

CALIFORNIA COASTAL COMMISSION

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original staff report

F21a

Addendum

October 31, 2016

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item F21a**, Coastal Commission Permit Application No. **6-15-0424 (Name)**, for the Commission Meeting of Friday, November 4, 2016.

The purpose of this addendum is to attach the applicant's response letter to the revised findings. Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by a ~~striketrough~~ and additions shall be underlined:

1. Add Exhibit 17 – Applicant Response Letter to Revised Findings

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October 17, 2016

F21a

VIA ELECTRONIC MAIL AND U.S. MAIL

Mr. Steve Kinsey, Chair, and
Members of the California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: November 4, 2016 Hearing: Objection to Revised Findings for Blue World
Orca Habitat CDP Application 6-15-0424

Dear Chair Kinsey and Members of the Coastal Commission:

On behalf of SeaWorld San Diego we respectfully object to approval of the proposed Revised Findings for the Blue World CDP application referenced above. SeaWorld greatly appreciates the long history of the close and cooperative working relationship with the Coastal Commission. However, we believe that the adoption of Revised Findings is not warranted or needed at this point in time because of recent changes in state law and SeaWorld's previous announcements regarding its orca breeding program and presentations.

On September 13, 2016 the Governor signed SB839 which places in statute a prohibition on breeding orcas. The legislation also requires SeaWorld to transition its orca theatrical shows to education presentations, and allows for orca transportation, rescue and rehabilitation.

As you may know, on March 17, 2016, SeaWorld announced that it was ending its orca breeding program, making the current whales in its care the last generation at the company's facilities. The whales will live out their lives at SeaWorld, where they will continue to receive

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EXHIBIT NO. 17

APPLICATION NO.

6-15-0424

Applicant Response
Letter

California Coastal Commission

Mr. Steve Kinsey, Chair, and
Members of the California Coastal Commission
October 17, 2016
Page 2

the highest-quality care based on the latest advances in marine veterinary medicine, science and zoological best practices. Guests will be able to observe these orcas through new educational encounters and in viewing areas within the existing habitats.

As you are aware, SeaWorld announced several months ago it will not proceed with the Blue World project.

In our letter to Coastal Commission staff dated April 18, 2016, SeaWorld formally withdrew its application for the above-referenced CDP. In that letter, we informed your staff that SeaWorld will not undertake any further action to support or facilitate the above-referenced application. Accordingly, SeaWorld will not sign, acknowledge or accept the terms of any permit as described in the Notice of Intent to Issue Permit for Application 6-15-0424 dated December 3, 2015.

In furtherance of the new state law and these decisions, SeaWorld has dismissed its legal challenge to the proposed project conditions.

The draft Revised Findings do not accurately reflect the high quality of care received by SeaWorld's thriving orca population. The Revised Findings statements regarding our orcas do not reflect facts or science.

We also respectfully repeat our contention that the Coastal Commission does not have jurisdiction over the care and wellbeing of captive marine mammals, as explained in our previous letters of April 13, 2015, August 21, 2015 and October 1, 2015.

For all the foregoing reasons, we believe adoption of Revised Findings is an unnecessary exercise and inefficient use of Coastal Commission resources.

Very truly yours,



David E. Watson

cc: Sherilyn Sarb
Alexander Llerandi

CALIFORNIA COASTAL COMMISSION

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F21a

Staff: A. Llerandi-SD
Staff Report: 10/7/16
Hearing Date: 11/4/16

Revised Conditions and Findings

Application No.: 6-15-0424

Applicant: SeaWorld San Diego

Agent: Darlene Walter

Location: 500 SeaWorld Drive, Mission Bay Park, San Diego, San Diego County (APN: 760-037-01-01)

Project Description: Replace and expand existing orca facility with a new 43 ft. by 75 ft., 450,000 gallon (Pool E) and a 250 ft. by 350 ft. 5.2 million gallon (Pool F); demolish an existing 5,500 sq. ft. bathroom and food facility and construct a new 2,900 sq. ft. bathroom facility; manage the orca facility consistent with applicant's proposal that the facility will not house any orcas taken from the wild after ~~February 12, 2014~~ January 1, 2012, or the descendants of any orcas taken from the wild after January 1, 2012, with the exception of rescued orcas, nor will it utilize genetic material taken from orcas taken from the wild after ~~February 12, 2014~~ January 1, 2012, or from their descendants, and that the orca population will be capped at 15 individuals ~~not significantly increase except as may occur incrementally through sustainable population growth, with the exception of rescued orcas.~~

Staff Recommendation: Approval with conditions.

STAFF NOTES

Staff recommends the Commission adopt the following revised findings in support of the Commission's action on October 8, 2015. In its action, the Commission approved the permit, but Special Condition No. 1 was modified, in accordance with changes made to the project description by the applicant at the hearing, to prohibit the approved killer whale facility at SeaWorld San Diego from housing killer whales taken from the wild after January 1, 2012, or the descendants of any such killer whales, with the exception of government-approved rescued killer whales; prohibit the use of the genetic material of any killer whale taken after January 1, 2012 or their descendants; and to cap the population of the approved facility at 15 individuals. Special Condition No. 1 was further modified by the Commission to prohibit the breeding and artificial insemination of captive killer whales, as well as prohibit the sale, trade, or transfer of any captive killer whale except to preserve the health of the killer whale or rescued killer whales or where authorized pursuant to a take permit under the Marine Mammal Protection Act. The amended motion begins on Page 7. The amended Special Conditions begin on Page 8. Findings to support these modifications can be found starting on Page 12.

Commissioners on Prevailing Side: Bochco, Cox, Groom, Howell, Kinsey, Luevano, McClure, Mitchell, Shallenberger, Turnbull-Sanders, Uranga, Vargas

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval with conditions. SeaWorld San Diego proposes to expand their existing orca facility by demolishing portions of prior expansion areas to their Shamu "killer whale" facility constructed in 1995. The project would replace the existing 1,700,000 gallon Pool E with a smaller 450,000 gallon pool, and construct a new 5.2 million gallon pool (Pool F). No changes to the seating at the existing stadium are proposed. ~~The orca facility will be managed such that it will not house any orcas taken from the wild after February 12, 2014, nor utilize any genetic material from orcas taken from the wild after February 12, 2014, and that the orca population housed at the subject facility will not significantly increase except as may occur through sustainable population growth pursuant to accredited reproductive guidelines, with the exception of rescued orcas at the request of one or more governmental agencies.~~ The project site is located within the leasehold of SeaWorld, in Mission Bay Park in the City of San Diego.

The subject project has received a great deal of attention due to the ongoing debate regarding the captivity and treatment of orcas at exhibit facilities. Commission staff carefully considered the various viewpoints regarding marine mammal captivity, as well as the complex interplay of various state and federal agencies involved in the field.

Relying on Section 30230 of the Coastal Act, which protects marine resources and species of special significance, Commission staff reviewed the proposed expansion with regard to how the project would impact marine mammals in the marine environment. Orcas are the largest members of the dolphin family, and a species of special biological significance. They are apex predators, living in documented social and familial groups. Orcas can be found in oceans all over the world, and many either reside or migrate through California waters. ~~While not applying Section 30230 to the orcas that now exist at SeaWorld San Diego, many of SeaWorld's orcas were taken from the wild and the wild orcas contribute to the genetic material used in breeding.~~

Staff reviewed copious amounts of information submitted by the public regarding the regulatory framework addressing marine mammals and the evidence and testimony of experts on the observed effects of wild capture and prolonged captivity. In reviewing such precedents and information, the Commission staff analyzed the connections between marine mammal captivity and the effects it may have, directly or indirectly, to orcas in the wild, in addition to the effects on the captive marine mammals themselves. In doing so, the Commission staff determined that, while no orcas have been taken from U.S. waters since the 1980's, their future capture is still a possibility, and that a captive orca system generally, and this proposed ~~orea~~ facility expansion specifically, could potentially create the incentive to commit such capture in the future, which would be an adverse impact to California's coastal resources and to a species of special biological significance.

The applicant ~~has recently~~ amended its project to include a commitment that the improved orca facility will not house any killer whales taken from the wild after January 1, 2012, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild ~~February 12, 2014, and that no genetic material from any killer whale taken from the wild after January 1, 2012~~ February 12, 2014 will be utilized, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild. SeaWorld has further agreed that the population of the proposed orca facility will be capped at 15 individuals. The killer whale population at the subject facility will not significantly increase except as may occur incrementally through sustainable population growth consistent with reproductive guidelines of one or more nationally recognized marine mammal accreditation organizations. The subject facility may be home to beached or rescued whales at the request of one or more governmental agencies. In addition to the above changes to the proposal made by SeaWorld, the Commission also found that captive orcas qualify as a marine resource and species of special biological or economic significance subject to Coastal Act Section 30230. Due to the adverse physiological and behavioral impacts that scientific observation has documented in captive orcas, SeaWorld, in constructing the proposed orca facility, will be prohibited from the sale, trade, or transfer of any orca into or out of the proposed facility, except as allowed under Marine Mammal Protection Act take permits or as required to protect the health of an orca, and is also prohibited from further breeding or artificial insemination of the orca population currently residing in SeaWorld San Diego.¹ **Special Condition No. 1** captures this by clearly stating that the authorized

¹ In a letter to Commission staff dated December 22, 2015, SeaWorld San Diego argued that the Marine Mammal Protection Act exception applies not just to the sale, trade or transfer, but also to the breeding of any orca subject to a federal take permit, relying on statements made by commissioners during their deliberation at the October 8, 2015, hearing. Staff has carefully reviewed the transcript of the commissioners' deliberations on this matter and disagrees with SeaWorld's interpretation. During deliberations, Commissioner Bocho proposed an amending motion to "expand Condition One to say that it would further prohibit captive breeding, artificial insemination, the sale, trade or transfer of any Orca in captivity." After the Commission's Chief Counsel pointed out the limitations on restricting the transfer of animals subject to a take permit, Chair Kinsey sought clarification from the maker of the amending motion that the motion "would be consistent with federal law regarding take," to which Commissioner Bocho concurred. Since, as discussed in Section IV.C., below, the federal take provisions of the Marine Mammal Protection Act do not govern the conditions of animals once they are in captivity, the

development includes ~~this~~ SeaWorld's commitment as well as the additional prohibitions required by the Commission's permit action. Therefore, the project avoids the possibility that approval of this facility could contribute to demand for capturing orcas that frequent California's coastal waters.

Other Coastal Act issues associated with this project besides impacts on marine resources include potential adverse impacts to public access from traffic and construction siting impacts, public views from the encroachment of development into the view shed, water quality from water use by the animal facilities and runoff from related landscaping and pedestrian areas.

Because SeaWorld is a popular tourist destination located in Mission Bay Park, the largest municipal water park in the United States, the potential arises that the proposed orca facility expansion could engender a substantial increase in park attendance, which in turn would impact public access to the general park area due to traffic and parking impacts. In order to address such potential, Commission staff reviewed the past five years of traffic monitoring reports submitted by SeaWorld pursuant to past coastal development permits to determine that adequate parking continues to be available and that the surrounding street intersections continue to operate at acceptable levels under current park attendance.

Due to its size and the ongoing state of drought in California, SeaWorld is a large and important consumer of potable water in the San Diego region. In analyzing the impact of the proposed development on the potable water supply, Commission staff analyzed the water savings from the proposed salt water restroom facility, as well as SeaWorld's implementation of low-water irrigation and water reduction measures throughout the park to determine that the increase in fresh water usage is minimized to the greatest extent feasible.

Mission Bay Park is a predominantly flat public aquatic park, and thus it offers the public wide vistas of the coastal area. Substantially above-grade development could adversely impact this coastal view by blocking public views or degrading the visual aesthetic of the park area. Because the proposed development is an expansion of a below-grade orca facility, and the above grade components will be substantially below the local 30-foot height limitation and screened by surrounding park development, the proposed development will not engender adverse visual resource impacts.

Due to the aquatic nature of the greater Mission Bay Park area, the water table is relatively shallow, and thus liquefaction during a seismic event is a potential safety risk. Commission staff, in analyzing the geotechnical surveys of the project site, determined that implementation of certain construction elements and foundation measures would substantially minimize the risk of liquefaction and improve public safety.

Historically, the Old Mission Bay Landfill occupied a parcel of land to the east of the SeaWorld leasehold. Past expansion of SeaWorld is such that the easternmost parking lot is underlain by the western portion of the landfill, and thus water quality and public safety issues have arisen when substantial development within the park has come before the Commission. With regards to

Marine Mammal Protection Act does not require an exception to allow for the breeding of a captive orca that is subject to a federal take permit.

the subject proposal, which is approximately 1,700 feet west of the western boundary of the historic landfill, Commission staff analyzed geological borings as well as methane monitoring data to determine that detritus and gases associated with the landfill have not migrated underground to the project site.

To address these potential adverse impacts the Commission staff is recommending **eight additional Special Conditions** that address final construction, landscaping, drainage, and staging and storage plans, disposal of fill outside the coastal zone, future development triggers for traffic mitigation measures, implementation of construction noise mitigation measures, and indemnity of the Commission in case of legal challenge. **Special Condition No. 2** requires SeaWorld to submit and adhere to final plans approved by the Coastal Commission so as to ensure that the final development is in substantial conformance with the design that avoids or minimizes impacts to coastal resources. **Special Condition No. 3** requires SeaWorld to adhere to final approved landscape plans that minimize risk from invasive species, as well as incorporates measures that minimize the amount of potable water used in irrigation. **Special Condition No. 4** requires SeaWorld to adhere to approved drainage plans due to the park's system of pumping water in and out of Mission Bay, as well as runoff that will be generated from the site. Because the proposed project consists of excavating a large volume of soil, **Special Condition No. 5** requires SeaWorld to submit and adhere to an approved construction and staging storage plan so as to ensure that construction impacts are contained within the SeaWorld leasehold and do not spill outside of the leasehold, where it might impact public access. **Special Condition No. 6** requires SeaWorld to dispose of any excess spoils in a legal site outside of the Coastal Zone. **Special Condition No. 7** reiterates that additional traffic and public access mitigation measures may be required for future development once annual attendance at SeaWorld exceeds 4 million visitors. **Special Condition No. 8** requires SeaWorld to conduct approved development pursuant to the noise reduction measures outlined in the August 21, 2015, memo explaining the various methods that the orcas can be protected from harmful construction noise impacts. **Special Condition No. 9** requires SeaWorld to indemnify the Commission for any attorneys' fees and court costs that the Commission may incur in defense of litigation filed by third parties challenging the Commission's approval of the permit.

Commission staff recommends **adoption** of the revised findings for coastal development permit application 6-15-0424, as conditioned.

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APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Aerial Photo
- Exhibit 3 – Existing Facilities
- Exhibit 4 – Proposal Comparison
- Exhibit 5 – Site Plans
- Exhibit 6 – Renderings
- Exhibit 7 – Photo Survey
- Exhibit 8 – Hubbs-Sea World Memoranda Regarding Noise Impacts
- Exhibit 9 – SeaWorld Project Addendum
- Exhibit 10 – Virgin Pledge
- Exhibit 11 – Public Comments
- Exhibit 12 – Support Letters
- Exhibit 13 – Opposition Letters
- Exhibit 14 – Ex Parte
- Exhibit 15 – Applicant’s Response
- Exhibit 16 – Unofficial October 8, 2015, Hearing Transcript Prepared by Applicant

I. MOTION AND RESOLUTION

Motion:

I move that the Commission adopt the revised findings in support of the Commission's action on October 8, 2015, concerning approval of Coastal Development Permit No. 6-15-0424.

Staff recommends a YES vote on the foregoing motion. Passage of this motion will result in adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The Commissioners eligible to vote are:

Commissioners Bochco, Cox, Groom, Howell, Kinsey, Luevano, McClure, Mitchell, Shallenberger, Turnbull-Sanders, Uranga, and Vargas.

Resolution:

The Commission hereby adopts the findings set forth below for Coastal Development Permit 6-15-0424 on the grounds that the findings support the Commission's decision on October 8, 2015, and accurately reflect the reasons for it.

Motion:

I move that the Commission ~~approve~~ Coastal Development Permit 6-15-0424 pursuant to 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 6-15-0424 and ~~adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.~~

II. STANDARD CONDITIONS

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. **Authorized Orca Facility.**
 - a. By acceptance of coastal development permit No. 6-15-0424, the applicant agrees to implement the project as originally proposed and as amended by the SeaWorld Addendum to the Blue World Project Description dated September 21, 2015 (Exhibit 9), and as amended during the October 8, 2015 hearing, and consistent with all special conditions, including that the Project will be managed consistent with the Virgin Pledge against collection of killer whales from the wild. Based on the Virgin Pledge, to which SeaWorld is a signatory, the Project will not be home to any killer whales taken from the wild after ~~February 12, 2014~~ January 1, 2012 or the descendants of any killer whales taken from the wild after January 1, 2012, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild, and no genetic material from any killer whale taken from the wild after ~~February 12, 2014~~ January 1, 2012, or any descendants of killer whales taken from the wild after January 1, 2012, will be utilized, ~~with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild.~~ The Project killer whale population will be capped at a maximum of 15 individuals.

- b. No breeding or artificial insemination of any captive killer whale may occur. No sale, trade, or transfer of any captive killer whale into or out of the facility may occur except to preserve the health of the killer whale or rescued killer whales. The prohibition on the sale, trade, or transfer of captive killer whales out of the facility does not apply to the extent such sale, trade, or transfer is authorized under a take permit issued pursuant to the Marine Mammal Protection Act. ~~not significantly increase except as may occur incrementally through sustainable population growth consistent with reproductive guidelines of one or more nationally recognized marine mammal accreditation organizations.~~ The Project may be home to beached or rescued whales at the request of one or more governmental agencies, but only for so long as needed to rehabilitate the beached or rescued whale and return it to the wild.
2. **Final Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final project plans. Said plans shall be in substantial conformance with the plans submitted on April 13, 2015. The final plans shall:

 - a. Incorporate all recommendations contained in the March 17, 2015, geotechnical survey of the project site and proposed development conducted by Christian Wheeler Engineering.

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

3. **Final Landscape Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final landscape plans. Said plans shall be in substantial conformance with the plans submitted on April 13, 2015. Said plans shall incorporate the following:

 - a. All new landscaping shall be drought tolerant and native or non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
 - b. Any irrigation utilizing potable water shall incorporate drip irrigation or microspray systems.

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

4. **Final Drainage Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final construction and post-construction drainage and Best Management Practice plans. Said plans shall be in substantial conformance with the plans submitted on April 13, 2015.

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

5. **Construction Staging and Storage Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final construction staging and storage plans to ensure that construction impacts are contained within the SeaWorld leasehold and do not spill outside of the leasehold, where it might impact public access.

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

6. **Disposal of Graded Materials.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission.

7. **Future Development.** When documented annual attendance at the SeaWorld Park reaches 4 million visitors, the applicant shall notify the Executive Director in order to review potential impacts to public access. Additional traffic and parking mitigation measures may be required for subsequent identified Tier 2 project and Special project sites, pursuant to the SeaWorld Master Plan Update EIR.

