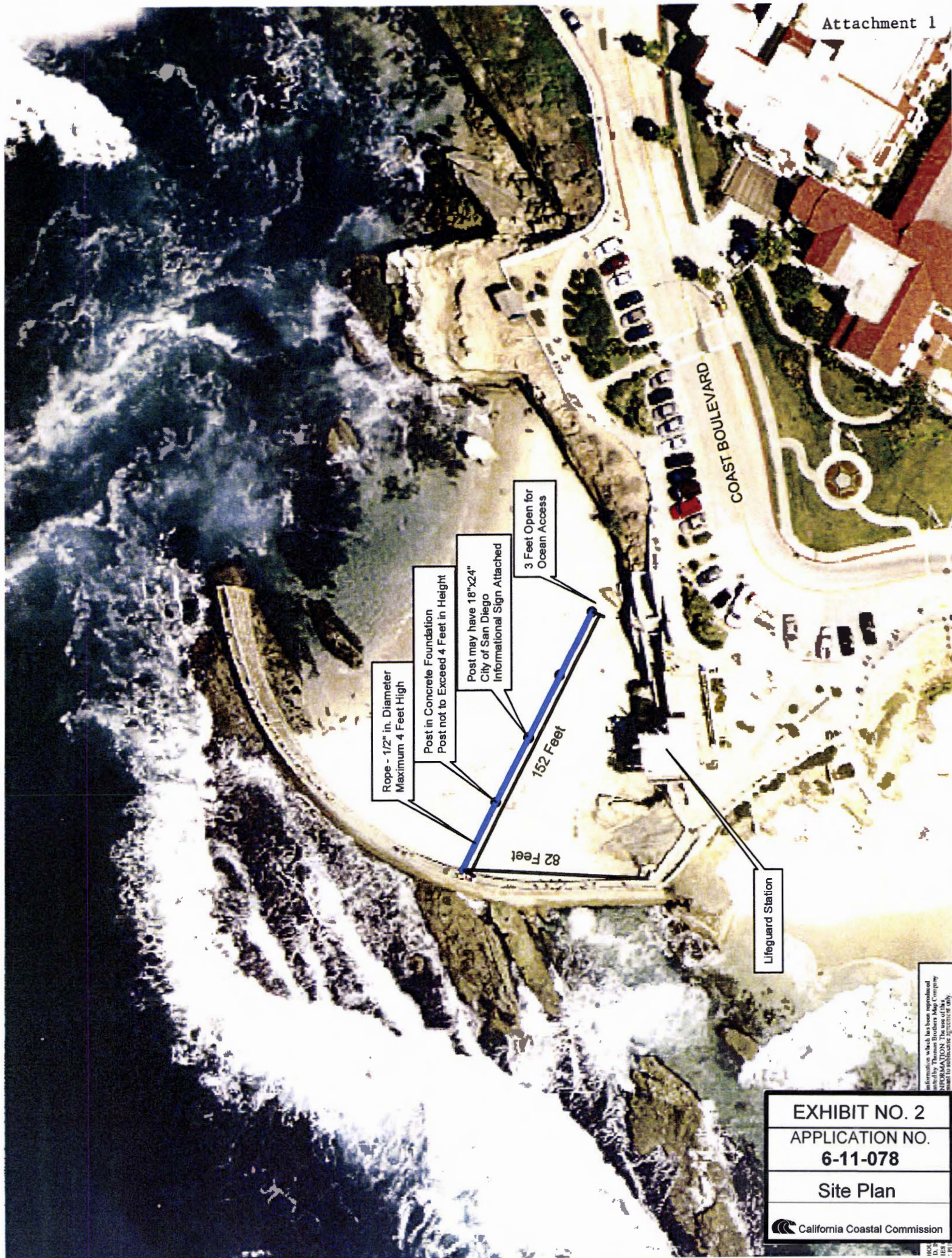
EXHIBIT NO. 1

APPLICATION NO.

6-11-078

Location Map





Rope - 1/2" in. Diameter  
Maximum 4 Feet High

Post in Concrete Foundation  
Post not to Exceed 4 Feet in Height

Post may have 18"x24"  
City of San Diego  
Informational Sign Attached

3 Feet Open for  
Ocean Access

152 Feet  
82 Feet

Lifeguard Station

EXHIBIT NO. 2
APPLICATION NO.
6-11-078
Site Plan
 California Coastal Commission

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It is not to be distributed outside of your organization or used for any other purpose.



**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2 219  
VOICE (415) 904-5 200  
FAX (4 15) 904-5 400  
TDD (415) 597-5885



August 19, 2011

To: Deborah Lee, San Diego Coast District Office Manager

From: Jon Van Coops, GIS/Mapping Program Manager

Cc: Jan I. Goldsmith, City Attorney, City of San Diego, Civil Litigation Division,  
1200 Third Avenue, Suite 1100, San Diego, CA 92101-4100

Subject: Coastal Zone Boundary Determination No. 14-2011, Children's Pool Rope  
Barrier Project, City of San Diego.

---

A jurisdictional boundary determination has been requested for the Rope Barrier project located at Children's Pool, City of San Diego. Enclosed is a copy of a portion of Coastal Zone Boundary Map No. 158 (La Jolla Quadrangle) with the approximate location of the project area indicated. See Exhibit 1. Also included is an Aerial Site Plan exhibit that depicts the Rope Barrier project with the Coastal Commission's permit jurisdiction identified. See Exhibit 2.

Based on the information provided and available in our office, the Children's Pool Rope Barrier project appears to be located entirely within the coastal zone and entirely with the Coastal Commission's retained permit jurisdiction as indicated on Exhibit 2. Any development that is proposed within this area would require coastal development permit authorization from the Coastal Commission. The Coastal Commission's permit jurisdiction is based on the existence of tidelands, submerged lands and public trust lands. The information available indicates that the area in question appears to be located, in part, on tidelands submerged land and land that is potentially subject to the public trust. Based on this information the Coastal Commission is asserting jurisdiction over the entire Children's Pool Rope Barrier project.

Please contact Darryl Rance of my staff at (415) 904-5335 if you have any questions regarding this determination.

Attachments

EXHIBIT NO. 3

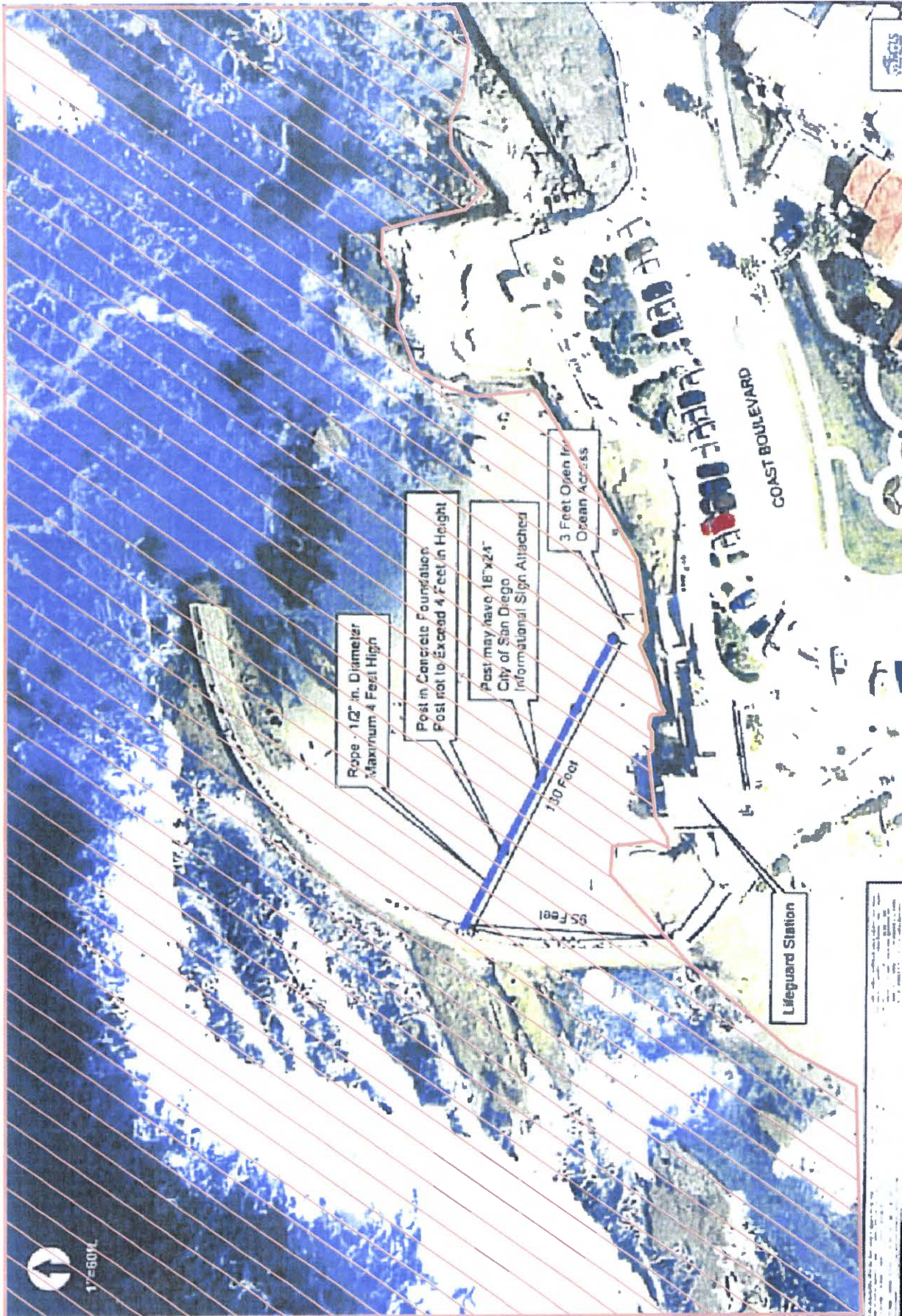
APPLICATION NO.