8. **Noise Reduction Program.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director a written agreement whereby the applicant agrees to implement the noise reduction measures outlined in the SeaWorld memo dated August 21, 2015, from Hubbs-SeaWorld Research Institute.

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

9. **Liability for Costs and Attorney Fees.** By acceptance of this coastal development permit, the Applicant/Permittee agree to reimburse the Coastal Commission in full for all

Coastal Commission costs and attorney's fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's 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

SeaWorld San Diego proposes to expand their existing orca facility by demolishing portions of a previous expansion to the existing Shamu “killer whale” facility constructed in 1995. The project would replace the existing 1,700,000 gallon Pool E with a smaller 450,000 gallon pool, and construct a new 5.2 million gallon pool (Pool F). No changes to the seating at the existing stadium are proposed.

As incorporated in the Addendum to the Blue World Project Description dated September 21, 2015 and revised at the October 8, 2015, hearing, the applicant agrees to all of the following to be included in the proposed project description: that the Project will be managed consistent with Virgin Pledge against collection of killer whales from the wild. Based on the Virgin Pledge, to which SeaWorld is a signatory, the Project will not be home to any killer whales taken from the wild after ~~January 1, 2012~~ February 12, 2014, and no genetic material from any killer whale taken from the wild after ~~January 1, 2012~~ February 12, 2014, will be utilized, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild. The Project’s killer whale population will not exceed 15 individuals ~~significantly increase except as may occur incrementally through sustainable population growth consistent with reproductive guidelines of one or more nationally recognized marine mammal accreditation organizations~~. The Project may be home to beached or rescued whales at the request of one or more governmental agencies.

Currently there are five pools in the stadium facility: Pool A has a volume of 2.2 million gallons, Pool B is 900,000 gallons, Pool C 940,000 gallons, Pool D is 80,000 gallons, and Pool E is 1.7 million gallons, for an existing total of approximately 5,820,000 gallons. The proposed development would redesign Pool E to reduce its volume to approximately 450,000 gallons, while the new Pool F would hold approximately 5.2 million gallons, for a new total volume of 9,600,000 gallons, an increase in total pool volume of approximately 3,780,000 gallons. Expansion of the orca facility will require the excavation of approximately 35,000 cubic yards of soil from the project site.

SeaWorld is located within Mission Bay Park in the City of San Diego. It is situated adjacent to Mission Bay on the north and SeaWorld Drive to the south, and is surrounded largely by City parklands consisting of grassy, open areas. Mission Bay Park is an area of deferred certification, where the Commission retains jurisdiction and Chapter 3 policies of the Coastal Act are the standard of review, with the certified master plans for SeaWorld and Mission Bay Park LUP segments used as guidance.

B. PROJECT HISTORY

SeaWorld began construction in 1961 and opened to the public in 1964. Since then, the park has operated under a number of different master plans. The SeaWorld Master Plan is a separate, stand-alone segment of the certified Mission Bay Park Master Plan LUP. The most current plan, the SeaWorld Master Plan Update, was certified by the Commission on February 7, 2002, and addressed future development within the SeaWorld leasehold over the subsequent 15-20 years

(LCPA No. 2-2001C). The SeaWorld Master Plan Update sets forth the long-range conceptual development program, development parameters, and project review procedures for the future renovation of the SeaWorld Adventure Park. One of the stated goals of the SeaWorld Master Plan Update is “to define development criteria for future conceptual development areas,” and the “purpose is to “create a framework for continued improvements and renovations to the park into the new century.” The SeaWorld Master Plan update recognized that:

“The SeaWorld site is unique in both the type and frequency of development projects within the leasehold. Each year, SeaWorld processes numerous projects to upgrade park facilities and keep attractions in top working order. Additionally, in response to consumer demands and competition in the theme park industry, SeaWorld regularly undertakes renovations of its larger attractions, rides, shows, or exhibits.”

Sections III and IV of the SeaWorld Master Plan establish “Development Criteria” and “Design Guidelines,” respectively, to govern subsequent development. Section III states that the “section sets forth the development parameters applicable to the entire leasehold or specific leasehold areas in this plan. The intent is to ensure that all future development will be distributed and constructed in a manner that, to the extent feasible, harmonizes with the established visual quality of Mission Bay Park.” Section IV states that the “guidelines are intended as standards to be used by SeaWorld designers of buildings, landscaping, signage, and lighting as well as by maintenance personnel. The City of San Diego Real Estate Assets, Park and Recreation and Planning Departments, parks advisory committee, and City Council will utilize the design guidelines as a standard for evaluation of proposed new projects or for modifications to existing development.”

The existing pool at the rear of the orca facility that is the subject of this permit was approved by Commission at the March, 1995, hearing as CDP No. 6-95-13. That CDP authorized construction of a fourth orca holding pool to serve as an exhibit with above and below water viewing areas and whale interaction areas totaling 1,200 sq. ft. as part of the existing orca stadium facility.

C. MARINE RESOURCES

Section 30001 of the Coastal Act describes the goals of the Act:

The Legislature hereby finds and declares that:

(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.

(b) That the permanent protection of the state’s natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

Additionally, Section 30001.5 of the Coastal Act states:

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) maximize public access to and along the coast and maximizing public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

Chapter 3 policy, 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 significance. Uses of the marine environment shall be carried out in a manner that will sustain 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 30411 of the Coastal Act states:

(a) The Department of Fish and Game and the Fish and Game Commission are the principal state agencies responsible for the establishment and control of wildlife and fishery management programs and the commission shall not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by these agencies pursuant to specific statutory requirements or authorization.

[...]

The proposed project is an expansion of an existing facility that currently holds eleven orcas. The applicant has indicated that the intent of the proposed project is to increase the volume of water

the orcas inhabit with a facility that emulates natural coastal habitats to improve the public experience in which the park visitors are able to view the orcas. Since the Commission approved construction of an addition to the existing orca facility in 1995, serious questions have been raised regarding the capture, treatment, and breeding of marine mammals. The applicability of these concerns with the regulatory authority of the California Coastal Commission and the Chapter 3 policies of the Coastal Act cited above are discussed in detail below.

Other Applicable Statutes

The regulation of captive marine mammals involves various government agencies at different levels of government. At the federal level, the Marine Mammal Protection Act (MMPA) of 1972 protects all marine mammals and prohibits their take in United States waters and by United States citizens on the high seas, as well as the importation of marine mammals and marine mammal products into the United States. “Take” is defined in the MMPA as “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal” (1616 U.S.C. §1362(13)), while “harass” is defined by regulation as “any act of pursuit, torment, or annoyance which (i) has the potential to ~~either (a)~~ injure a marine mammal or marine mammal stock in the wild, or (ii) ~~(b)~~ disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including which includes, but is not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.” (16 U.S.C. §1362(18) ~~50 C.F.R. § 216.3.~~)

Federal authority under the MMPA is divided between the Secretary of the Interior – acting through the U.S. Fish and Wildlife Service (USFWS) – and the Secretary of Commerce – acting through the National Oceanic and Atmospheric Administration (NOAA). Under the MMPA, the USFWS regulates otters, walruses, polar bears, manatees, and dugongs, while NOAA regulates pinnipeds and cetaceans, which includes orcas. A third agency – the Marine Mammal Commission (MMC) – reviews policies and advises the other two agencies.

In certain cases, the MMPA allows the issuance of permits for the removal of marine mammals from the wild, importation of marine mammals, or transfer of releasable rehabilitated marine mammals, for the purposes of public display. Within NOAA, the National Marine Fisheries Service (NMFS) Office of Protected Resources oversees the issuance of permits for incidental and direct takes of the marine mammals under NOAA’s purview, which includes orcas. NMFS also maintains the National Inventory of Marine Mammals (NIMM), which tracks acquisitions (births, wild captures, and imports), dispositions (deaths, escapes, and releases), and transfers/transports (between owners or facilities) of marine mammals under its purview. Due to amendments to the MMPA in 1994, once a permit has been issued by NMFS for the removal, import, or transfer of a marine mammal for public display, a permit from NMFS is not required to maintain the marine mammal in public display facilities, unless the species is listed under the Endangered Species Act (ESA). While Lolita, the sole orca being kept at the Miami Seaquarium, is listed under the ESA due to her being taken from the Southern Resident orca population prior to that population’s listing on the ESA, the orcas at SeaWorld San Diego are not listed as endangered.

To qualify for a public display take permit, the displaying facility must meet three criteria: (1) the facility offers an education or conservation program, (2) the facility is open to the public on a regular basis; and (3) the facility is licensed by the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA). For a domestic facility to

export non-ESA listed marine mammals to a foreign facility, NMFS must verify that the receiving facility meets comparable criteria and obtain confirmation from the foreign government that such criteria are enforced.

The 1994 amendments to the MMPA transferred authority over captive animal care and maintenance to the USDA/APHIS and removed the requirement for facilities to obtain MMPA permits to hold marine mammals for public display. The USDA/APHIS has jurisdiction over animal care and maintenance for all marine mammals held for public display purposes under the Animal Welfare Act of 1966 (AWA). (7 U.S.C. § 2131 *et seq.*) This includes space, veterinary care, transport, and public interaction programs.

The AWA regulates the treatment of warm-blooded animals in research, exhibition, transport, and by dealers. While other laws, policies, and guidelines may include additional species coverage or specifications for animal care and use, the AWA is the minimum acceptable standard. The USDA/APHIS oversees the implementation of the AWA; exhibitors must be licensed under APHIS. The APHIS Animal Care program conducts unannounced inspections of facilities by either a lay inspector or a trained veterinarian – depending on facility – at least once a year to ensure they are in compliance with regulations and to identify unregistered facilities, with follow-up inspections conducted when non-compliance is identified. Inspections of SeaWorld are conducted by a trained veterinarian.

At the state level, the California Department of Fish and Wildlife (CDFW) is one department within the California Natural Resources Agency responsible for the establishment and control of wildlife and fishery management programs. The CDFW has the power to regulate the taking or possession of birds, certain mammals, fish, amphibian, and reptiles for non-commercial purposes. However, as discussed below, the take of marine mammals is pre-empted by federal law under the MMPA. NMFS has not transferred regulatory authority regarding the take of marine mammals to California, so CDFW does not regulate the take of orcas. For the animals that are within its purview, CDFW regulates take in part through issuance of hunting and fishing licenses, establishing seasons for such taking activity, overseeing aquaculture activities, and combating poaching and illegal animal sales.

The California Coastal Commission, also part of the California Natural Resources Agency, was established in 1976 in order to regulate development and preserve, protect, and restore the coastal resources of California. The Coastal Act includes specific policies that address terrestrial and marine habitat protection, as cited above.

Preemption Analysis

The MMPA does preempt the Commission from regulating the “take” of marine mammals, including orcas. Amendments to the MMPA that were enacted in 1994, however, clarify that the MMPA does not govern the treatment of marine mammals once they are in captivity. The AWA regulates the care of marine mammals once they are in captivity, but the AWA allows states to establish additional requirements beyond the minimum requirements of the AWA.

Regarding the field of “take,” Section 109(a) of the MMPA (16 U.S.C. § 1379(a)) declares that:

No State may enforce, or attempt to enforce, any State law or regulation relating to the taking of any species (which term for purposes of this section includes any population stock) of marine mammal within the State unless the Secretary has transferred authority for the conservation and management of that species (hereinafter referred to in this section as "management authority") to the State under subsection (b)(1).

To date, the federal government has not transferred authority for the conservation and management of orcas to the state of California, and thus the Coastal Commission, as a state agency, is precluded from enforcing the Coastal Act with respect to the taking of species regulated under the MMPA.

Regarding the care of captive animals, including breeding, Section 2143(a)(1) of the AWA (7 U.S.C. § 2143(a)(1)) states that “the Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors,” while Section 2143(a)(8) concludes by stating that “Paragraph (1) shall not prohibit any State (or political subdivision of a State) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1).” Thus, whereas the MMPA expressly preempts state regulation of the taking or importing of marine mammals, the AWA, which regulates the care of captive marine mammals *after* the taking has occurred, explicitly permits states and their agencies to promulgate their own standards of captive animal care in addition to what is contained in the AWA.

The Commission’s action on this application is not a regulation relating to the take of orcas. As defined above, take under the MMPA as it applies to this situation is related to the removal and importation of orcas, which are not at issue in the current proposal. SeaWorld has formally incorporated as part of the project description that the proposed facilities will not contain orcas taken from the wild after January 1, 2012 ~~February 12, 2014~~. All of the orcas at SeaWorld San Diego are either long removed from the wild or were born in captivity. As such, while NMFS must be notified should one of the captive orcas die, give birth, or be transferred, that notification is not related to take, and thus does not need a new take permit from NMFS. The notification is required so that NMFS may update the NIMM. It is the AWA that now governs the day-to-day care of the captive orcas at SeaWorld San Diego, including breeding, and it is the AWA that sets the federal minimum requirements of care to which states and their agencies, may add to.

Regarding whether there is competing jurisdiction with CDFW, that state agency regulates wildlife through wildlife and fishery management programs. With regard to marine mammals, the CDFW has informed Commission staff that the federal agencies take the lead, and that CDFW gets involved when there is take of a restricted species (such as abalone), but that because federal regulations preclude state regulation of marine mammal take, there are no marine mammals listed as restricted species in CDFW’s jurisdiction. CDFW does inspect aquariums and facilities such as SeaWorld for the presence of invasive species, but orcas are not considered invasive species. If there were to be an orca taken from California state waters, in addition to required federal permits (for which the Commission could seek to conduct federal consistency review to determine consistency of the federal permit with the Coastal Act), a permit for scientific collection would have to be obtained from CDFW (the proposed project does not require a federal permit and therefore is not subject to the Commission’s consistency review authority under the federal Coastal Zone Management Act). Section 30411 of the Coastal Act prohibits the Commission from imposing controls that duplicate or exceed regulatory controls

established by CDFW. However, because CDFW has not established regulatory controls regarding marine mammals, Section 30411 does not limit the Commission’s authority in this context.

In conclusion, with regard to the proposed improvements to the orca facility and the captive orcas currently residing therein, the MMPA’s preemption regarding matters of take does not preclude Commission action to implement any applicable Coastal Act requirement that may apply to marine mammals (including in captivity), except as it may relate to the take of marine mammals. The AWA and Section 30411 also do not limit the Commission’s authority regarding marine mammals. As explained below, however, Section 30230 of the Coastal Act protects marine mammals only to the extent they qualify as marine resources of the State. SeaWorld’s modified project description and **Special Condition No. 1** ensure that the project as approved will not adversely affect California’s wild orca population, consistent with Section 30230.

Existing Orcas and Facility

According to the NIMM maintained by NMFS, there are four facilities in the United States that hold captive orcas, three of them being SeaWorld facilities: SeaWorld San Diego has eleven, SeaWorld San Antonio has seven, and SeaWorld Orlando has six, for a total of 24 orcas. The fourth facility – Miami Seaquarium – has only one orca. Of the eleven orcas at SeaWorld San Diego, eight were born in captivity and three originated in the wild. There are currently 56 orcas in captivity worldwide, with 24 of them (43%) under SeaWorld’s care.

Currently, there are five pools in the stadium facility: Pool A has a volume of 2.2 million gallons, Pool B is 900,000 gallons, Pool C is 940,000 gallons, Pool D is 80,000 gallons, and Pool E is 1.7 million gallons, for an existing total of approximately 5,820,000 gallons. The proposed development would redesign Pool E to reduce its volume to approximately 450,000 gallons, while the new Pool F would approximately 5.2 million gallons, for a new total volume of 9,600,000 gallons, an increase in total pool volume of approximately 3,780,000 gallons.

The dimensions of the existing and proposed pools are below. While the above volume capacities are accurate, due to the irregular shapes of many of the existing and proposed pools and due to drainage requirements and irregular design, the dimensions below are approximate and may not produce volumes equal to the numbers above:

Pool	Approximate Dimensions	Approximate Surface Area
A	35’ deep x 170’ long x 80’ wide	11,692 sf
B	15’ deep x 118’ long x 75’ wide	9,504 sf
C	15’ deep x 118’ long x 75’ wide	9,819 sf
D	9’ deep x 53’ long x 25’ wide	1,489 sf
E Existing	30’ deep x 125’ long x 75’ wide (google earth)	10,729 sf
E Proposed	18’ deep x 75’ long x 43’ wide	3,903 sf
F Proposed	50’ deep x 255’ long x 160’ wide; 350’ wide (on the arc)	27,688 sf
Total (existing):		43,233 sf
Total (proposed):		64,095 sf

Given the current orca population at SeaWorld San Diego, this equates to 529,091 gallons of water per orca. As proposed by the applicant, the new orca facility will increase water volume per orca to approximately 871,818 gallons, an increase of 342,727 gallons per orca. The current

pools have a maximum depth of approximately 35 feet while the proposed Pool F will have a maximum depth of approximately 50 feet.

The salt water utilized by the orca facility and the rest of SeaWorld San Diego's animal facilities is pumped in from Mission Bay and treated by SeaWorld's filtration systems to remove any pollutants or detritus prior to flowing into the various tanks and pools. Two chillers and two cooling towers using evaporative water cooling systems regulate the temperature of the water depending on incoming water temperature and the needs of the specific marine animals. Due to the increased size of the proposed orca facility, the two chillers and cooling towers will be replaced with two larger units to handle the greater volume of water. There will also be 12 additional 12-foot diameter filters and 2-12 foot diameter backwash recovery tanks added to the life support facility on the southern side of the orca facility.

Adequacy of Existing and Proposed Orca Facilities

The AWA and its related regulations set the minimum standards of care for animals in captivity in the United States. All standards and regulations for marine mammals were originally implemented in 1979, and the space requirements were last updated in 1984. Subpart E of the AWA regulations specifically address the humane handling, care, treatment, and transportation of marine mammals. Generally, the regulations require of animal enclosures proper construction, protection from viewer harassment, cleanable materials, adequate water and power, proper drainage, proper food storage, waste disposal, employee wash rooms, and safe animal equipment. Space requirements in the AWA regulations depend on the size class of the subject marine mammal. Orcas are identified as "Group I" cetaceans (i.e. the largest-sized group). In determining the minimum space required in a pool holding cetaceans, four factors must be satisfied: minimum horizontal dimension (MHD), depth, volume, and surface area. For Group I cetaceans, MHD should be 24 feet or two times the average adult length of the longest species of Group I cetaceans being housed, whichever is greater. AWA regulations list average orca length at 24 feet, so MHD for an orca would be 48 feet in all lateral directions, forming a minimum circular area. The minimum depth requirement for Group I cetaceans is one-half the average adult length of the longest species of cetacean being housed, or 6 feet, whichever is greater, so minimum depth for an orca would be 12 feet. Regarding volume and surface area, the AWA regulations state that if the aforementioned MHD and depth requirements are met, the AWA presumes that adequate water volume and surface area are also present for up to two Group I cetaceans.

The minimum volume of water required for up to two Group I cetaceans is based upon the following formula:

$$Volume = \left(\frac{MHD}{2} \right)^2 \times 3.14 \times depth$$

When there are more than two Group I cetaceans housed in a primary enclosure pool, the additional volume of water required for each additional Group I cetacean in excess of two is based on the following formula:

$$Volume = \left(\frac{\text{Average Adult Length}}{2} \right)^2 \times 3.14 \times \text{depth}$$

Thus, for the eleven orcas currently residing at SeaWorld San Diego, the minimum AWA volume requirement for the first two is 21,704 cubic feet of water, with each additional orca requiring an additional 5,426 cubic feet, for a total of 70,537 cubic feet required under federal regulations. The current orca facility at SeaWorld San Diego is 5,820,000 gallons. There are approximately 7.48 gallons in one cubic foot. Thus, the current orca facility is approximately 778,075 cubic feet, which equates to 70,734 cubic feet per current orca. The proposed expansion would create a new total space of approximately 1,283,422 cubic feet, which is 116,675 cubic feet per current orca. The proposed expansion will increase the volume of water per orca by 45,941 cubic feet.

The minimum surface area requirement for each cetacean, regardless of group, housed in a pool is based upon the following formula:

$$\text{Surface Area} = \left(\frac{\text{average adult body length}}{2} \right)^2 \times 3.14 \times 1.5, \text{ or: } SA = (L/2)^2 \times 3.14 \times 1.5$$

Thus, each orca is required to have a minimum of approximately 678 square feet of surface area. With eleven orcas, SeaWorld San Diego must provide a minimum of approximately 7,461 square feet of surface area. The existing orca facility provides approximately 43,233 square feet of surface area, or 3,930 square feet of surface area per orca. The proposed tank expansion will provide 64,095 square feet of surface area, or 5,827 square feet of surface area per orca. Both of these amounts are well above minimum federal guidelines.

The improved, expanded orca facility may enhance the quality of life for the orcas currently residing at SeaWorld San Diego. However, because the federal standards regarding water volume and surface area are substantially lower than what will be constructed, it is possible that as a result of the proposed expansion, the orca population could be dramatically increased in the facility. Under current federal minimum volume and surface area requirements, the existing orca facility at SeaWorld San Diego could hold up to 63 orcas, while the proposed expanded facility could hold up to 94 orcas. SeaWorld has agreed to limit the number of orcas in the facility to no more than 15 individuals. As discussed below, the addition of new orcas ~~from California's state waters~~ to the proposed facility would not be protective of marine resources as required by Section 30230.

Section 30230 Analysis

Section 30230 of the Coastal Act directs the Commission to ensure that coastal development will not adversely impact marine resources, and describes three avenues to do so. The requirements of Section 30230 are that: (1) marine resources shall be maintained, enhanced, and, where feasible, restored; (2) special protection shall be given to areas and species of special biological or economic significance; and (3) uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

The Commission has evaluated the impact of proposed projects on marine mammals that reside in or visit state waters, most frequently in the context of federal consistency review under the Coastal Zone Management Act. The Commission has based its decision at least in part on impacts to marine mammals from activities such as pulse devices (ref. CD-102-99), liquefied natural gas terminals (CC-079-06), seismic surveys (CC-027-12), and naval sonar exercises (CD-049-08 and CD-008-13). The Commission has also conditioned projects to protect marine mammals that are in captivity in California (CDP 6-01-129). In each case, the Commission recognized the marine mammals as marine resources warranting protection under Section 30230 of the Coastal Act.

Section 30230 of the Coastal Act protects California's marine resources, especially species of biological significance. Orcas are species of special biological significance because they are apex predators, and operate in documented social and familial groups. Orcas are toothed whales and the largest members of the oceanic dolphin family. They are found in oceans all over the world, from the Arctic to Antarctica, and many reside in or migrate through the waters off California's coast. Wherever they are found, orcas are a top predator and play the important roles that many predators play in their respective ecosystems, such as keeping populations of their prey healthy by weeding out the sick or infirm, and by keeping the population of their prey in check, maintaining the carrying capacity of the habitat area and protecting organisms further down the food chain from over-predation. When orcas are taken from the wild in sufficient numbers, it can impact this role. Furthermore, such takings can have adverse impacts not just on the orca taken, but on the remainder of that orca's pod, as it can disrupt the social hierarchy and cohesion of the pod, as well as their reproductive success.

Removing orcas from California's marine environment would affect predator-prey dynamics and would disrupt the social organization of orca pods; therefore, proposed development that could result in the removal of orcas from California's marine environment would be inconsistent with Section 30230. SeaWorld has agreed that no orcas taken from the wild after January 1, 2012 ~~February 12, 2014~~, will be housed at the proposed facility (with the limited exception of rescued orcas at the request of one or more government agencies), and that no genetic materials from such orcas will be utilized there. SeaWorld has furthermore agreed that the orca population of the proposed orca facility shall be capped at 15 individuals. **Special Condition No. 1.a.** ensures the enforceability of this agreement as part of the proposed and authorized development. This ensures that the project as approved will not indirectly harm California's marine environment inconsistent with Section 30230.

The question of whether the orcas currently in SeaWorld San Diego are subject to Section 30230 is an interpretive question. The Commission has interpreted Section 30230 to apply both to wild California orcas and captive marine mammals within the broader meaning and purpose of the Coastal Act (e.g. CD-008-13, pp. 18-19 [requiring separate consistency with the first sentence of § 30230 to maintain, enhance and restore marine resources; CD-16-00, pp. 8 – 16 [finding consistency with § 30230 for seismic testing impacts on marine mammals, including orcas]). The Commission analyzed the construction noise impacts for SeaWorld's splash down ride on adjacent captive dolphins ~~However, excepting analysis from construction noise impacts for SeaWorld's splash down ride (CDP 6-01-129),~~ the The Commission has not always applied section 30230 to captive marine animals, ~~even while~~ for example, when considering other tank installations or potential installations at Scripps Institute of Oceanography and UC Santa Cruz. In

light of the extensive public comment and expert testimony regarding this Project, the Commission finds that orcas are marine mammals that by definition qualify as marine resources wherever they are located, and that they also qualify as species of special biological or economic significance whether they are located in the wild or maintained in captivity, and thus warranting of the appropriate protections under Section 30230. The killer whale (*Orcinus orca*) is a species of special biological significance and, based on the currently available scientific data, captivity has an adverse impact on individual killer whales, which cannot be avoided due to the very nature of captivity.

In the wild, killer whales commonly travel 20 to 80 miles or more in a day, depending on ecotype, and spend the majority of their time, up to 95 percent, underwater, frequently diving to 100 feet, and periodically during the day diving to 500 feet or more. During their normal foraging activities, which occupy 50 to 80 percent of their time, a pod may cover from around 1 to 3 square miles in a day whereas the total home range may be 38,000 square miles. In contrast, the existing and proposed pools at Sea World would have a total surface area of about 0.002 square mile divided among 7 pools that vary from 9 to 50 feet in depth. This configuration makes a normal activity pattern impossible. No time is spent foraging and no time is spent traveling and animals often float motionless for long periods of time.

In the wild, killer whales are organized into social groups or pods based on maternal kinship. A pod may be comprised of several matriline, each made up of a female, her offspring, and her daughters' offspring. Within some ecotypes, offspring never leave their mothers. In addition, group vocal patterns differ among matriline and pods have distinctive unique dialects. In captivity, there is no opportunity for typical social interactions. Those whales taken from the wild were separated from their mothers and siblings on the occasion of their take and then grouped with unrelated and unfamiliar animals. Animals born into captivity usually are eventually separated from their mothers and moved from one facility to another where they must then interact with unrelated strangers often with a completely different vocal repertoire.

In their natural environment, killer whale females reach reproductive maturity some time before 12 years of age and give birth to their first viable calf when they are around 12-16 years old. Thereafter, births are generally separated by 3 to 8 years, with a mean of about 5 years. Males nearly always mate with females from other pods and when breeding does occur within a pod, males always mate with females from a different matriline, which prevents the deleterious effects of inbreeding. In captivity, breeding between close relatives has been allowed, females as young as 8 years have given birth, and females have been artificially inseminated less than two years after giving birth. Testimony has been given indicating that aggressive males have attempted to mate with their mothers or with sibling orcas.

Transient and resident animals generally do not show significant tooth wear. Although, some pods of wild killer whales have been observed with significant, more-or-less uniform tooth wear, sometimes down to the gum line, this is thought to be related to pod-specific feeding behavior – either suction feeding on herring or predation on sharks. In contrast, captive killer whales engage in the abnormal behavior of repetitively biting the hard steel and concrete surfaces of their containment facilities, wearing down and sometimes breaking teeth, especially in the mandible. This behavior is believed to be a manifestation of the stress and anxiety of captivity. At a certain level of severity, the pulp is drilled out and the cavity must then be periodically irrigated to

reduce the chance of infection. Killer whales held in net pens that have no hard surfaces do not show this tooth wear.

In the wild, mature animals have erect dorsal fins. These collagenous structures occasionally show abnormalities, such as fins that are bent, twisted, hooked, or collapsed to various degrees, probably due to trauma from various causes. In one study in New Zealand, 23 percent of 30 adult males had abnormal dorsal fins. This is higher than in other populations where dorsal fin abnormalities of all types affect only around 6 percent or less of adult males. Complete collapse of the dorsal fin was only observed for one animal (3%) in the New Zealand study and is extremely uncommon in the wild. In captivity, nearly all adult males have completely collapsed dorsal fins. The cause is not known, but there is general agreement among cetacean biologists that it is a symptom of the abnormal conditions of captivity, which drastically restrict movement and diving.

Testimony and studies were also submitted indicating that the stresses of captivity and unfamiliarity between the captive orcas have contributed to heightened aggression between captive individuals, with instances of attacks consisting of bites or ramming.

~~The context and language of Section 30230 concerns animals in the wild. The section is included in Chapter 3's Article 4, which is titled "Marine Environment," and with the exception of the reference to species of special significance in the second sentence of section 30230, all the other provisions of section 30230 address protection of resources in the marine environment. The first sentence of section 30230 requires that "marine resources" be maintained, enhance, and where feasible restored. The most straightforward interpretation of "marine resources" is that it consists of resources in the marine environment, i.e., ocean waters, not resources contained in onshore artificial structures. The second sentence requires special protection for areas and species of special biological or economic significance. The term "areas" of special significance clearly applies to the marine environment. Finally, the third sentence expressly addresses uses of the "marine environment." Given this context, it is likely that the Legislature intended the reference to species of special biological significance to apply to a species in California's marine environment.~~

~~Other provisions in the Coastal Act follow the same approach. They protect biological resources in their habitat, such as by protecting the biological productivity of coastal waters (§ 30231); ensuring the functionality of wetlands (§ 30233), and protecting habitat areas that support sensitive species (§ 30240). No provision of the Coastal Act expressly addresses the management of animals that are kept in captivity in an artificial environment.~~

~~Finally, the Coastal Act's legislative findings state that the coastal zone is "a distinct and valuable natural resource" and exists as a "delicately balanced ecosystem." (Pub. Resources Code, § 30001(a).) They further state that in order to protect wildlife and other ocean resources, "it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction." (Pub. Resources Code, § 30001(c).) In addition, the basic goals of the Coastal Act include protecting and enhancing the overall quality of the coastal zone environment and its natural and artificial resources. (Pub. Resources Code, § 30001.5(a).) These legislative findings and goals all express an intent to protect coastal resources, including wildlife, by protecting their environment and ecosystems.~~

Today, the population of captive orcas is such that facilities such as the SeaWorld San Diego are able to maintain their population of captive orcas through breeding, either through husbandry with two orcas or through the transfer of genetic material between facilities for artificial insemination. Of the 11 orcas at SeaWorld San Diego, 8 are captive bred, and of the 24 total in SeaWorld's care, 19 are captive bred. Besides transporting orcas or their genetic materials between its own facilities, SeaWorld San Diego periodically enters into agreements with other facilities in order to loan or borrow marine mammals for the purposes of captive breeding. Currently, the breeding of orcas, artificial or otherwise, is not regulated by the NMFS or USDA/APHIS, and thus federal permits are not required in order to breed orcas.

~~One of the consequences of captive breeding is that it reduces the need for a facility to procure a marine mammal from the wild, which would have an adverse impact on coastal habitats and resources. NMFS has not issued a permit for take of an orca from the wild for purposes of public display since the 1980's due to the fact that they have not received any applications to do so. SeaWorld has also signed onto a pledge authored by businessman Richard Branson that they will no longer take cetaceans from the wild, and recently announced the cessation of an agreement with the Georgia Aquarium to use wild-caught beluga whales the aquarium is attempting to import from Russia in its breeding program. As part of its project proposal, SeaWorld is proposing that the expanded orca facility will be managed such that it will not house any orcas taken from the wild after January 1, 2012 ~~February 12, 2014~~, nor utilize any genetic material from orcas taken from the wild after January 1, 2012 ~~February 12, 2014~~, and that the orca population will be capped at 15 individuals ~~not significantly increase except as may occur through sustainable population growth pursuant to accredited reproductive guidelines, with the exception of rescued orcas.~~~~

However, while the above restrictions on date of capture do lessen the likelihood of adverse impacts to orcas in the wild by decreasing the likelihood that the proposed orca facility expansion will encourage further capture elsewhere in order to obtain genetic material, they do not address the adverse impacts arising from captivity on orcas that may be bred in captivity in the future. In addition, so long as facilities such as SeaWorld San Diego exist that display captive orcas for entertainment purposes, it will contribute to the demand for the capture of wild orcas that frequent California's waters by facilities and nations that have not signed the Virgin Pledge in order to populate their captive orca facilities. In fact, multiple killer whales have been captured off the coast of Russia in the past three years for transport to various facilities both in Russia and neighboring countries, prompting the revision by the applicant of the date after which no captured orcas or their genetic material would be used in the proposed killer whale facility to January 1, 2012, from the original February 14, 2014. The continued captive breeding of the orcas in SeaWorld San Diego would mean that additional members of a species of special significance would endure the above-noted adverse impacts of captivity, such as abnormal behavior and injury from heightened aggression. These captive orcas would develop behaviors different from, and experience a quality of life inferior to, orcas residing in the natural marine environment. Even with the prohibition on the use of individuals and genetic material taken after January 1, 2012, there exist sufficient orcas in captivity prior to that date that captive breeding could continue for an extended period of time, if not indefinitely, in which case the infliction of the adverse effects would also continue indefinitely. The prohibition on the transfer of orcas to or from the facility, except where authorized by a federal take permit or for rescued whales, allows for gradually phasing out the display of captive orcas and the documented harm to orcas that such captivity causes. By prohibiting future transfers, breeding, and artificial insemination,

Special Condition No. 1 ensures that SeaWorld San Diego's present population of captive orcas, if not able to be released into the wild, will be able to live out the remainder of their lives with an improved quality of life that the Project will provide, while ensuring a foreseeable end date to orca captivity within SeaWorld's San Diego facility.

As amended by SeaWorld and memorialized by **Special Condition No. 1**, the project will not contribute to the demand for removal of wild orcas from California waters in the future, because SeaWorld will manage the facility consistent with its proposal to avoid the removal of killer whales from the wild either directly for public display or for the use of their genetic material, and the prohibition on future transfer, breeding, and artificial insemination will ensure that the adverse impacts arising from captivity will not affect additional orcas in the future. Therefore, the project as conditioned is consistent with Section 30230.

Noise Impact Analysis

SeaWorld has addressed noise impacts on its captive marine mammals in the past. At the Commission hearing for the SeaWorld Master Plan Update in February 2002, members of the public and Commissioners raised concerns over how the animals would be affected by noise generated by development contained in the master plan. In the case of the Journey to Atlantis splashdown ride, the first development built pursuant to the current master plan and approved in CDP No. 6-01-0129, the concern was focused on Commerson's Dolphins proposed to be housed within the ride area. To address those concerns, SeaWorld submitted a memo demonstrating that the ambient noise level in the water would be lower than existing levels once the ride was completed, and detailed the construction measures and design features that would be utilized to achieve that result.

In the current proposal, the excavation of 35,000 cubic yards of soil and construction of a large 5,000,000 gallon tank creates the risk that construction activity could create noise impacts for the orcas in the adjacent, remaining pools, as construction sounds travel through the water. SeaWorld submitted a memo addressing sound propagation in water and describing the construction methods that will be implemented in order to minimize noise generation and isolate the orcas from the noise (Exhibit 8).

As stated earlier, the Commission has looked at development wherein impacts to marine mammals were anticipated. One of the common impacts analyzed was noise impacts, as many marine mammals, such as orcas, utilize sound to navigate or communicate, and noise impacts from human development can either interfere with these functions or harm the sensitive hearing of the mammals, causing injury, death, or alteration of natural behaviors. When SeaWorld applied for construction of the Journey to Atlantis splashdown ride, which was designed to hold 10 Commerson's dolphins within its structure, the Commission requested that SeaWorld submit information detailing the existing and anticipated ambient noise levels within the dolphin facility and the steps to be taken to shield the dolphins from noise impacts, which SeaWorld did to the Commission's satisfaction.

SeaWorld agrees that minimizing noise impacts to the orcas residing in the orca facility is a priority. In the current proposal, because the proposed expansion will consist of a large excavation and construction activity adjacent to the current orca facility, SeaWorld has submitted information regarding potential noise impacts. A memo dated August 21, 2015, from the Hubbs-

SeaWorld Research Institute, explains that sounds attenuates (declines in level) at different rates depending on the location of origin and the medium in which it is travelling. Within a SeaWorld pool, the memo states that attenuation averages 2-3 decibels (dB) for a 10kHz tonal (narrowband) signal, which is fairly low attenuation. However, the memo continues that when a sound travels from outside a boundary such as a concrete wall, the attenuation is greater, depending on the intervening substance. In the case of propagation of sound from air into water, sound originating in the open air transmits inefficiently into water (unless produced directly overhead in a narrow cone), and will be attenuated by approximately 30 dB (comparable to the difference in noise level between the inside and outside of a building with doors and windows shut). Furthermore, the memo states that orcas hear best at higher frequencies, and that high frequency noise is attenuated more than low frequencies when traveling over a distance.

The memo explains that the expansion of the orca facility will involve drilling and concrete cutting on the walls currently separating the expansion area from the orca tanks that are to remain and where the orcas will be kept during development, and drilling noise does have the potential to travel long distances and substantial levels in sea water. Regarding ambient noise within aquatic facilities, there is no systematic, published review of such noise, though the memo indicated that ambient noise in the park's tanks usually originates from tank environmental equipment and water flow, with occasional higher levels from maintenance activities or the animals themselves.

To minimize noise impacts, the proposed construction work will be screened and separated above grade by 8-ft. tall panels. Instead of pile driven beams, construction will utilize drilled beams, which produce less noise when installing. When above grade work such as demolition of the Dine with Shamu eating area or skywalks occurs (though the general building will remain), the whales will be directed into the pools farthest away from the demolition work. The concrete pathways will be cut into segments and removed so as to avoid the use of noisier jack hammers. The existing elevator tower will be disconnected from its foundation (which is separate from the orca tank structures) and carried away by a large excavator. The existing skywalk will be cut into segments and carried away with a crane to be further deconstructed away from the pool area. Installation of the tie backs will utilize a drill rig, for which the generator and air compressor will be sited back away from the work site. For work on Pool D to install new gates to the expansion area, the pool will be drained and saw cut to avoid jackhammering. For removal of the Dine with Shamu area, an excavator will pull down the shade structures and a bobcat will remove the at-grade portion. Excavation of the new Pool F will be done with excavators, backhoes, loaders, and trucks. Due to the size of the excavation area, the majority of the work will be conducted more than 50 feet away from the concrete wall separating the expansion area from the remaining orcas pools, so that construction noise will be greatly attenuated.