6-11-078

Jurisdiction Memo

California Coastal Commission





## Exhibit 2

DAR 07/2011

### Coastal Commission Permit Jurisdiction

For illustrative purposes only.



EXHIBIT NO. 3  
APPLICATION NO.  
6-11-078

Jurisdiction Map





EXHIBIT NO. 4

APPLICATION NO.

6-11-078

Proposed Signage





THE CITY OF SAN DIEGO

# 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.





# WARNING!

MARINE MAMMALS  
ARE PROTECTED  
BY FEDERAL LAWS



**PLEASE! Do NOT Disturb Marine Mammals.**

**Observe Them From a Safe Distance and Keep Pets on a Leash.  
Marine Mammals are Wild Animals and Can be Dangerous!**

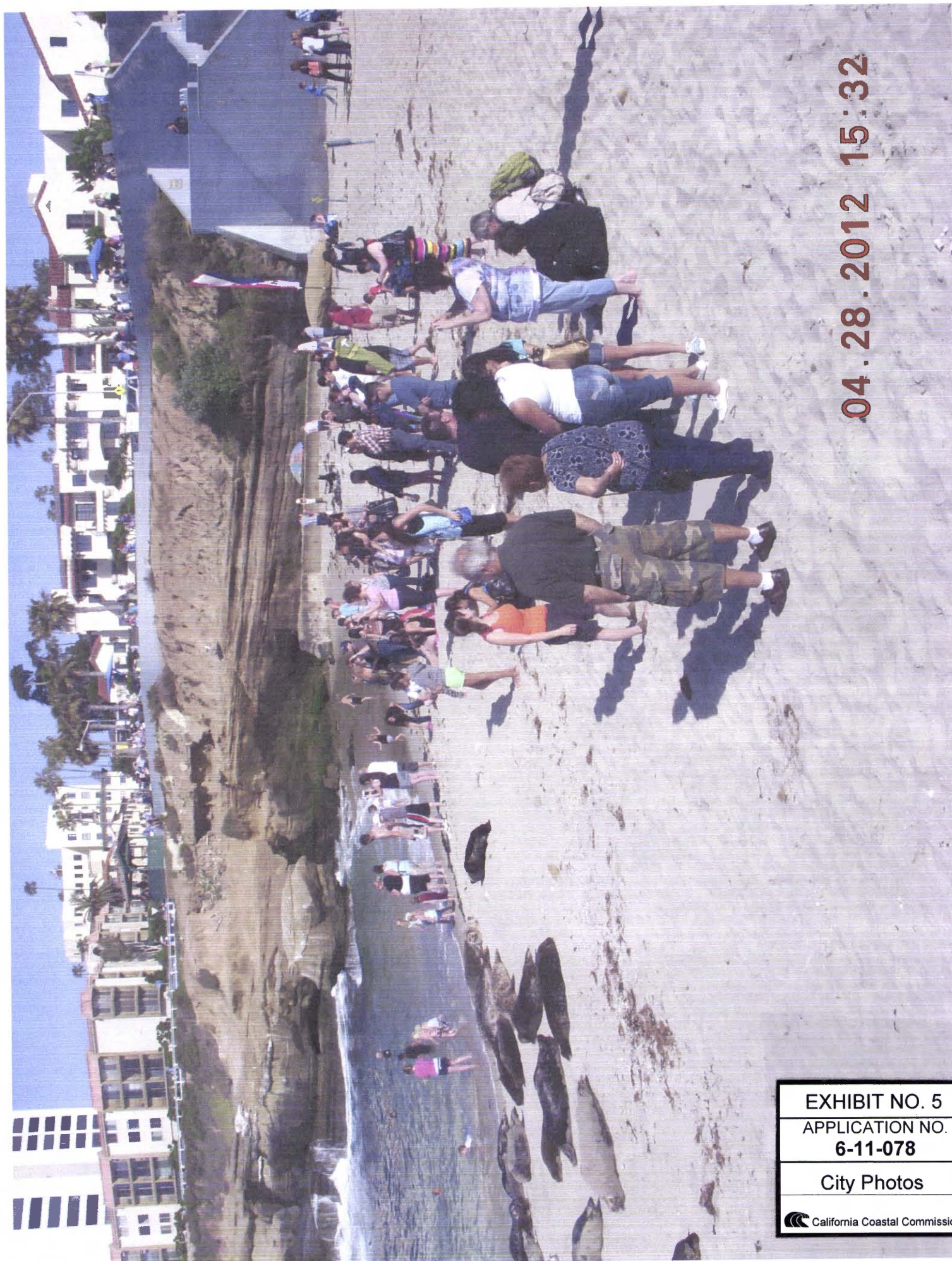
It is Against the Law to Feed, Harass, Hunt, Capture, or Kill Marine Mammals. This Includes Any Act of Pursuit, Torment or Annoyance that has the Potential to Injure or Disturb a Marine Mammal. Violators are Subject to Civil and Criminal Penalties under The Marine Mammal Protection Act.



**Report Violations to the NMFS Enforcement Hotline:**

**1-800-853-1964**



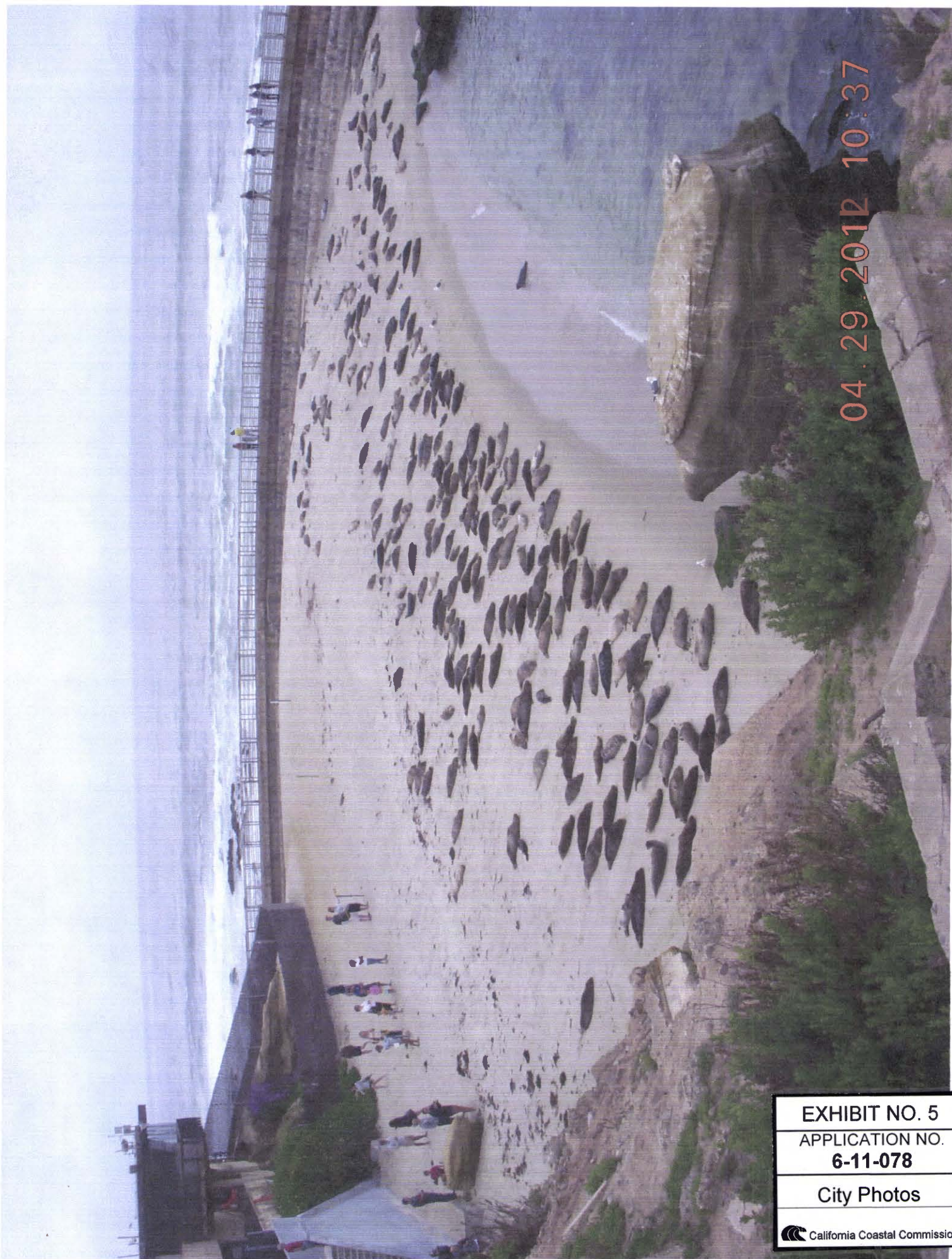


04.28.2012 15:32

EXHIBIT NO. 5  
APPLICATION NO.  
6-11-078

City Photos





04.29.2012 10:37

EXHIBIT NO. 5

APPLICATION NO.