To ensure that the noise attenuation measures are put in place and the orcas protected from adverse noise impacts during any approved development, **Special Condition No. 8** requires that SeaWorld adhere to the construction measures contained in their April 21, 2015 memo, and that any deviation from such measures be reviewed by the Executive Director for determination as to whether an amendment to this CDP is required.

In conclusion, while the proposed improvements to the orca facility at SeaWorld San Diego create the risk of adverse impacts to marine mammals, the Commission believes that the expanded orca facility will be an improvement for the orcas residing at SeaWorld San Diego, and

as conditioned to address occupancy and noise impacts by placing a population cap and banning future breeding, the proposed improvement is in conformance with the marine resource protection policies of Chapter 3 of the Coastal Act.

D. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirements 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 terrestrial vegetation.

Section 30212 of the Coastal Act states, in part

a) *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, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

[...]

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

Section 30213 of the Coastal Act states, in part:

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

Section 30604 of the Coastal Act states, in part:

[...]

- c) Every coastal development permit issued for any development between the nearest public road and the sea of 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).*

SeaWorld is a private commercial leasehold within Mission Bay Park, a public park owned by the City of San Diego. The site is located between the first coastal roadway and the bay. The certified SeaWorld Master Plan Update divides the anticipated development and redevelopment needs of the entire SeaWorld leasehold into three categories: Tier 1, Tier 2, and Special Projects. Tier 1 identifies the sites and projects where new development or park renovations planned to be processed concurrently with the SeaWorld Master Plan or likely to be initiated shortly after the adoption of the master plan. Those projects include the Journey to Atlantis splashdown ride, an educational facility, front gate renovation, special events center expansion, and bicycle/pedestrian path enhancement. To date, all of those listed developments except for the special events center expansion have already occurred. Tier 2 identifies sites within Area 1 (the developed park area) that are candidates for redevelopment; however, only general project descriptions are included in the master plan. Submittals for individual projects are expected to be made over a span of many years, and some have already been made, approved, and constructed (e.g. Manta rollercoaster). Potential Tier 2 projects were not approved as part of the master plan, and no entitlements to redevelopment in the designated areas were granted nor implied. Finally, Special Projects are conceptual development proposals that have been identified for sites outside of the developed park but still within the SeaWorld leasehold. Like Tier 2 projects, Special Projects are not proposed to be built for many years, and like Tier 2 projects, only general project descriptions for future use are included.

The proposed development to the orca facility is not specifically listed in the SeaWorld Master Plan Update as a Tier 1, Tier 2, or Special Project. However, SeaWorld is a large, public-serving facility with complex operations, and the SeaWorld Master Plan Update recognized that not all development that would occur in SeaWorld rose to the level requiring specific listing in the master plan. The master plan states that the “SeaWorld site is unique in both the type and frequency of development projects within the leasehold. Each year, SeaWorld processes numerous projects to upgrade park facilities and keep attractions in top working order. Additionally, in response to consumer demands and competition in the theme park industry, SeaWorld regularly undertakes renovations of its larger attractions, rides, shows, or exhibits.” Because of this recognition, in addition to the tiered project list, the SeaWorld Master Plan update contains development and design criteria regarding aspects such as public access, visual aesthetics, landscaping, and so on that apply not just to the listed Tier 1, Tier 2, and Special Projects, but to all development in SeaWorld in general. These guidelines include utilizing drought tolerant plants and low-water irrigation, screening development from public park areas, design visitor furnishings to be durable and visually compatible to the surrounding setting, utilize non-glare lighting and limiting light spill over and intrusion into public views, and be architecturally designed to conform to the aquatic and educational nature of SeaWorld. The proposed development is an expansion of the existing orca facility, and complies with the applicable guidelines contained in the plans, and is not of such a scale and impact that it requires an amendment to the SeaWorld Master Plan Update.

There are only a few remaining areas of Mission Bay Park where public access is routed inland around existing commercial leaseholds rather than along the shoreline. SeaWorld is one of those

leaseholds. Although public lateral access is available along most of the Mission Bay shoreline, there is no access through the SeaWorld leasehold, which extends to or beyond the waterline in places (Exhibit 2). Pedestrian and bicycle traffic can cross through the parking areas and rejoin the bayside pathway on either side of the leasehold. Vertical access is available at those same two locations and informally elsewhere along the shore dependent upon parking or transit availability. The proposed development will be located entirely within the private leasehold, approximately 1,100 feet from the shoreline, and will not encroach into any existing or proposed public accessways. The Mission Bay Master Plan lists a complete pedestrian access pathway around the bay as a future goal; access through SeaWorld may itself be an issue when the lease is renewed, but for this permit, the Commission finds that lateral and vertical access is available to serve the demonstrated needs of the public in this area of Mission Bay Park, and the proposed project will not preclude the ability to provide public shoreline access in the future.

Sea World Drive and Ingraham Street serve as major coastal access routes for all areas of Mission Bay Park, and the public beaches at Pacific Beach, Mission Beach, and Ocean Beach, and serves as a popular commuter route as well. These are the only roadways serving SeaWorld. The lease between SeaWorld and the City of San Diego, as well as the SeaWorld Master Plan Update, calls for phased traffic improvements based on the expected increase in attendance at the park. SeaWorld typically submits its annual attendance figures for each past year so the Commission will be aware when the next critical level of attendance occurs that triggers traffic mitigation measures. SeaWorld attendance has triggered, and SeaWorld has implemented, various traffic mitigation measures over the years. Numerous Commission-approved traffic and parking mitigation projects have been completed by SeaWorld since the certification of the SeaWorld Master Plan Update, including the addition of a public pedestrian promenade (CDP No. 6-06-022), road improvements along Sea World Drive and the southbound Interstate 5 interchange (CDP No. 6-08-016), and resurfacing, restriping, and landscaping to extend and widen bicycle and pedestrian paths across the southern and western edges of SeaWorld's main parking lot (CDP No. 6-05-075). Those improvements as well as the previously established traffic, roadway, and parking systems have been designed and constructed to support up to 4 million visitors annually. The next improvements are not required until attendance reaches 4 million, which is anticipated as the maximum anticipated attendance at full buildout. Last year, SeaWorld's annual attendance was approximately 3.77 million visitors.

Regarding traffic, SeaWorld submits annual traffic monitoring reports to the Commission for review of the impact of park operations on the surrounding transportation infrastructure. Because parks such as SeaWorld serve the public and are subject to changing preferences and market forces, attendance levels, and thus traffic impacts, can fluctuate over the years. Thus, in analyzing the current proposal, Commission staff reviewed the past 5 years of traffic reports, as well as a summary report of those past years to discern any patterns. The analysis determined that the major intersections around SeaWorld have consistently operated at a Level of Service (LOS) of D or better, and that some intersections actually improved slightly in service over the past 5 years of monitoring. Regarding Average Daily Traffic (ADT), the studies focus mainly on AM peak periods and PM peak periods, as that is when SeaWorld traffic combines with local rush hour traffic to create the greatest impact. The past 5 years of studies show that AM peak ADTs have decreased by 5% while PM peak ADTs have increased by 6%. Overall, ADTs increased by 4% over the preceding 5 years, but as mentioned above, the LOS for the surrounding intersections has held steady or improved slightly. Thus, the growth in traffic has

been relatively low at an average of just 1% a year over the preceding 5 years, with the LOS indicating that the existing infrastructure is adequately processing the load.

With respect to the adequacy of on-site parking, SeaWorld currently provides a total of 8,664 parking spaces for visitors, staff, and employees. SeaWorld's employment base includes full-time, part-time, and seasonal employees. Employee numbers vary during the year from approximately 2,600 non-peak employees to approximately 4,500 peak time employees. Parking spaces have not been specifically allocated to individual uses, but most employee parking occurs in the lots nearest the administrative facilities and, during times of heaviest park use, in the parking lot in the northwest portion of SeaWorld itself but within the leasehold boundaries. In addition to serving SeaWorld itself, the existing parking facilities have also served the needs of Hubbs Research Institute personnel. The Hubbs facilities, which include laboratories, aquaculture tanks, and associated research and administrative functions, are currently housed in the western area of SeaWorld, along with many of SeaWorld's administrative, storage, and employee facilities. Under CDP No. 6-93-086, Hubs converted the former Atlantis Restaurant building to research facilities with retention of 77 spaces in the former Atlantis lot designated for use by Hubbs' researchers with the remainder of that lot, and all other on-site parking facilities, continuing to be used by SeaWorld patrons and employees.

In 2010, total peak parking demand was 5,466 spaces. In 2011, peak parking demand was 6,382 spaces. In 2012 peak demand was 7,028 spaces. In 2013 peak demand was 7,103 spaces. In 2014, the peak demand was 6,357 spaces on July 19, 2014 (73% of total supply). Thus, SeaWorld's parking demand has not exceeded their on-site supply of 8,664 parking spaces.

The upgrade and redevelopment of the existing orca facilities and restroom is not expected to substantially increase the attendance levels, as the expansion will serve as a larger facility for housing the orcas, and visitors to SeaWorld are already able to view the orcas underwater through viewing windows in the existing facility. It should be noted that more people will be able to view the orcas at one time, and expanded, modernized, or redeveloped facilities do tend to generate an interest on the part of the public to view the new facilities. While some visitors – such as season pass holders – may make annual or semi-annual visits to the existing theme park regardless, it can be reasonably assumed that some visitors will also make a special trip to view the new facilities in and of themselves. However, these increases in attendance are not expected to be significant for the subject proposal as it merely represents an upgrade to an existing viewing and interaction area in conjunction with the existing orca stadium. Thus, no significant impacts to traffic or parking are anticipated as a result of the proposed project.

Special Condition No. 7 reaffirms the Master Plan requirement and puts SeaWorld on notice that when the annual SeaWorld Park attendance levels reach 4 million visitors, future development proposals may be required to complete certain traffic and parking mitigation measures as conditions of approval, such as enhancing surrounding public right-of-ways and road improvements, in conformance with mitigation criteria established in the SeaWorld Master Plan Update EIR. Furthermore, **Special Condition No. 5** requires SeaWorld to adhere to approved construction staging and storage plans to ensure that construction activity is properly contained within the leasehold and will not spill out into public areas or displaces on-site parking to an extent that will cause patron parking to spill out into public areas.

In summary, the Commission finds that the proposed project will not adversely impact the existing vertical and lateral accessways around the Sea World leasehold, or result in significant increases in traffic or parking demand. Therefore, the Coastal Commission finds the proposal consistent with all of the public access policies of the Coastal Act.

E. WATER QUALITY AND HAZARDS

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 significance. Uses of the marine environment shall be carried out in a manner that will sustain 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 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30253 of the coastal act states in relevant part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along the bluffs and cliffs.*

[...]

Stormwater Runoff, Discharge, and Intake

The federal Clean Water Act (CWA) requires States to identify and make a list of surface water bodies that are polluted. These water bodies, referred to in law as “water quality limited segments,” do not meet water quality standards even after discharges of wastes from point sources have been treated by the minimum required levels of pollution control technology. States are required to compile these water bodies into a list, referred to as the “Clean Water Act

Section 303(d) list of Water Quality Limited Segments” (List). States must also prioritize the water bodies on the list and develop Total Maximum Daily Loads (TMDLs) to improve water quality. At the time of the adoption of SeaWorld’s National Pollutant Discharge Elimination System (NPDES) permit in June, 2011, Mission Bay was listed on the 303(d) list of impaired water bodies as impaired because of bacteria, lead, and eutrophication. A total maximum daily load has not yet been adopted for these pollutants.

The combined storm water and waste water discharge from SeaWorld San Diego’s treatment plants are overseen by the San Diego Regional Water Quality Control Board (RWQCB) under Order No. R9-2011-0032, NPDES No. CA107336. The NPDES permit includes specified discharge limits along with a required monitoring and reporting program. As part of the monitoring program, SeaWorld collects treatment plant discharge samples on a daily, weekly, quarterly, and annual basis for a variety of constituents, toxicity, and in-situ observations that may impact water quality. This data is summarized in an annual report submitted to the RWQCB along with supporting data via the California Integrated Water Quality System database.

On April 14, 2005, the RWQCB approved an NPDES permit for SeaWorld, setting forth the water treatment criteria for the subsequent 5 years. This permit was renewed by the RWQCB in June, 2011. Sample locations for monitoring are the intake and effluent outfalls of both the East and West treatment facilities, enabling the determination of the quality of Mission Bay water prior to any filtering as well as the final quality of any discharge prior to entering Mission Bay. Additionally, the status of the receiving water is analyzed with samples taken 3,000 feet from the discharge points.

As with all structural development in Mission Bay Park, storm runoff from SeaWorld San Diego enters into the adjacent Mission Bay. In addition, SeaWorld is unique in that it uses sea water for its aquariums and show tanks, and circulates this water to and from the bay. To address water quality concerns, SeaWorld constructed two on-site treatment facilities that have been operational since October, 1991. Conceived initially to address the treatment of used aquarium water, these facilities are subject to a NPDES permit and were ultimately designed with enough capacity to treat the entire leasehold and future planned leasehold improvements. The NPDES permit requires weekly sampling of coliform, chlorine, and acidity of the effluent, which discharges into Mission Bay, and semiannual monitoring of solids, turbidity, grease, and oil. Although designed primarily for the treatment of used aquarium water, these facilities also treat surface runoff from the developed park area and the improved parking lots before discharging into Mission Bay. The remainder of the parking lot runoff enters the City’s municipal storm drain system, which is outfitted with low-flow interceptors. During more intense storm events, the nearest storm drain discharges directly into Mission Bay in the Perez Cove area (westernmost point of SeaWorld).

The current park layout includes a series of storm water and catchment areas that convey water to either SeaWorld’s Western Wastewater Treatment Plant or the Eastern Wastewater Treatment Plant. The main visitor parking lot drains southerly to the municipal storm water system. The two treatment plants are used to treat the collected outfall discharge from storm water sources, landscape irrigation runoff, and various industrial activity wastewater from exhibit pools and aquaria. With the proposed development, the volume of influent and effluent will increase but will still be within the existing RWQCB permit limits, and will not require amendments to those

permits. SeaWorld also has two backup generators, one each at the west and east treatment facilities, to ensure they are operable during extended power outages.

In addition, SeaWorld has a Best Management Practices (BMP) program in place to control non-point sources of pollution during its day-to-day operations. In the past, concerns have been raised regarding SeaWorld's land and water operations with respect to maintaining optimum water quality. In particular, the manner in which surface runoff from the parking lots is discharged has been raised as a significant issue. This issue was addressed in detail in review of the SeaWorld Master Plan, and SeaWorld's grading, drainage, erosion, and storm water requirements in that document were reviewed and found acceptable by the Commission's water quality staff. The proposed development is designed to tie into the park's existing storm water system. Moreover, the proposed development will not substantially increase impermeable surfaces or significantly change existing patterns of runoff. The subject proposal does not modify any of SeaWorld's existing water treatment, collection, or discharge facilities. These facilities currently process runoff from some of SeaWorld's paved parking lots and nearly all of its developed venues; this treatment will continue.

SeaWorld's most recent 2014 Annual Discharge Compliance Evaluation report prepared by the firm Brown and Caldwell states that SeaWorld has a total capacity of 11,480,600 gallons. SeaWorld has salt water intakes at 3 locations in Mission Bay: the west pier intake (near Cirque de la Mer stadium and marina), east pier intake (near Shark Encounter), and shark intake (near Shark Encounter). The two piers are screened on all sides with screens and nets and covered by the piers above them to limit the introduction of detritus or animals. The shark intake is a closed intake within an enclosed box filled with gravel to create an in-ground infiltration intake point. The West intake consists of two pumps with a total capacity to pump up to 6.12 million gallons per day (mgd). The East intake consists of four pumps with a total capacity to pump 3.24 mgd. SeaWorld's NPDES permit allows the discharge of up to 9.36 mgd of treated industrial activity wastewater from exhibit pools and aquaria; intermittent flows during pool draining and cleaning operations, runoff from landscape irrigation; and facility wash downs. Storm water is discharged from the facility during rain events. Prior to discharge, all effluent is directed to either the East or West Effluent Treatment Facilities.

The park site is relatively flat, with elevations ranging between ten and twenty feet above mean sea level. Storm water is collected onsite and conveyed via an underground pipe system which includes various drop inlets and piping networks. Surface runoff from the project site would be directed to the Western Wastewater Treatment Plant. Filter fabrics are installed on all the storm water inlets that are not routed to either of the two onsite treatment plants, and for some of the larger storm water inlets throughout the park.

The Western Wastewater Treatment Plant that would capture storm water from the project site includes a chlorination/de-chlorination treatment system, primarily for disinfection of the water from the tanks and storm water. The wastewater is screened via one-inch screens and diversion chambers that transfer the water to chlorine contact chambers. Sodium hypochlorite is injected at three pre-chlorination points in the collection system prior to the contact chamber.

Once disinfected, residual chlorine is neutralized by injection of sodium sulfite into the discharge stream. The treated, de-chlorinated water is then discharged to Mission Bay from the Western Wastewater Treatment Plant through what the RWQCB identifies as Discharge Point No. 002.

This discharge point has a maximum discharge rate of 6.12 million gallons per day (the western and eastern discharge points can discharge up to 9.36 million gallons a day in aggregate) of treated industrial activity wastewater from exhibit pools and aquaria; intermittent flows during pool draining and cleaning operations; runoff from landscape irrigation; and facility wash down water.

Though SeaWorld can discharge 6.12 million gallons a day, it has historically been well below that discharge rate. During 2014, daily flows at the West and East treatment facilities averaged 2.334 and 1.600 mgd, respectively. The highest daily flow during that period was 2.864 million gallons a day for the Western Wastewater Treatment Plant, and total flows for both west and east discharge points ranged from 3.208 million gallons a day to 4.471 million gallons a day, and averaged 3.934 million gallons a day during 2014.

The salt water pumping system within SeaWorld is akin to a circulatory system in that the various salt water tanks and aquariums within the park are connected to a larger internal network, allowing SeaWorld to shift volumes of water throughout the park as needed. Because of this, SeaWorld's intakes of water from Mission Bay are generally to "top off" to compensate for water lost through evaporation, spillage, and the like. Similarly, because SeaWorld is able to hold and circulate its internal water supply as needed, discharges of salt water arise from when there is too much water in the system – as from a storm event – or when a tank is drained to perform routine maintenance. This is a large part of why SeaWorld's discharge volumes are consistently well below the limits set in its RWQCB permits. When the proposed orca facility expansion is completed, SeaWorld will have to intake approximately 5.65 million gallons of salt water to fill the new tanks, but afterward, operations will return to the general pattern that has persisted for the past years, and intake and discharge flows of the park will proceed normally.