6-11-078

City Photos



Children's Pool Beach Site Visit Photos - May 10, 2012





**CLERK'S FILE COPY**(R-2010-794)  
REV. COPY20  
5/17RESOLUTION NUMBER R- 305837DATE OF FINAL PASSAGE JUN 03 2010

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT A COASTAL EMERGENCY EXISTS REQUIRING THE IMMEDIATE PLACEMENT OF THE ROPE BARRIER; DIRECTING THE MAYOR TO SEEK AN EMERGENCY AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 701673/SITE DEVELOPMENT PERMIT NO. 701765 AND FOLLOW UP PERMITS TO KEEP THE ROPE BARRIER UP YEAR AROUND AT CHILDREN'S POOL; DIRECTING THE CITY ATTORNEY TO DRAFT AN ORDINANCE AMENDING SAN DIEGO MUNICIPAL CODE SECTION 63.0102, PROHIBITING ANY PERSON FROM BEING ON THE CHILDREN'S POOL BEACH DURING HARBOR SEAL PUPPING SEASON; DIRECTING THE MAYOR TO AMEND THE LOCAL COASTAL PROGRAM ACCORDINGLY IF NECESSARY, AND TO PROPOSE SIGNAGE BASED ON THE COUNCIL'S ACTION AND TO REPORT BACK TO NR&C.

WHEREAS, in 1931, the State of California granted Children's Pool area tidelands to the City of San Diego upon the condition that said lands were to be developed exclusively to public park, bathing pool for children, parkway, highway, playground and recreational purposes and other uses as may be convenient for the full enjoyment [Trust]; and

WHEREAS, on September 14, 2004, the Council approved Resolution No. R-299646 authorizing the joint use of Children's Pool; and

WHEREAS, in April 2006 and December 2006, the City Council resolved that a rope barrier be placed at the Children's Pool during pupping season (December 15 to May 15); an emergency Coastal Development Permit [CDP] was obtained and rope barrier was installed at those times and subsequently each year; and

EXHIBIT NO. 7
APPLICATION NO. 6-11-078
City Resolution
 California Coastal Commission

WHEREAS, on September 22, 2009, City staff presented for Council's consideration a Site Development Permit [SDP], CDP and Environmental Impact Report [EIR] that proposed the removal of approximately 3,000 cubic yards of sand from the Children's Pool to allow water to circulate reaching decontamination levels for human use of the beach, at which time Council voted not to certify the EIR; and

WHEREAS, on December 2, 2009, the City Hearing Office approved a CDP for annual placement of the rope barrier during pupping season; the permit was appealed to the Planning Commission and California Coastal Commission and was denied by both bodies; and

WHEREAS, effective January 1, 2010, the Trust was amended by the State legislature to list an additional use of the Trust; a "marine mammal park for the enjoyment and educational benefit of children"; and

WHEREAS, on March 17, 2010, the Natural Resources and Culture Committee considered several management options of the Children's Pool as presented by various community organizations; and

WHEREAS, on April, 5, 2010, the Natural Resources and Culture Committee held a special hearing to consider various management options or combination of management options regarding the Children's pool during harbor seal pupping season, December 15 to May 15, and non-pupping season, May 16 to December 14; and

WHEREAS, the Natural Resources and Culture Committee voted to direct the Mayor to seek an emergency amendment to the existing Coastal Development Permit at the Children's Pool to allow the rope barrier to remain year around, to seek a local coastal program amendment to prohibit the public from entering the beach from December 15 to May 15, to prohibit dogs on



the beach year around, and to seek private funding for a Park Ranger or Lifeguard with the primary duty of patrolling Children's Pool and authorizing the Park and Recreation Department to create a volunteer docent program lead by the Park Ranger or Lifeguard; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a coastal emergency exists requiring the immediate year around placement of the rope barrier.

BE IT FURTHER RESOLVED, that the Mayor or designee is directed to, within 10 days of the date of final passage of this resolution, seek an emergency amendment to Coastal Development Permit Number 701673 and Site Development Permit Number 701765 to keep the rope barrier up year around at Children's Pool 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, Report to Council, and any other information required to process and obtain an emergency Coastal Development Permit.

BE IT FURTHER RESOLVED, that, the Mayor or his designee is directed, as a required condition of a grant of an 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 Children's Pool and to timely submit the permit applications.

BE IT FURTHER RESOLVED, that the City Attorney is directed to draft an ordinance amending Municipal Code section §63.0102, Use of Public Parks and Beaches Regulated, to prohibit public access to the Children's Pool beach during harbor seal pupping season, from December 15 to May 15, for docketing at the City Council no later than June 30, 2010.

BE IT FURTHER RESOLVED, that the Mayor or his designee is directed to amend the Local Coastal Program, only if required, to prohibit the public from entering the beach during harbor seal pupping season, from December 15<sup>th</sup> through May 15<sup>th</sup>.

BE IT FURTHER RESOLVED, that the Mayor or his designee is directed to propose appropriate signage based on the Council actions and provide a written report back to the Natural Resources and Culture Committee within 45 days.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas  
Shannon M. Thomas  
Deputy City Attorney

SMT:mm  
04/29/2010  
05/18/2010 Rev. Copy  
Or.Dept:City Council Comm.  
R-2010-794  
MMS #12099

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 17 2010.

ELIZABETH S. MALAND  
City Clerk

By [Signature]  
Deputy City Clerk

Approved: 6-3-10  
(date)

[Signature]  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

# 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. WHEELER**  
City Engineer.

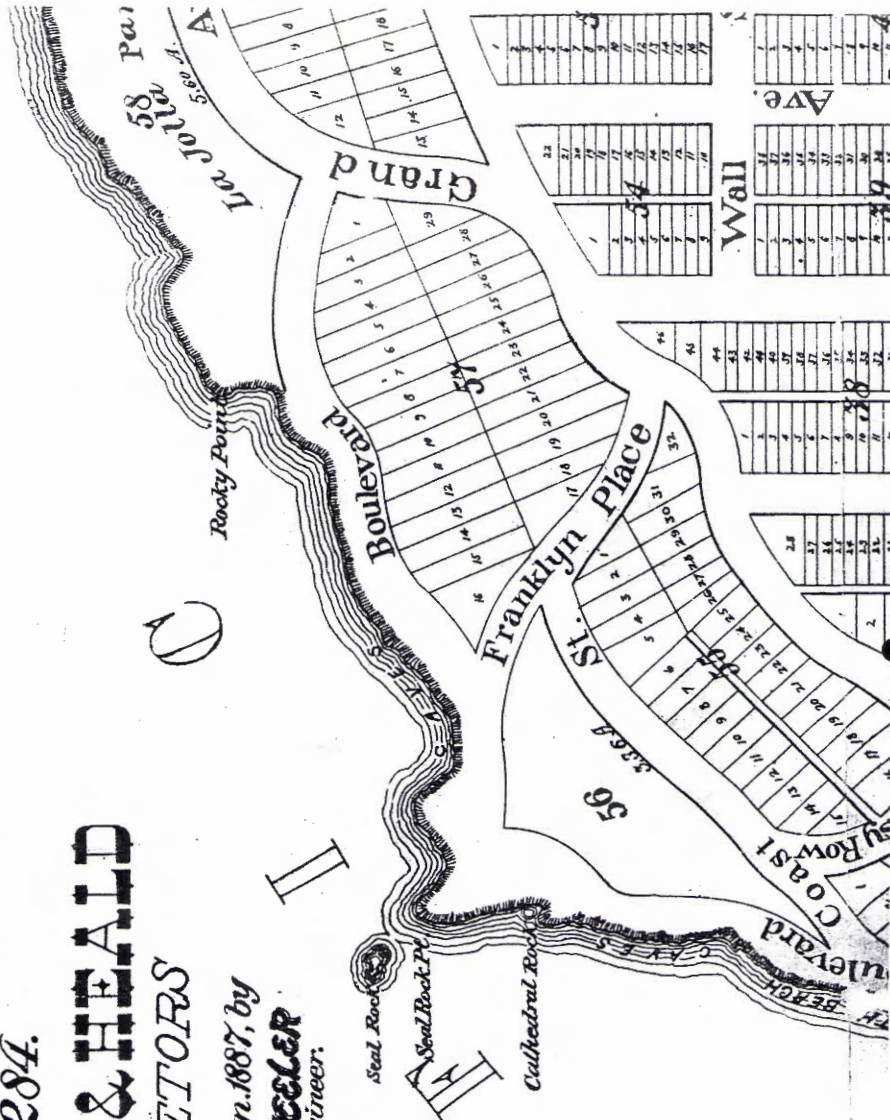
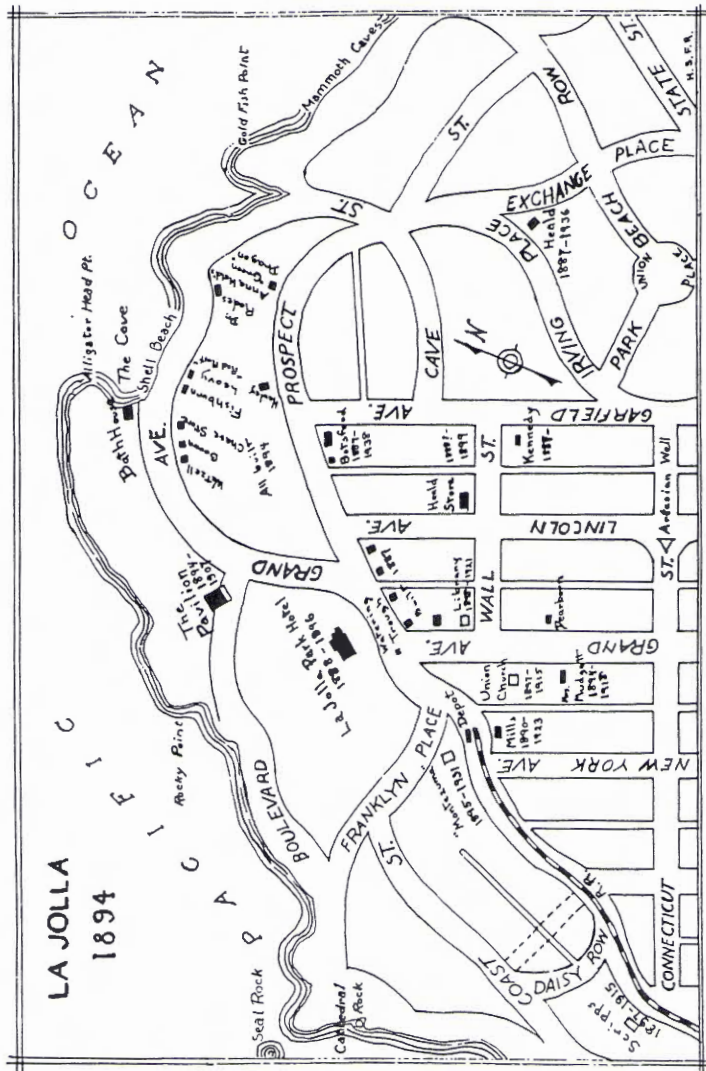