During 2014, compliance monitoring of the effluent discharges from both the West and East treatment facilities with regards to pH, fecal coliform, enterococcus, residual chlorine, temperature (which may not be more than 1-3 degrees Celsius different from receiving waters), copper, Total Suspended Solids (which may not constitute more than 10% more than intake waters), Total Settleable Solids, turbidity, ammonia, oil and grease, silver, and toxicity (100% survival rate of test organisms after exposure) all met RWQCB permit requirements.

For total coliform, the effluent of all discharges at the East and West facility met all compliance limits for total coliform during 2014, with the exception of two test samples at the West facility in March and December (there were also exceedances of coliform limits from the West treatment facility in February, September, and October of 2012). All exceedances were reported to the RWQCB, and subsequent inspections of the treatment facility found no malfunctioning equipment, and the vast majority of the historic samples were within permit parameters. In response, SeaWorld installed additional water treatment equipment such as vacuum pumps to reduce sediment buildup in the water treatment contact chambers and a static mixer at the pump discharge, as well as conducting "Dye Tests" to test the operation of the treatment facilities to study the flow of water and disinfectants through them, and increased the frequency of cleanouts of the storm drains and treatment chambers.

The RWQCB has reviewed the self-monitoring reports for SeaWorld San Diego from July 2013 through April 2015, which consists of monthly, quarterly, semi-annual, and annual reports and found no issues with the submitted monitoring data.

As recommended in the guidelines of the certified SeaWorld Master Plan, SeaWorld utilizes many features to ensure that its water is used efficiently within the park. As mentioned earlier, SeaWorld intakes salt water from Mission Bay for usage in the animal exhibits. However, it is not a constant inflow and outflow of water. Instead, after initial intake treatment, SeaWorld's existing piping infrastructure circulates the salt water around the park as needed, and intakes additional salt water mostly to "top off" internal supply to compensate for evaporation loss. This is one of the reasons why SeaWorld's intake and discharge volumes have been consistently below the limits established in its RWQCB permits.

Because SeaWorld has an extensive water treatment system to handle water from both the animal exhibits and surface runoff, which is monitored under a thorough permitting regimen that has identified minimal water quality violations, the proposed development, as conditioned, will not cause adverse impact to the water quality of adjacent Mission Bay.

Freshwater Usage

Regarding freshwater usage, the existing orca facility has a restaurant and bathroom facility which was utilized for a "Dine with Shamu" event that SeaWorld offered. As part of the orca facility expansion, the dining area will be removed, and the restrooms and building will remain but be closed to the public. A nearby 5,500 square foot restaurant/restroom facility is proposed to be demolished to make room for the pool expansion, and be replaced with a new 2,900 square foot bathroom facility. This new restroom facility will be designed to utilize the saltwater that SeaWorld currently intakes for its animal facilities, and will be the second such saltwater restroom facility within SeaWorld San Diego. The capacity of the new restroom will match that of the demolished restroom, but due to the use of saltwater, the new restroom facility is anticipated to save approximately one million gallons of potable water.

To control the temperature of the water for the various animal exhibits in SeaWorld, the park utilizes multiple chillers and evaporative cooling towers throughout the park. These chillers and evaporative cooling towers are similar to the HVAC systems used in many commercial buildings, and utilize the evaporation of potable water to remove heat from the chilled water loop that recirculates through the park between the various animal exhibits, office air conditioning, and public area climate control. Because of the expanded water volume of the expanded orca facility, the two chillers and two cooling towers that are dedicated to serving the orca facility will be replaced with new, larger 650-ton chillers that will utilize more water for evaporative cooling. The anticipated increase in freshwater usage due to evaporative water loss from the cooling towers because of the increase in chilled water production is estimated to range up to 18,000 gallons a day during peak periods. However, because SeaWorld pulls in water from Mission Bay, which fluctuates in temperature, and the needs of the park are affected by attendance, ambient temperature, and the needs of the animals and facilities that day, the amount of evaporative cooling loss fluctuates over the year. SeaWorld estimates that total consumption of water, in units of hundred cubic feet (HCF) to be approximately 4,441 HCF to 6,684 HCF annually. One HCF is equivalent to 748.5 gallons, so the total consumption of water is projected to be 3,324,089 gallons to 5,002,974 gallons annually. However, when factoring in the anticipated savings from usage of salt water in the proposed restroom facility, the net increase in water usage arising from the orca tank expansion is between 1,766 HCF and 4,010 HCF annually (1,321,851 gallons to 3,001,458 gallons).

SeaWorld also utilizes water-efficient irrigation systems that sense the ambient humidity and soil moisture to determine the optimal periods to irrigate, as well as utilizing low-flow irrigation to minimize overwatering and spillage. SeaWorld also utilizes drought resistant landscaping in much of the park, and utilizes seawater, as opposed to fresh water, in its animal wash down areas. Water features such as fountains also utilize sea water. Because of measures such as those described above, SeaWorld reduced its potable water usage by 22% between 2014 and 2015, yielding reductions to date of 29,746 HCF (22,264,881 gallons).

In light of the water savings represented by the new salt water restroom facility and the reduction in park-wide potable water use SeaWorld has achieved through measures such as efficient irrigation, the Commission finds that the increase in potable water use arising from the proposed development has been reasonably minimized and will not represent an adverse impact to local water supplies.

Landfill

The southeastern-most parking area of SeaWorld leasehold is underlain by a portion of the inactive Mission Bay Landfill. The City of San Diego operated the landfill from approximately 1952 until 1959. The landfill reportedly accepted municipal solid waste and some liquid industrial wastes (including acids, alkaline solutions, solvents, and paint wastes). The U.S. EPA estimates that up to 737,000 gallons of industrial wastes may have been disposed at the landfill during its operation. After closure of the landfill, dredged material from Mission Bay (consisting of mostly fine-grain material) was placed on top of the former landfill surface to a depth of approximately 15 feet. A portion of the site is currently paved with a chip-seal paving surface which allows for diffusion of landfill gases while remaining impervious to water infiltration. Although the proposed new orca facility is located approximately 1,700 feet to the west of the estimated western limits of the landfill, because the proposed development involves the excavation of approximately 35,000 cubic yards of soil to depths of over 50 feet, the potential for contamination or human health impacts associated with the project have been reviewed.

When the SeaWorld Master Plan Update and the subsequent splashdown ride were being proposed to the Commission, several investigations of the landfill were conducted to evaluate the extent of potential chemical contamination. Samples for chemical analysis were collected from soils, surface water, sediments, and groundwater from the landfill and surrounding areas. Investigations detected a number of chemicals in onsite soils and groundwater including heavy metals, volatile and semi-volatile organic compounds, and chlorinated pesticides. In 1985, the Regional Water Quality Control Board (RWQCB) adopted Order No. 85-78, which required, among other things, routine monitoring of groundwater, surface water, and sediments from Mission Bay and the San Diego River. In addition to routine monitoring, several additional soil and groundwater investigations were conducted in and around the landfill through 1997. The results of these investigations and continued routine monitoring indicated that low levels of chemicals were detected in soils and groundwater beneath and adjacent to the landfill. According to the RWQCB, these low levels of chemicals did not represent a significant threat to public health or the environment. Furthermore, the California Department of Toxic Substances Control (DTSC) and the U.S. EPA previously evaluated the site in 1987 and 1993, respectively, and determined that the site did not pose a significant threat. Moreover, although the Mission Bay

Landfill was considered for listing on the EPA's Superfund National Priorities List in the early 1990's, it was determined that the site did not qualify for inclusion on the list.

Starting in the early 2000's, the City of San Diego conducted a multi-year investigation of the landfill to determine constituents, boundaries, and any potential leakages of the Mission Bay Landfill. The City also convened a Technical Advisory Committee (TAC), consisting of representatives of environmental organizations, the RWQCB, the state university system, the medical profession, and the community, as well as members of the City's Solid Waste department, who acted as staff to the committee. The TAC was primarily charged with determining the physical extent of the landfill, identifying its contents to the best degree possible through searches of old records, identifying the current chemical makeup up the landfill, and analyzing any potential risks to public health and safety.

The TAC's findings were documented in a final report in September, 2006. It summarized the technical investigations that had been conducted, which identified the landfill's constituents and any potential hazards. The study concluded that the landfill boundaries were slightly larger than previously thought, but that no leaking of toxic materials was occurring, and no significant public hazard existed. The only remediation identified in the report was to increase the soil cover on a portion of the landfill located well away from the SeaWorld site. The City's Local Enforcement Agency, which regulates all development within 1,000 feet of any landfill, had determined that paving over the landfill would not adversely affect the landfill itself, nor pose an increased risk to the public. The Commission's water quality staff reviewed the TAC's findings at the time and concluded that no new or different concerns with respect to water quality were identified.

The RWQCB continues to be the lead agency for oversight for water quality issues at the Mission Bay Landfill. The City of San Diego continues to monitor the site in accordance with RWQCB Order 97-11, General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills. Routine monitoring has detected low levels of several chemical constituents in groundwater beneath and adjacent to the site. However, the concentrations of these chemicals have been well below any of the established action levels identified by the RWQCB, and do not appear to represent a significant threat to public health or the environment. The site is currently in compliance with the requirements of the City of San Diego Solid Waste, the RWQCB, and the California Integrated Waste Management Board.

Public comments related to the presence of contaminants in groundwater beneath the landfill and the potential for migration of these chemicals offsite were submitted to the Commission in 2002 and 2003, when the Commission approved the splashdown ride and subsequently denied a revocation request regarding that approval. The Commission's water quality staff reviewed the available monitoring data at that time regarding groundwater conditions at the Mission Bay Landfill. Commission staff concluded that the data supported the determination by the regulatory agencies overseeing the landfill that the low levels of chemicals detected did not represent a significant threat to public health or the environment. The same public comments had already been submitted during the comment period for the *Draft Environmental Impact Report for the Proposed Sea World Master Plan Update (EIR)*, dated March 12, 2001. Those comments and related issues were fully and adequately analyzed by the lead agency in the Final EIR.

Public comments with accompanying data were also submitted on January 22, 2002. Those comments attempted to relate the Maximum Contaminant Levels (MCLs) and the California Toxics Rule (CTR). Both of those regulations establish water quality standards for either sources of drinking water (MCLs) or Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California. The 2002 comments related to soil samples, not water samples, and therefore did not apply to either MCLs or the CTR. The data presented was insufficient to draw any conclusions about potential migration to surface or groundwater or about the levels at which the chemicals may be present in surface or groundwater. Furthermore, the concentrations detected were low, and not untypical of those found in background soils in urban areas. A comparison of those heavy metals and organic compounds detected in the soil samples to the U.S. EPA Region 9's Preliminary Remediation Goals for either residential soils or soil screening levels for Migration to Ground Water, show they were substantially (2 to 4 orders of magnitude) below levels which would require action.

As noted, the location of the proposed orca pool expansion is within the already developed portion of the park and is approximately 1,700 feet to the west of the currently mapped landfill. A substantial portion of the developed park and an existing parking lot occupies the area between the development site and the historic landfill. In addition, while the City has in the past indicated that the exact limits of the landfill have not been defined, numerous soil borings have been made in and around the landfill, providing a basis for some understanding of the limits of the waste. When the splashdown ride was constructed approximately 500 feet northwest of the outer limits of the landfill's historic leasehold, a geotechnical investigation of that site was conducted with eight soil borings, and no trash or other landfill contents was encountered. Review by the Commission's staff geologist at the time of the geotechnical survey of the South Shores Area – the area where the historic Mission Bay Landfill was located and which was later developed in the 1980's as a separate public improvement to Mission Bay Park – and the geotechnical investigation of the splashdown site was determined to be sufficient to conclude with a high level of confidence that the landfill does not extend beneath the splashdown site. In addition, no illegal levels of ground water contamination were found at the splashdown site. The groundwater evidence further suggested that the hazardous wastes that almost certainly do exist within the landfill itself have not migrated into the area of the splashdown ride. High levels of methane and hydrogen sulfide are associated with the landfill, and it is possible, though very unlikely, that these gasses could migrate laterally along porous layers to the developed park area. However, there is no evidence that this has occurred to date, and no such migration of hazardous gasses has ever been reported during any earthquake. As the proposed orca facility is even further away from the historic landfill than the splashdown ride, it is even less likely that the landfill or groundwater contaminated by the landfill has migrated under or adjacent to the project site.

Despite the above studies, in the past, members of the public have presented to the Commission a great deal of photographic evidence, including historic aerials of the Mission Bay Park area spanning the years 1941 to 1958, including World War II, post-war periods, and the years the landfill was known to be in active, formal use, to support claims that the landfill has migrated under SeaWorld. Several of these earlier photos indicated that some type of ground disturbance occurred west of the identified landfill site and well within what would become the SeaWorld leasehold. This was many years before the identified landfill east of the site began operations in the early 1950's. However, the scale and quality of the photos makes it virtually impossible to determine with certainty what activity is taking place on the subsequent SeaWorld site.

Pre-existing uplands in this general location supported an airfield and racetrack, and possibly some military uses. During the same range of years, the land and channel portions of Mission Bay Park as a whole were being created, and the San Diego River was being redirected and channelized. Large amounts of hydraulic materials were being dredged from the new river bed; these were placed to form the park's additional upland areas and islands. SeaWorld, South Shores, and Fiesta Island were the last parts of the park to be fully formed. Dredging and fill activities continued in these locations after they had ceased elsewhere in the park, right through the official landfill years and into early 1960's. Whether the activities seen in the earlier photos show land disturbed by dumping or land disturbed by dredge and fill operations is very difficult to say and may never be fully resolved.

Thus, the Commission has previously found the more compelling evidence to be the laboratory results of the various geotechnical, soil, air, and groundwater studies taken over several years. Although it is clear from the pictures that some sort of activity occurred in the area that is now SeaWorld, there is no evidence that any toxic or hazardous materials underlie the splashdown site, let alone the remainder of the park. Excavations for the splashdown ride's foundations extended to a depth of 25 – 30 feet. Although mechanical and hydraulic fill materials were encountered, waste and landfill debris were not.

The excavation plan submitted by SeaWorld contains "Ground Water Discharge Notes," which states that "[a]ll ground water extractions and similar waste discharges to surface waters not tributary to the San Diego Bay are prohibited until it can be demonstrated that the owner has applied and obtained authorization from the State of California via an official "Enrollment Letter" from the Regional Water Quality Control Board in accordance with the terms, provisions, and conditions of State Order No. R9-2008-0002 NPDES CAG919002." The notes further continue that "[t]he estimated maximum discharge rates must not exceed the limits set in the official "Enrollment Letter" from the Regional Board unless prior notification and subsequent authorization has been fully obtained, and discharge operations modified to accommodate the increased rates." Therefore, the need for monitoring and treatment of groundwater pumped out of the excavation site for the expanded orca facility has been anticipated and incorporated into the project proposal.

Concerns regarding potential impacts to human health associated with grading and excavation at SeaWorld have also been raised by members of the public. There are five methane monitors located in the buildings of the Journey to Atlantis splashdown ride, which are inspected monthly and annually calibrated. There is no record of the alarms going off due to detection of unsafe levels of methane.

SeaWorld provided a copy of an April, 2015, letter to the City of San Diego Local enforcement Agency and Environmental Services Department with the most recent periodic landfill gas monitoring data associated with the Journey to Atlantis Soil Gas Probes. SeaWorld utilizes monitoring equipment to sample the vapor wells to sample for targeted constituents associated with landfill gases. The soil gas probes sample for carbon dioxide, oxygen, methane, and hydrogen sulfide. The April, 2015 report indicates that all trace gases are below the reporting levels that would indicate potential risk to human health or the environment.

SeaWorld also submitted a December, 2014, Export Material Characterization Study, which utilized soil borings to analyze the soils under the proposed excavation area. The tests boring

were done to the same depth as the proposed excavation for the expanded orca facility. The study noted that the soils of the project site consist of approximately 14 feet of dredged fill overlaying at least 16 feet of Quarternary-age bay deposits. The groundwater table is generally shallow at 6-10 feet in elevation relative to SeaWorld datum. Four borings were taken within the proposed orca tank footprint in September, 2014. The boring samples were then screened, and levels of constituents were below detection limits for polyaromatic hydrocarbons, butylins, phthalates, phenols, chlorinated pesticides, chlordane, polychlorinated biphenyls, and total petroleum hydrocarbons. The study concludes that chemical levels are below levels that would trigger concern, and no special handling or disposal options are anticipated to be necessary and beneficial reuse may be considered.

Furthermore, because the groundwater table is fairly shallow on the SeaWorld leasehold, the RWQCB requires that monthly dewatering testing and reporting be done for dewatering activities in SeaWorld, such as with the Manta rollercoaster attraction. These reports record the initiation and termination of dewatering activities, as well as the quantity of dewatering, and analysis of the constituents contained in the water itself.

Geologic Hazard

The March 17, 2015 Christian Wheeler geotechnical report indicates that the soils at the site are susceptible to liquefaction in the event of a major earthquake on the Rose Canyon Fault (1.5 miles from the site) could produce liquefaction-induced settlement of 5-8 inches, and differential settlement of 3.5-5.5 inches. The report contains recommended foundation mitigation measures to protect against such liquefaction induced settlement. In addition, large buoyant forces would act on the underground habitats (tanks) during liquefaction, potentially disrupting them and causing damage or failure in the event of an earthquake. These forces can be mitigated by the use of tie-downs and tie-back anchors, specifications for which are included in the report. The Commission's staff geologist, Dr. Mark Johnsson, has reviewed this report and concurs with its conclusions. Accordingly, in order to be fully consistent with Coastal Act section 30253, the Commission finds it necessary to impose **Special Condition No. 2** to require that all recommendations contained in the March 17, 2015 geotechnical report prepared by Christian Wheeler be complied with during final design and construction plans of the proposed project.

Because SeaWorld continues to intake and discharge water in and out Mission Bay, and because storm water runoff from the site and water from the expanded tanks will eventually enter the bay, **Special Condition No. 4** requires SeaWorld to submit a final drainage plan that ties into the existing treatment system currently serving the park, which the Commission and other agencies have found adequate to treat such outflows. Additionally, because the proposed expansion of the orca pools will involve a large amount of excavating and spoil disposal, **Special Condition No. 6** requires SeaWorld to submit proof that it has secured a legal disposal site outside of the Coastal Zone for the graded material.

In conclusion, the water quality data submitted both for the current proposal as well as past developments approved by the Commission, in conjunction special conditions regulating water quality and geologic hazard mitigation measures, means the proposed development will not adversely impact the water quality of coastal waters or increase geologic hazards and is found in conformance with Chapter 3 of the Coastal Act.

F. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in part:

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.

The proposed orca facilities will be located within the developed boundaries of SeaWorld, near the center of the park leasehold, southeast of and connected to the existing Shamu Stadium. The proposed development is designed to be visually consistent with the existing adjacent structure. The proposed improvements are substantially below-grade, and the above-grade improvements will be approximately 17 feet in height, and will not be visible from outside of the park leasehold.

Mission Bay Park is recognized nationally as a public resource providing a wide variety of passive and active recreational opportunities in a unique, visually-pleasing setting. The park is generally horizontal in character, consisting primarily of rolling grassy areas, sandy beach, and open water. There are a number of commercial leaseholds scattered throughout the park, which have been developed to various intensities. For the most part, the structural improvements in Mission Bay Park are low scale and do not detract from the wide open feeling of the park. Limited exceptions exist in four hotel towers (Hyatt Islandia, Bahia, Catamaran, and Hilton) and three attractions at SeaWorld (the observation tower, the gondola ride, and the splashdown ride). The majority of these structures predate the Coastal Act and the City's 30-ft. coastal height limit overlay zone passed by City voters in the 1970's.

In 1998, SeaWorld sponsored, and City voters approved, an initiative exempting its leasehold from the City's 30-foot coastal height limit overlay zone. This initiative allowed future development within the leasehold to go as high as 160 feet – half the height of the existing observation tower. The splashdown ride was approved by the Commission subsequent to this exemption and the 2002 updates to the certified Mission Bay Park Master Plan and the SeaWorld Master Plan incorporated the initiative exemption. However, the majority of the facilities at Sea World are completely or largely screened from the surrounding park and bay. The gondola ride, which supports are 100 feet tall, is in an area of existing mature vegetation that is sixty to eighty feet in height and provides screening. The currently developed portions of SeaWorld are heavily landscaped with a variety of mature trees, shrubs, and groundcovers. Many existing trees are 60-80 feet tall and effectively screen the interior of the park from views outside SeaWorld. In addition, the existing landforms and development in this area obscure any view of Mission bay across the historic leasehold itself.

All of Mission Bay Park is a highly scenic public recreational resource, such that protection and enhancement of visual amenities is a critical concern for any proposed development in the park. The appropriate height of any proposed structure must be thoroughly analyzed, taking into consideration the specific details, siting, scale, and bulk of the proposed development, the nature of surrounding development, and the potential for cumulative impacts from additional future development. The proposed orca facility expansion is located within, but not along the perimeter

of, the existing enclosed Sea World theme park, near the center. As the facility will be an expansion of pools used by the orcas, the majority of the development will be at or below grade, and no part will exceed 30 feet in height. Due to the existing mature vegetation throughout much of the developed park, buildings 30 feet in height or lower cannot be readily seen from outside the park.

The Commission's primary concern with respect to view preservation is to assure that views currently available to the general public recreating in Mission Bay Park are not obscured or significantly degraded. The public recreational amenities at South Shores Park are located immediately east of the SeaWorld leasehold, but significantly distant from the proposed development. Across the Pacific Passage to the north of the leasehold lies Fiesta Island. Along with South Shores, this is the last remaining large piece of undeveloped parkland designated for public recreational uses. Like South Shores, anticipated improvements include grassy picnic areas, open play areas, restrooms, and parking lots. These two areas are the closest to the SeaWorld leasehold, and thus most likely to be affected by development within the park.

SeaWorld has submitted photos to show the view of the leasehold from a number of exterior locations, including SeaWorld Drive and Ingraham Street. The proposed development will not be visible from any of the vantage points due to intervening development, mature vegetation, and space to soften the view. Due to the roadside berm and distance across the parking lots, the development is not readily discernable from Sea World Drive.

To ensure that the proposed development will not impact views, **Special Condition No. 2** requires SeaWorld to adhere to approved final plans, which show the development to be completely under 30-feet in height. Thus, the Coastal Commission finds the proposed development visually compatible with the surrounding existing development, with no adverse impact on the existing scenic coastal area.

G. REIMBURSEMENT IN CASE OF CHALLENGE

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition No. 9** requiring reimbursement for any costs and attorney fees that the Commission incurs in connection with the defense of any action brought by a party other than the applicant challenging the approval or issuance of this permit.

H. LOCAL COASTAL PLANNING

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

Mission Bay Park is primarily unzoned. As a whole, Mission Bay Park is a dedicated public park, and SeaWorld is designated as "Lease Area" in the certified Mission Bay Park Master Plan.

The subject site is located within the City of San Diego in an area of deferred certification, where the Commission retains permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act, and thus, approval of the development, as conditioned, will not prejudice the ability of the City of San Diego to implement its certified LCP for the Mission Bay Park segment.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. A certified Environmental Impact Report (EIR 99-0618) was produced in 1999 in conjunction with the current SeaWorld Master Plan Update. Although the EIR for the Master Plan does not directly include this specific project, the EIR addresses the relevant impacts created by the project, such as visual impacts, traffic impacts, geologic hazards, noise impacts, water quality, and water conservation. The City of San Diego is the lead agency for the purposes of CEQA, and the City determined that because the 1999 EIR contemplated the type of impacts that the proposed project could produce and that the EIR recognized that SeaWorld had pre-existing marine-related facilities that would require repair and upgrades, the City did not determine that a new, project-specific EIR was required.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing final construction plans, landscaping plans, drainage plans, construction plans, disposal of graded materials, and management of the orca facility and its population will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

(G:\San Diego\Reports\2015\6-15-0424 SeaWorld Orca Facility REVISED FINDINGS stf rpt draft.docx)

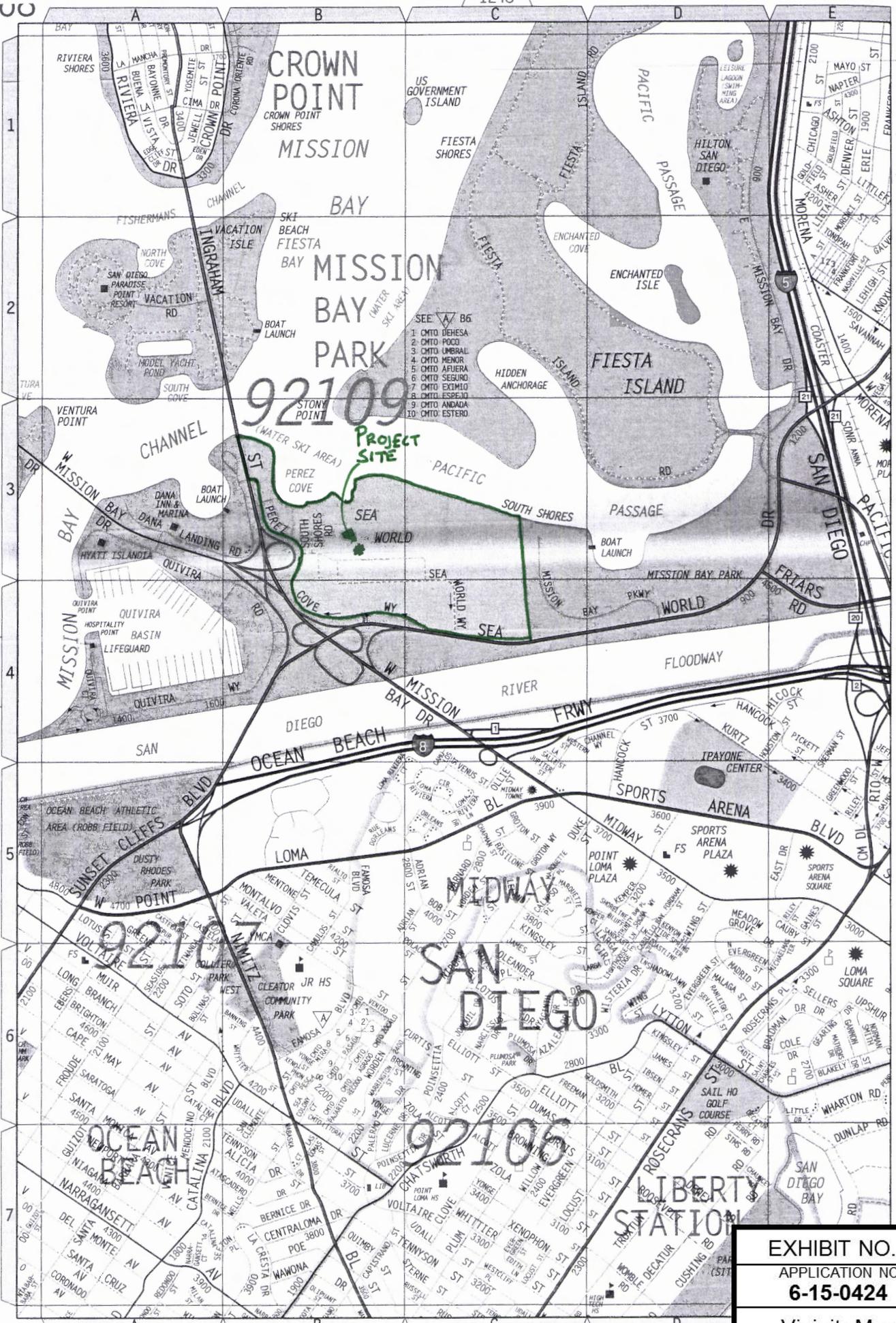
APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Mission Bay Master Plan
- SeaWorld Master Plan Update
- Christian Wheeler Engineering March 17, 2015, Report of Preliminary Geotechnical Investigation
- Moffat & Nichol December, 2014, Export Material Characterization Study
- SeaWorld August 21, 2015 Noise Impact memo

Due to the substantial volume of material and public comments submitted to Coastal Commission staff prior to the original hearing on October 8, 2015, regarding Coastal Development Permit No. 6-15-0424, the exhibits to the staff report have been attached electronically and can be found on the Coastal Commission's website (www.coastal.ca.gov).

SAN DIEGO CO.

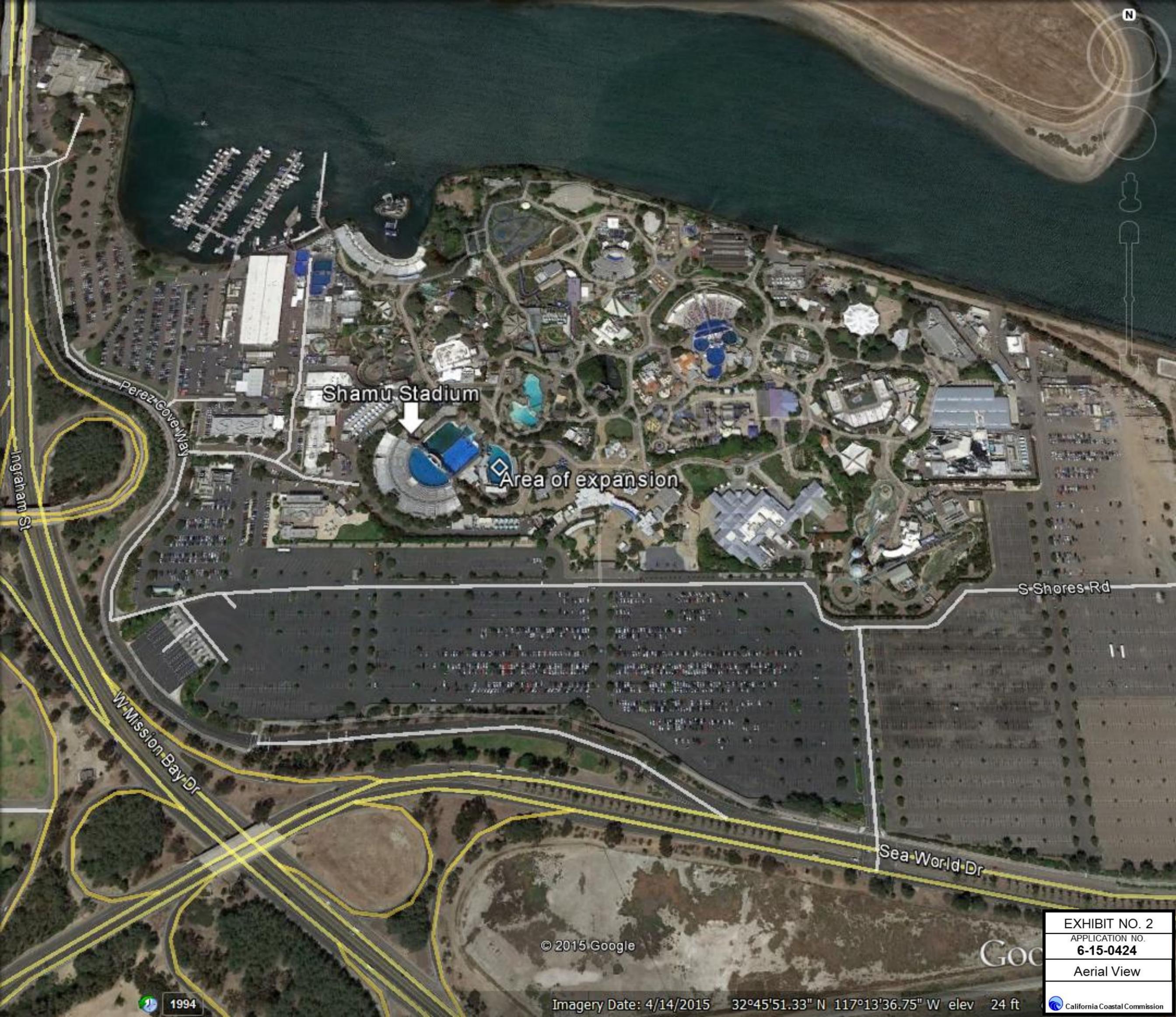
SEE 1267 MAP



0 .125 .25 .375 .5 miles 1 in. = 1900 ft.

SEE 1288 MAP

EXHIBIT NO. 1
 APPLICATION NO.
6-15-0424
 Vicinity Map



Shamu Stadium

Area of expansion

Ingraham St

Perez Cove Way

S Shores Rd

W Mission Bay Dr

Sea World Dr

© 2015 Google

Imagery Date: 4/14/2015 32°45'51.33" N 117°13'36.75" W elev 24 ft

1994

EXHIBIT NO. 2
APPLICATION NO.
6-15-0424
Aerial View

California Coastal Commission

Existing Facility

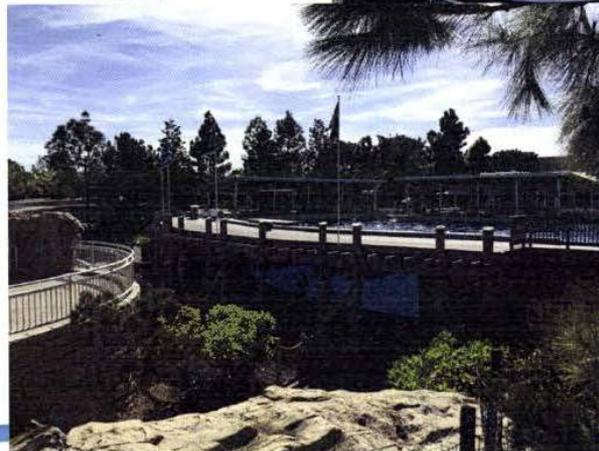
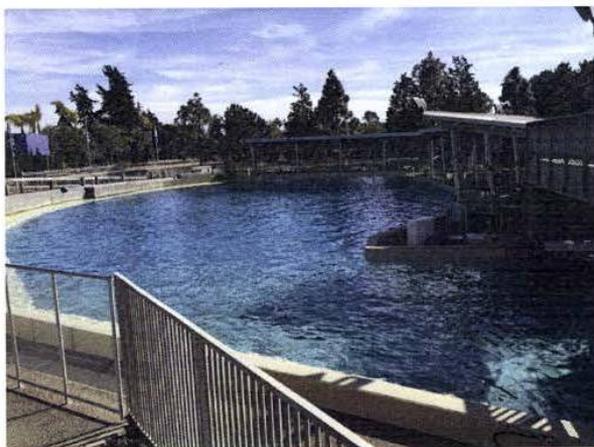
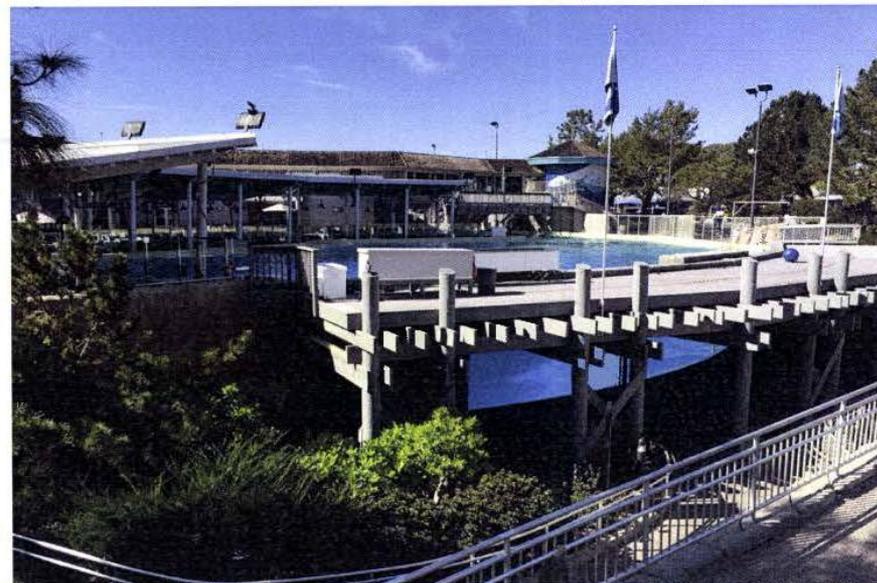
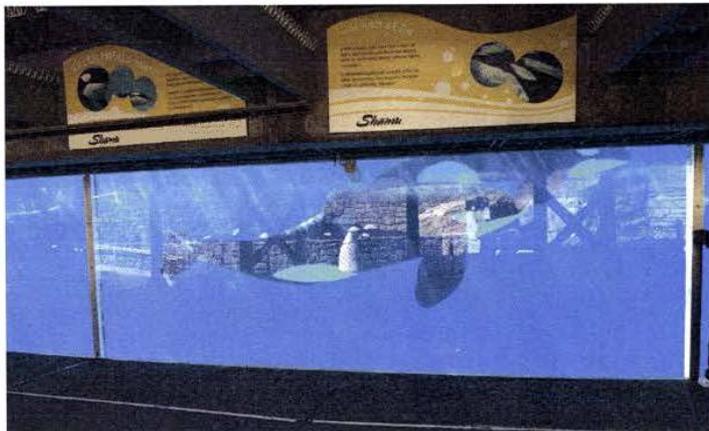


EXHIBIT NO. 3

APPLICATION NO.