Figure 8

EXHIBIT NO. 8  
APPLICATION NO.  
6-11-078  
Historic Maps





### MAP OF LA JOLLA IN 1894

This map shows the old street names, and the site of most of the buildings (shown in black) that were then standing. Other buildings, shown in outline, were erected soon after: The "Montezuma Cottage" (afterward the "Seaside Inn" and then the "Ocean View") was erected in 1895; Miss Scripps' home, "South Moulton Villa" and the Union church in 1897, and the Library in 1898.

"LA JOLLA YEAR BY YEAR" HOWARD S.F. RANDOLPH LA JOLLA 1955  
©1946 ©1955

the meetings were held at the home of the interest would be slight—on the President, Miss Scripps, and the church parlor and spent the afternoon." But then new members would join and the club would carry on. It was in the Room—now the Library—until they got them out. Then it met at Miss Scripps' home on Herschel avenue.

### The La Jolla Literary Club

In 1897 the name of the club was changed to "The La Jolla Literary Club," and in October of that year, on Feb. 19, 1897, an evening, with sixty members present, the address of welcome was given by a sonnet, "La Jolla," Mrs. Woodworth read "On the Beach," Ellen Mills read "The La Jolla," and Ellen Scripps read her prophecy. Two duets were sung. In 1901 the dues were raised to one dollar. In 1902 the club was reorganized, and changed its name to "The La Jolla Woman's Club."

### The La Jolla Woman's Club

On motion made by Mrs. Carey, on Arbor Day, 1902, it was so honored was replanted on the site of a precarious existence. It grew until it was evident it would not last. Then La Jolla's good fairy came to the rescue. The modern club house, from plans by Mrs. Scripps, was laid on December 2, 1913, and dedicated on that occasion.

On Oct. 3, 1914, the club was reorganized (drafted by Mr. Jacob C. Scripps) and a meeting was held in the new club house at that time.

EXHIBIT NO. 8  
APPLICATION NO.  
6-11-078

Historic Maps

California Coastal Commission

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT  
710 "E" STREET, SUITE 200  
EUREKA, CA 95501  
(707) 445-7873

**MEMORANDUM**

FROM: John D. Dixon, Ph.D.  
Ecologist

TO: Kanani Brown

SUBJECT: San Diego Children's Pool

DATE: June 21, 2012

---

Document reviewed:

Carretta, J.V. and 15 others. 2011. U.S. Pacific Marine Mammal Assessments: 2011. Chapter entitled "Harbor Seal (*Phoca vitulina richardii*): California Stock. NOAA National Marine Fisheries Service, Southwest Science Center, La Jolla, CA.

Cottingham, D. (Marine Mammal Commission). 2005. Letter to R.R. McInnis (Nation Marine Fisheries Service) dated 3 November 2005 regarding incidental take of harbor seals during dredging of the Children's Pool.

Lecky, J.H. (Nation Marine Fisheries Service). 1999. Letter to T. Williams (City of San Diego) regarding an Incidental Harassment Authorization to dredge the Children's Pool dated October 19, 1999.