6-15-0424

Existing Facilities

Other ancillary buildings

- Rebuild Restroom/Bakery
 - New Location
 - Saltwater Flush for Restrooms



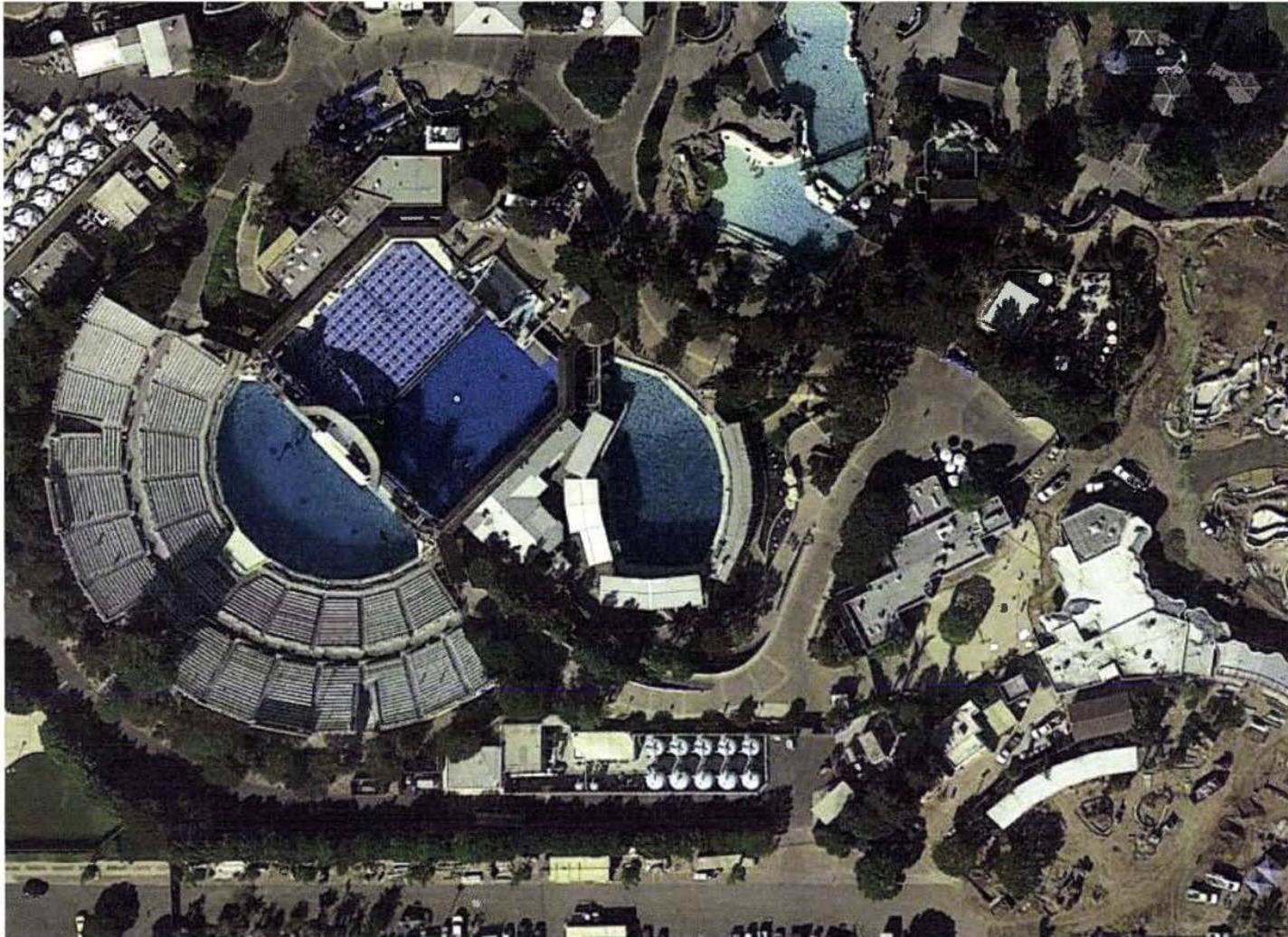


EXHIBIT NO. 4
APPLICATION NO. 6-15-0424
Proposal Comparison



NOT FOR
CONSTRUCTION

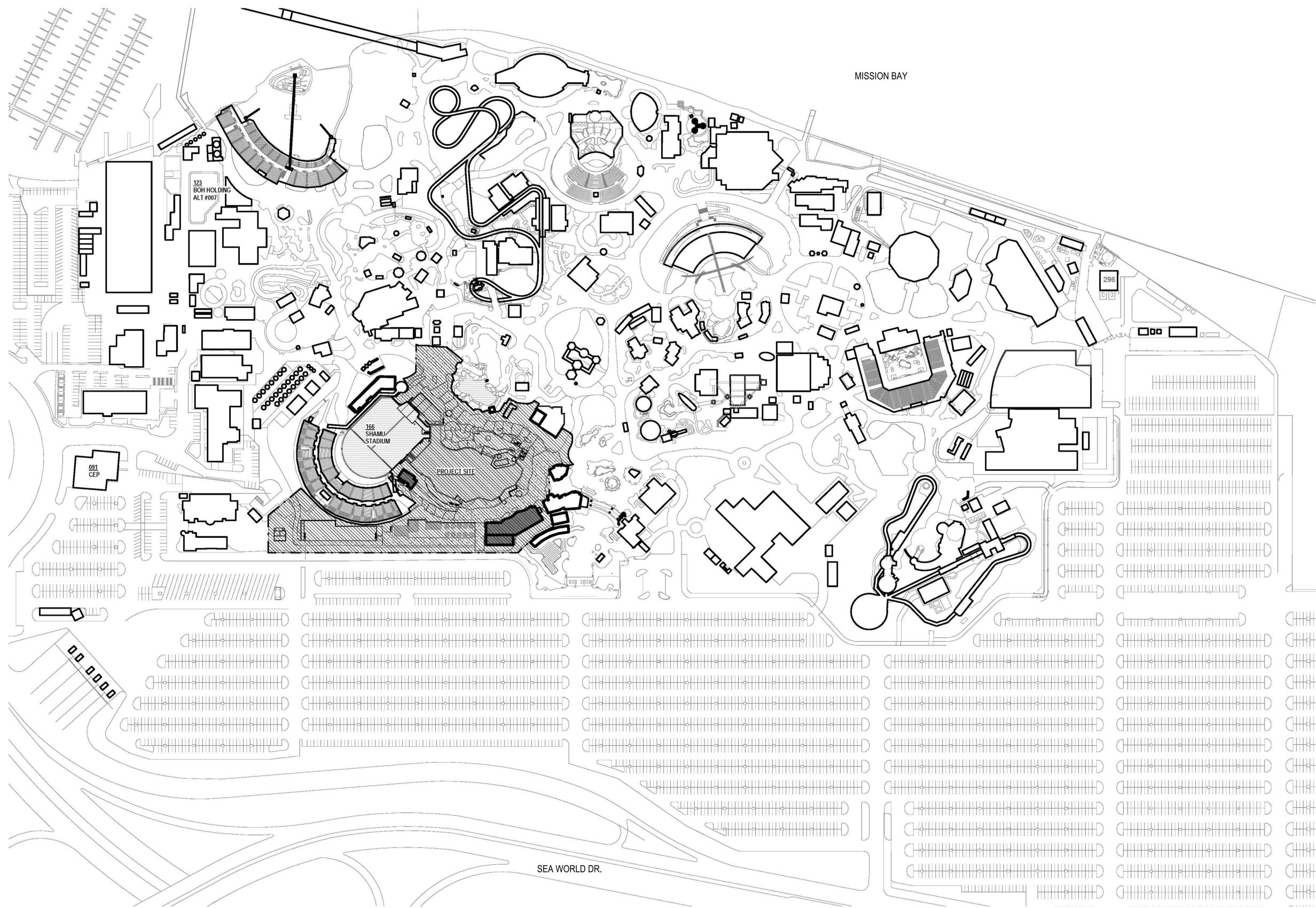
THIS PLAN AND SPECIFICATIONS APPLY ONLY TO THE OCCUPANCY OF THE PROJECT AND ARE NOT TO BE USED FOR ANY OTHER PURPOSE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL INFORMATION PROVIDED HEREON AND FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES.

Accessibility for Persons with Disabilities:
This drawing contains layouts and elements critical to providing Access for Disabled Persons. Contractor shall provide verification and certification of compliance with the appropriate accessibility regulations.

Theming Design Intent:
The theming design intent shown on these drawings is for design intent. Outlines, sketches, drawings, picture references, material specifications, and notes on this document are for the express purpose of location, general identification, alignment, and design intent. Structural design, code compliance, manufacture, installation, and safety of operation are to be provided by the Contractor including engineering documentation signed and sealed by a qualified Engineer licensed to practice by the authority having jurisdiction. The Architect/Designer's review of submittals is for the purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

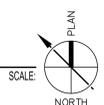
BASIS OF BEARINGS:
The Basis of Bearing is based on the California Coordinate System of 1983 (CCS83), Zone 6, North American Datum 83, Epoch 1985.50, being the grid bearing between Station 107 and Station 814 as published per record of survey No. 14462 recorded March 31, 1984, in book of record of survey at page 14462 of the No. 1984-024720, U.S. South of 27° 00' 00" West.

BENCHMARK:
The Basis of Elevation is station 107 per record of survey No. 14462, 2.20' City of San Diego benchmark set in concrete base ring at the Mission Bay Boat Launch at South Shores Park.
Elevation
= 8.89 NAVD 88 ft
= 9.92 Sea Level Datum
= 6.68 NGVD 29
Difference = 0.25 from Sea Level Datum to NAVD 88 Datum



P:\64076-00-ATLANTA- WEST\DWGS\CD\ACAD\ACAD_FILES\COASTAL_APPLICATION_DRAWINGS\A002-300 SITE LOCATOR PLAN - LAYOUT1\LAYOUT1 - 3/20/2015 11:48 AM - PLOTTED BY:RENEE.FRONBARGER

A8 SITE LOCATION PLAN
1" = 40'-0"



REVISION NO.	REVISION DATE



BLUE WORLD
San Diego, CA

Owner Review

SITE
LOCATION
PLAN

DATE	March 20, 2015		
DR	AUTHOR	DR	CHECKER
PCAD	64076-10	CLIENT	SWSD
SHEET NUMBER			

A002.300

GROUND WATER DISCHARGE NOTES

- ALL GROUND WATER EXTRACTIONS AND SIMILAR WASTE DISCHARGES TO SURFACE WATERS NOT TRIBUTARY TO THE SAN DIEGO BAY ARE PROHIBITED UNTIL IT CAN BE DEMONSTRATED THAT THE OWNER HAS APPLIED AND OBTAINED AUTHORIZATION FROM THE STATE OF CALIFORNIA VIA AN OFFICIAL "ENROLLMENT LETTER" FROM THE REGIONAL WATER QUALITY CONTROL BOARD IN ACCORDANCE WITH THE TERMS, PROVISIONS, AND CONDITIONS OF STATE ORDER NO R9-2008-0002 NPDES CAG919002.
- THE ESTIMATED MAXIMUM DISCHARGE RATES MUST NOT EXCEED THE LIMITS SET IN THE OFFICIAL "ENROLLMENT LETTER" FROM THE REGIONAL BOARD UNLESS PRIOR NOTIFICATION AND SUBSEQUENT AUTHORIZATION HAS BEEN FULLY OBTAINED, AND DISCHARGE OPERATIONS MODIFIED TO ACCOMMODATE THE INCREASED RATES.

LEGEND:

-  POOL EXCAVATION
-  BUILDING EXCAVATION
-  LIMITS OF WORK
-  DEWATERING WELL

EXCAVATION QUANTITIES

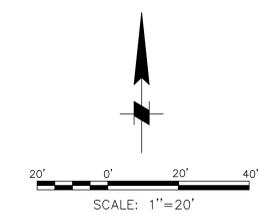
	VOLUME (CY)
CUT	35,000
FILL	0

Accessibility for Persons with Disabilities: This drawing contains symbols and elements critical to providing Access for Disabled Persons. Contractor shall provide verification and certification of compliance with the applicable accessibility regulations.

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BASES OF BEARINGS: The Basis of Bearing is based on the California Coordinate System of 1983 (CCS83), Zone 6, North American Datum 83, Epoch 1982.55, using the grid bearing between Station 117 and Station 814 as published per record of survey No. 14482 recorded March 21, 1994, in book of record of records of San Diego County, No. 1584-02-4720, I.E. South 89° 07' 00" West.

BENCHMARK: The Basis of Elevation is station 157 per record of survey No. 14482, 2.25' City of San Diego brass chip set in concrete base atop, at the Mission Bay boat launch at South Shores Park. Elevation = 8.88 NAVD 88 ft. = 8.82 Sea World Datum. = 8.88 NAVD 88 ft. Difference = +0.20 from Sea World Datum to NAVD 88 Datum.



REVISION NO.	REVISION DATE

Owner Review

DEEP EXCAVATION PLAN

DATE	March 20, 2015
DR	DR VT
M & N	CLIENT SWSD
SHEET NUMBER	C002.202

File: P:\8696\POLY Atlanta West - Seaford\CAD01_Active\Sheets-Civil\C002.202_Plottext_3/27/2015 1:37 PM.dwg, Title: C002.202, Plot: 3/27/2015 11:25 AM by VTR400

NOT FOR CONSTRUCTION

THE DATA AND INFORMATION SHOWN ON THIS DOCUMENT IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A CONTRACT. CONTRACTOR SHALL VERIFY ALL INFORMATION AND CONDITIONS PRIOR TO CONSTRUCTION. CONTRACTOR SHALL PROVIDE VERIFICATION AND CERTIFICATION OF COMPLIANCE WITH THE APPLICABLE ACCESSIBILITY REGULATIONS.

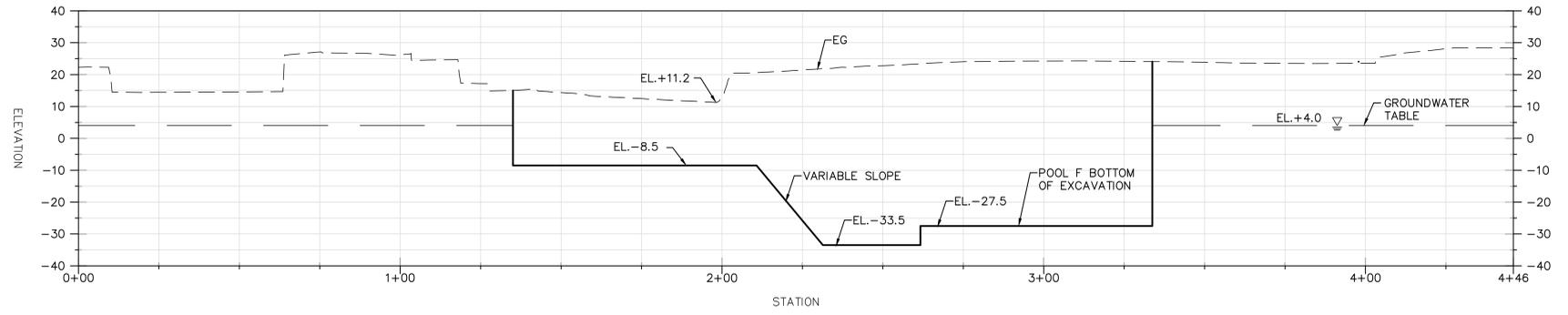
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BASIS OF BEARINGS:
 The Basis of Bearing is based on the California Coordinate system of 1983 (CCSR83), Zone 6, North American Datum 83, Epoch 1982.56, using the grid bearing between Station 117 and Station 214 as published per record of survey No. 14482, recorded March 21, 1994, in book of record of survey of San Diego County, No. 1994-02-0720, I.E. South 89° 07' 59" West.

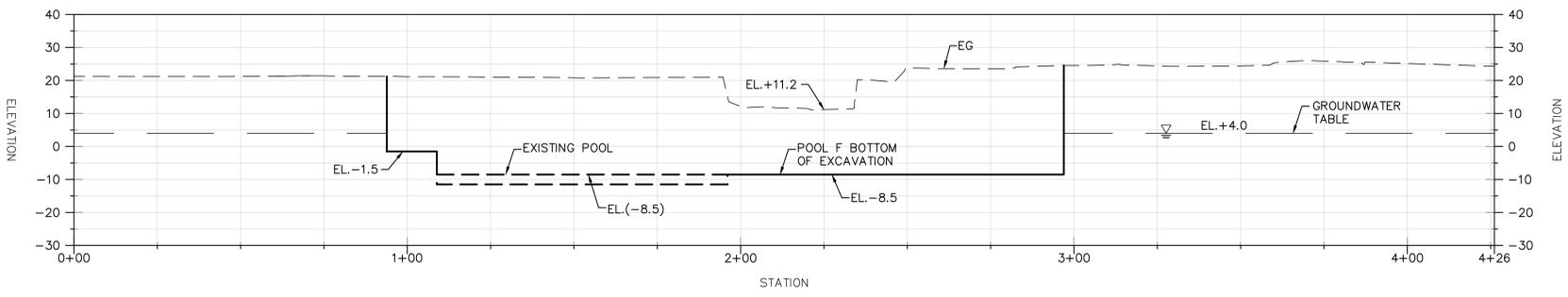
BENCHMARK:
 The Basis of Elevation is station 157 per record of survey No. 14482, 2.25' City of San Diego brass (10' x 10') in concrete base atop, at the Mission Bay boat launch at South Shores Park.
 Elevation = 8.88 NAVD 88 ft
 = 8.82 Sea World Datum
 = 8.68 NGVD 29
 Difference = +0.20 from Sea World Datum to NAVD 88 Datum

NOTES

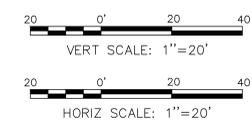
1. PROPOSED ELEVATIONS SHOWN ON THESE PROFILES REPRESENT BOTTOM OF EXCAVATIONS. FINISH FLOOR ELEVATIONS TO BE PROVIDED BY THE PROJECT ARCHITECT AND STRUCTURAL ENGINEER.
2. AVERAGE BASE ELEVATION IS AT ELEVATION +20'. NO STRUCTURE OF ANY KIND TO EXTEND MORE THAN 30' ABOVE BASE ELEVATION.



1 SECTION
 C002.202 SCALE: 1" = 20'



2 SECTION
 C002.202 SCALE: 1" = 20'



REVISION NO.	REVISION DATE



BLUE WORLD
 San Diego, CA

Owner Review

DEEP EXCAVATION SECTIONS

DATE	March 20, 2015
DR	DR VT
M & N	CLIENT SWSD

SHEET NUMBER
C002.203

Accessibility for Persons with Disabilities:
 This drawing contains symbols and elements critical to providing Access for Disabled Persons. Contractor shall provide verification and certification of compliance with the applicable accessibility regulations.

Theming Design Intent:
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BASE OF BEARINGS:
 The base of bearing is based on the California Coordinate system of 1983 (CCSR83), Zone 6, North American Datum 83, Epoch 1983.20, using the grid bearing between Station 117 and Station 114 as published per record of survey No. 144822 recorded March 21, 1994, in book of record of surveys of San Diego County, No. 1594 (SD 4720, I.E. South 89° 07' 59" West).