Lecky, J.H. (Nation Marine Fisheries Service). 2002. Whose beach is it anyway? Managing seals at Children's Pool, La Jolla, CA. Background paper prepared for the Workshop on the Management of Hawaiian Monk Seals on Beaches in the Main Hawaiian Islands, 29-31 October 2002 cosponsored by the Marine Mammal Commission, National Marine Fisheries Service, and Hawaii Division of Aquatic Resources.

Hanan & Associates. 2004. Biological letter report and recommendations for Contruction regarding pinniped surveys at Children's Pool, La Jolla, California. A report dated May 1, 2004 submitted to the City of San Diego.

Ragen, T.J. (Marine Mammal Commission). 2008. Letter to C.C. Lautenbacher (U.S. Department of Commerce) dated 25 August 2008 regarding harassment of harbor seals at the Children's Pool and public safety.

**EXHIBIT NO. 9****APPLICATION NO.****6-11-078****Staff Bio Memo**

California Coastal Commission



Yochem, P.K. and B.S. Stewart. 1998. Behavioral ecology and demography of seals and sea lions at the Seal Rock Marine Mammal Reserve. Final report dated 2 January 1998 to the Seal Rock Marine Mammal Reserve Ad Hoc Committee convened by the City of San Diego Park and Recreation Department.

---

Harbor seals (*Phoca vitulina*) have a cosmopolitan distribution in the coastal waters of the northern hemisphere. As was the case for populations of most pinniped species, harbor seal populations along the west coast of North America were decimated by commercial hunting during the 19<sup>th</sup> and early 20<sup>th</sup> centuries. In 1951, the Department of Fish and Game estimated that there were only about 500 individuals along the California coast. Fortunately, the numbers of most populations have strongly rebounded since the Marine Mammal Protection Act was enacted in 1972. Today, the International Union for Conservation of Nature (IUCN) estimates the worldwide population as being between 350,000 and 500,000. The National Marine Fisheries Service's estimate for the California stock is about 30,000, which is probably approaching the regional carrying capacity. The species is of "least concern" for the IUCN and is considered either stable or growing in California.

In the La Jolla area, harbor seals have long used seal rock as a haul-out site (one of about 1,000 such sites in California) and the City of San Diego designated that area as a Marine Mammal Reserve. In the early 1990s, harbor seals also began hauling out on a regular basis, and in greater numbers, onto the sand beach at the nearby Children's Pool, a protected area created by the construction of a seawall in 1931. By 1995, the seals were more-or-less continuously utilizing the site for hauling out and as a rookery to give birth to and raise their pups. The average number of seals on the beach is around 75, with abundance highest from around January through July. Dependent pups are present from around March through June. The persistent presence of relatively large numbers of harbor seals within this artificial embayment has resulted in high levels of coliform bacteria that exceed that state water quality standard.

Federal law would allow the City to address the water quality problem by harassing the seals (a federal "take") in order to get them to leave the area and haul out elsewhere. Indeed, the National Marine Fisheries Service discourages closing public beaches to the general public because of use by common pinniped species. However, the Service cautions against the shared use of beaches by people and seals. At the Children's Pool their major stated concern was not the effect of people on seal behavior, but that the members of the public could be cited for harassment or even be bitten. In fact, there is ample evidence that curious people are harassing the seals, creating an illegal and dangerous situation that is of concern to the Marine Mammal Commission. The intrusive behavior of the public would be much more disruptive were it not for the unusual behavior of seals at this beach.

Over much of their range, harbor seals tend to be extremely shy and will flush into the water when people approach within a 100 m or so and will react to boats at an even greater distance. At some locations, human disturbance has even caused complete abandonment of a haul-out site. At the Children's pool, people are closely present at all hours moving about and making loud noises. There is also a complete complement of loud urban sounds on the street above. However, for the most part, the seals only tend

to flush when very closely approached and the number of seals present after a significant disturbance has little effect on the numbers present a short time later.

Although there are unlikely to be population consequences regardless of what actions are taken at the Children's Pool, it is nonetheless important that steps be taken to prevent the harassment of individual seals and to avoid forced flushing, especially during the period when dependent pups are present. Due to the fact that the numbers and distribution of seals on the beach varies both seasonally and from day-to-day, an adaptive management plan that could respond to changing circumstances would be most useful. Since a year-round rope barrier at the Children's Pool will have no negative biological impacts and will help protect the harbor seals using the beach, I concur with staff's recommendation to approve the proposed project, as conditioned.

To review comment letters of opposition regarding this project, please see the flowing link:

<http://documents.coastal.ca.gov/reports/2012/7/W10d-7-2012.pdf>

EXHIBIT NO. 10

APPLICATION NO.

**6-11-078**

Letters of Opposition



California Coastal Commission



To review comment letters of support regarding this project, please see the flowing link:

<http://documents.coastal.ca.gov/reports/2012/7/W10d-7-2012.pdf>

EXHIBIT NO. 11
APPLICATION NO.
<b>6-11-078</b>
Letters of Support