BENCHMARK:
 The base of elevation is station 157 per record of survey No. 144822, 2.25' City of San Diego brass pin set in concrete base atop, at the Mission Bay Boat Launch at South Shores Park.
 Elevation:
 = 8.88 NAVD 88 ft.
 = 8.88 NAVD 29
 Difference = 0.20 from Sea World Datum to NAVD 88 Datum

MINIMUM POST-CONSTRUCTION MAINTENANCE PLAN

AT THE COMPLETION OF THE WORK SHOWN, THE FOLLOWING PLAN SHALL BE FOLLOWED TO ENSURE WATER QUALITY CONTROL IS MAINTAINED FOR THE LIFE OF THE PROJECT:

1. STABILIZATION: ALL PLANTED SLOPES AND OTHER VEGETATED AREAS SHALL BE INSPECTED PRIOR TO OCTOBER 1 OF EACH YEAR AND AFTER MAJOR RAINFALL EVENTS (MORE THAN 1/2 INCH) AND REPAIRED AND REPLANTED AS NEEDED UNTIL A NOTICE OF TERMINATION (NOT) IS FILED.
2. STRUCTURAL PRACTICES: DESILTING BASINS, DIVERSION DITCHES, DOWNDRAINS, INLETS, OUTLET PROTECTION MEASURES, AND OTHER PERMANENT WATER QUALITY AND SEDIMENT AND EROSION CONTROLS SHALL BE INSPECTED PRIOR TO OCTOBER 1ST OF EACH YEAR AND AFTER MAJOR RAINFALL EVENTS (MORE THAN 1/2 INCH). REPAIRS AND REPLACEMENTS SHALL BE MADE AS NEEDED AND RECORDED IN THE MAINTENANCE LOG IN PERPETUITY.

PERMANENT POST-CONSTRUCTION BMP NOTES

1. OPERATION AND MAINTENANCE SHALL BE SECURED BY AN EXECUTED AND RECORDED STORM WATER MANAGEMENT AND DISCHARGE CONTROL MAINTENANCE AGREEMENT (SWMDCMA), OR ANOTHER MECHANISM APPROVED BY THE CITY ENGINEER, THAT ASSURES ALL PERMANENT BMP'S WILL BE MAINTAINED IN PERPETUITY, PER THE LAND DEVELOPMENT MANUAL, STORM WATER STANDARDS.
2. PERMANENT POST CONSTRUCTION BMP DEVICES SHOWN ON PLAN SHALL NOT BE MOVED OR MODIFIED WITHOUT THE APPROVAL OF THE CITY ENGINEER OR RESIDENT ENGINEER AND THE ENGINEER OF WORK.
3. ALL SITE SPECIFIC RUNOFF SHALL BE ROUTED TO THE WEST TREATMENT FACILITY. IN ADDITION TO SITE BMP'S, SEAWORLD SAN DIEGO WEST TREATMENT FACILITY WILL SERVE AS ADDITIONAL TREATMENT FOR FIRST FLUSH TREATMENT FLOWS.

STORM WATER PROTECTION NOTES

1. THIS PROJECT IS SUBJECT TO MUNICIPAL STORM WATER PERMIT ORDER NO. _____ AND RISK LEVEL/TYPE: CHECK ONE BELOW
 WPCP
 CGP RISK LEVEL 1 CGP LUP TYPE 1
 CGP RISK LEVEL 2 CGP LUP TYPE 2
 CGP RISK LEVEL 3 CGP LUP TYPE 3
2. CHECK ONE
 THIS PROJECT WILL EXCEED THE MAXIMUM DISTURBED AREA LIMIT, THEREFORE A WEATHER TRIGGERED ACTION PLAN (WTAP) IS REQUIRED.
 THIS PROJECT WILL FOLLOW PHASED GRADING NOT TO EXCEED FIVE (5) ACRES PER PHASE.
 NOT APPLICABLE
3. THE CONTRACTOR SHALL COMPLY WITH THE REQUIREMENTS OF THE WPCP OR SWPPP AS APPLICABLE.

POST-CONSTRUCTION PERMANENT BMP OPERATION & MAINTENANCE PROCEDURE DETAILS					
STORM WATER MANAGEMENT AND DISCHARGE CONTROL MAINTENANCE AGREEMENT APPROVAL NO.:					
O&M RESPONSIBLE PARTY DESIGNEE: PROPERTY OWNER / HOA / CITY / OTHER					
BMP DESCRIPTION	INSPECTION FREQUENCY	MAINTENANCE FREQUENCY	MAINTENANCE METHOD	QUANTITY	SHEET NUMBER(S)
SITE DESIGN					
SOURCE CONTROL					
TREATMENT CONTROL					
HMP FACILITY					

REVISION NO.	REVISION DATE

SeaWorld SAN DIEGO

BLUE WORLD
San Diego, CA

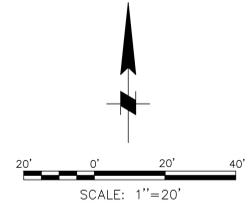
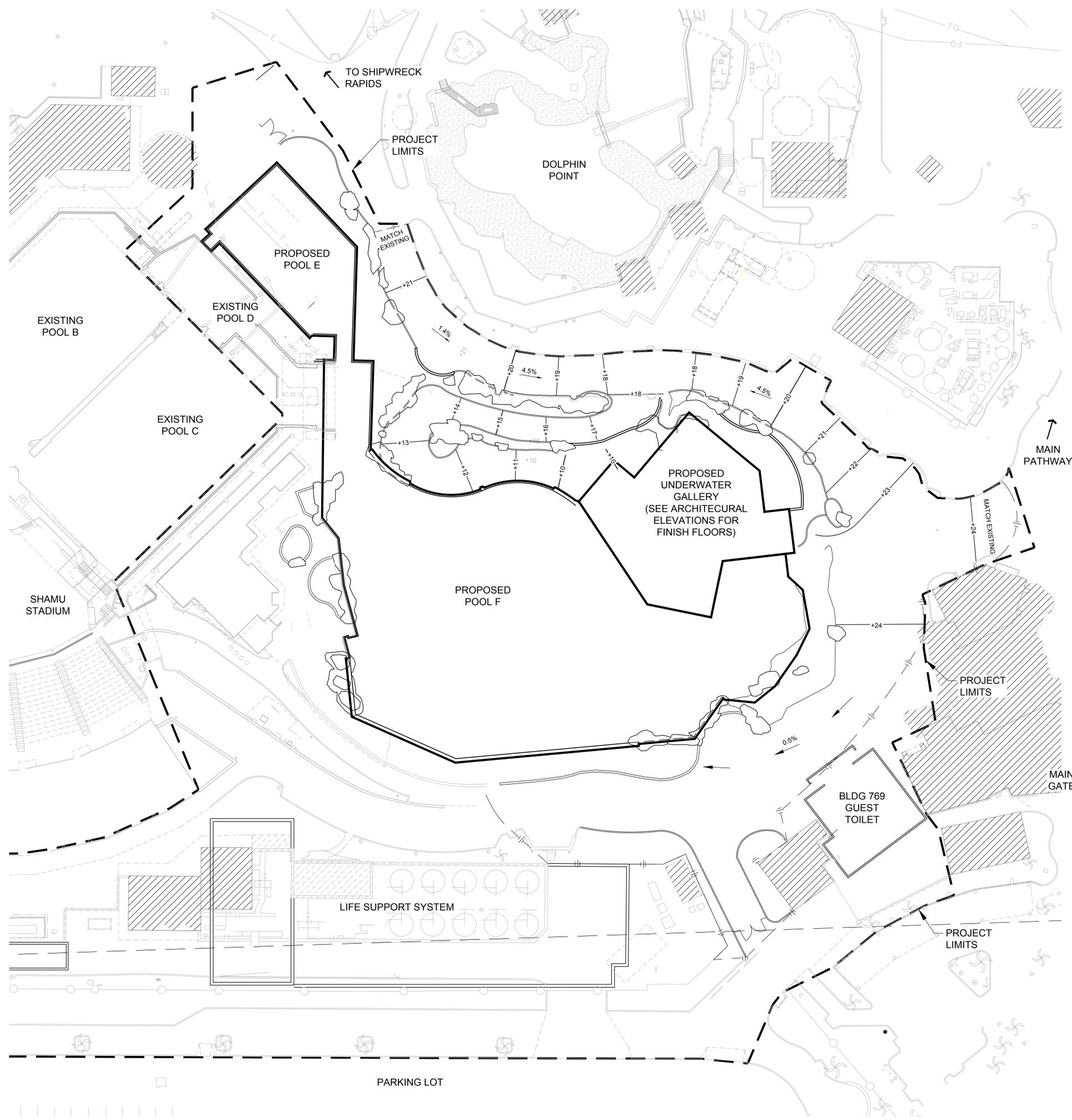
Owner Review

SITE GRADING PLAN

DATE: March 20, 2015

DR	DR	CR	VT
M & N	8696	CLIENT	SWSD

SHEET NUMBER
C002.204



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EROSION AND SEDIMENT CONTROL NOTES

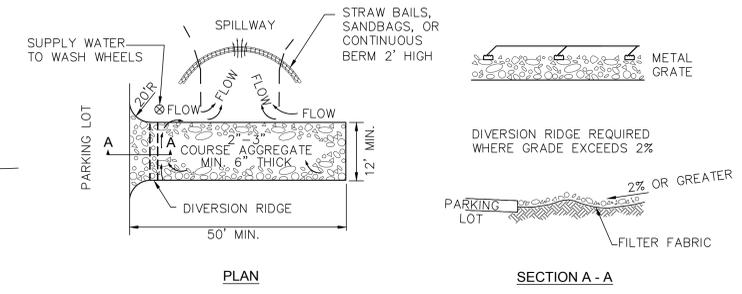
TEMPORARY EROSION/SEDIMENT CONTROL, PRIOR TO COMPLETION OF FINAL IMPROVEMENTS, SHALL BE PERFORMED BY THE CONTRACTOR OR QUALIFIED PERSON AS INDICATED BELOW:

1. ALL REQUIREMENTS OF THE CITY OF SAN DIEGO "LAND DEVELOPMENT MANUAL, STORM WATER STANDARDS" MUST BE INCORPORATED INTO THE DESIGN AND CONSTRUCTION OF THE PROPOSED GRADING/IMPROVEMENTS CONSISTENT WITH THE APPROVED STORM WATER POLLUTION PREVENTION PLAN (SWPPP), WATER QUALITY TECHNICAL REPORT (WQTR), AND/OR WATER POLLUTION CONTROL PLAN (WPCP).
2. FOR STORM DRAIN INLETS, PROVIDE A GRAVEL BAG SILT BASIN IMMEDIATELY UPSTREAM OF INLET AS INDICATED ON DETAILS.
3. FOR INLETS LOCATED AT SUMPS ADJACENT TO TOP OF SLOPES, THE CONTRACTOR SHALL ENSURE THAT WATER DRAINING TO THE SUMP IS DIRECTED INTO THE INLET AND THAT A MINIMUM OF 1.00' FREEBOARD EXISTS AND IS MAINTAINED ABOVE THE TOP OF THE INLET. IF FREEBOARD IS NOT PROVIDED BY GRADING SHOWN ON THESE PLANS, THE CONTRACTOR SHALL PROVIDE IT VIA TEMPORARY MEASURES, I.E. GRAVEL BAGS OR DIKES.
4. THE CONTRACTOR OR QUALIFIED PERSON SHALL BE RESPONSIBLE FOR CLEANUP OF SILT AND MUD ON ADJACENT STREET(S) AND STORM DRAIN SYSTEM DUE TO CONSTRUCTION ACTIVITY.
5. THE CONTRACTOR OR QUALIFIED PERSON SHALL CHECK AND MAINTAIN ALL LINED AND UNLINED DITCHES AFTER EACH RAINFALL.
6. THE CONTRACTOR SHALL REMOVE SILT AND DEBRIS AFTER EACH MAJOR RAINFALL.
7. EQUIPMENT AND WORKERS FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES DURING THE RAINY SEASON. ALL NECESSARY MATERIALS SHALL BE STOCKPILED ON SITE AT CONVENIENT LOCATIONS TO FACILITATE RAPID CONSTRUCTION OF TEMPORARY DEVICES WHEN RAIN IS IMMINENT.
8. THE CONTRACTOR SHALL RESTORE ALL EROSION/SEDIMENT CONTROL DEVICES TO WORKING ORDER TO THE SATISFACTION OF THE CITY ENGINEER OR RESIDENT ENGINEER AFTER EACH RUN-OFF PRODUCING RAINFALL.
9. THE CONTRACTOR SHALL INSTALL ADDITIONAL EROSION/SEDIMENT CONTROL MEASURES AS MAY BE REQUIRED BY THE RESIDENT ENGINEER DUE TO UNCOMPLETED GRADING OPERATIONS OR UNFORESEEN CIRCUMSTANCES, WHICH MAY ARISE.
10. THE CONTRACTOR SHALL BE RESPONSIBLE AND SHALL TAKE NECESSARY PRECAUTIONS TO PREVENT PUBLIC TRESPASS ONTO AREAS WHERE IMPOUNDED WATERS CREATE A HAZARDOUS CONDITION.
11. ALL EROSION/SEDIMENT CONTROL MEASURES PROVIDED PER THE APPROVED GRADING PLAN SHALL BE INCORPORATED HEREON. ALL EROSION/SEDIMENT CONTROL FOR INTERIM CONDITIONS SHALL BE DONE TO THE SATISFACTION OF THE RESIDENT ENGINEER.
12. GRADED AREAS AROUND THE PROJECT PERIMETER MUST DRAIN AWAY FROM THE FACE OF THE SLOPE AT THE CONCLUSION OF EACH WORKING DAY.
13. ALL REMOVABLE PROTECTIVE DEVICES SHOWN SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN RAIN IS IMMINENT.
14. THE CONTRACTOR SHALL ONLY GRADE, INCLUDING CLEARING AND GRUBBING FOR THE AREAS FOR WHICH THE CONTRACTOR OR QUALIFIED PERSON CAN PROVIDE EROSION/SEDIMENT CONTROL MEASURES.
15. THE CONTRACTOR SHALL ARRANGE FOR WEEKLY MEETINGS DURING OCTOBER 1ST TO APRIL 30TH FOR PROJECT TEAM (GENERAL CONTRACTOR, QUALIFIED PERSON, EROSION CONTROL SUBCONTRACTOR IF ANY, ENGINEER OF WORK, OWNER/DEVELOPER AND THE RESIDENT ENGINEER) TO EVALUATE THE ADEQUACY OF THE EROSION/SEDIMENT CONTROL MEASURES AND OTHER RELATED CONSTRUCTION ACTIVITIES.

LEGEND

-  DRAINAGE INLET PROTECTION
-  SILT FENCE
-  SANDBAG BARRIER
-  CONSTRUCTION ENTRANCE/EXIT

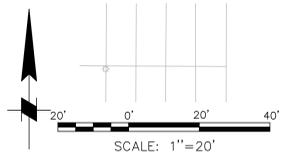
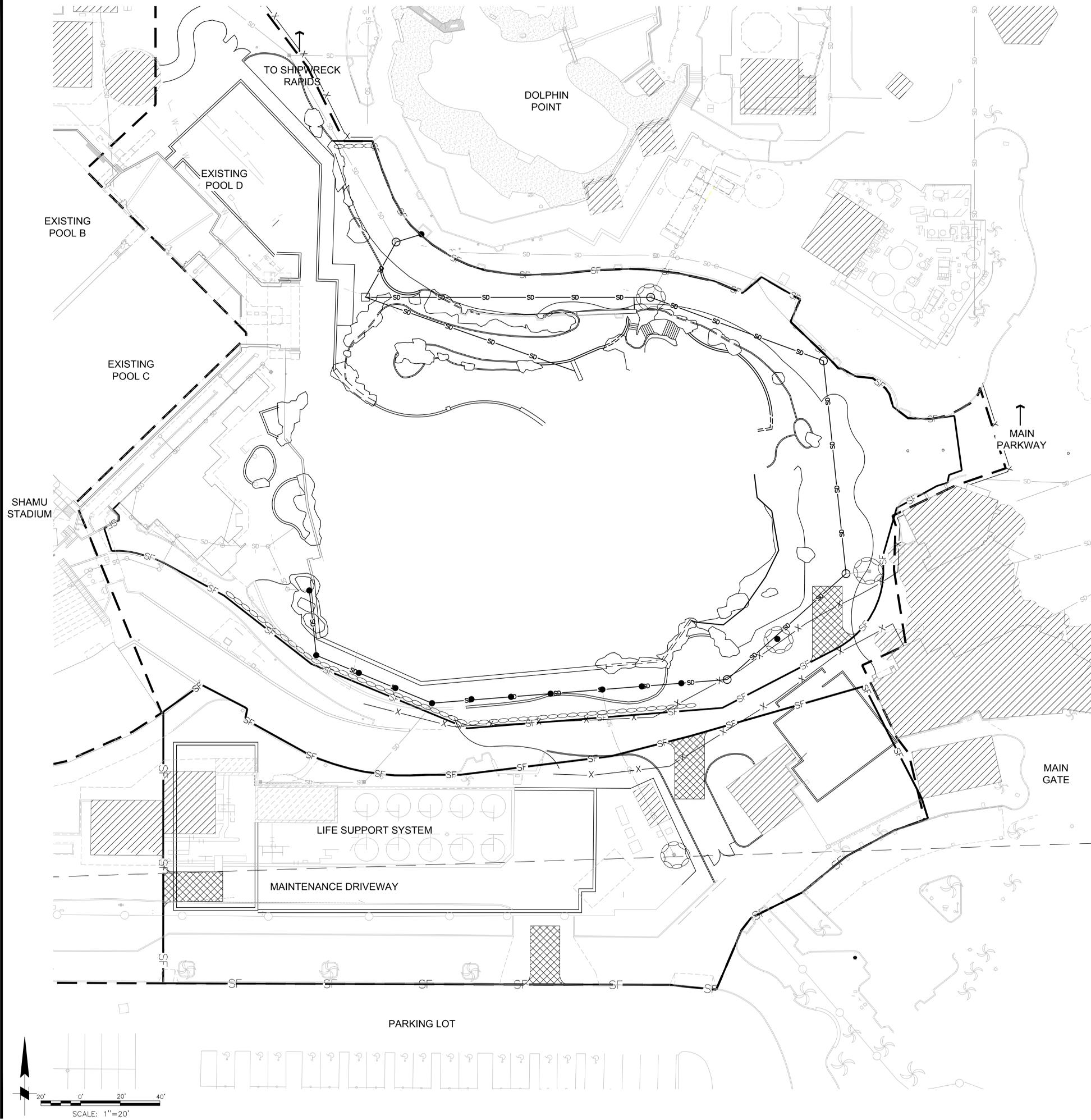
NOTE:
 USE SANDBAGS, STRAW BALES OR OTHER APPROVED METHODS TO CHANNELIZE RUNOFF TO BASIN AS REQUIRED. SEE NOTES BELOW.



NOTES:

1. THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHT-OF-WAYS. THIS MAY REQUIRE TOP DRESSING, REPAIR AND/OR CLEANOUT OF ANY MEASURES USED TO TRAP SEDIMENT.
2. WHEN NECESSARY, WHEELS SHALL BE CLEANED PRIOR TO ENTRANCE ONTO PUBLIC RIGHT-OF-WAY.
3. WHEN WASHING IS REQUIRED, IT SHALL BE DONE ON AN AREA STABILIZED WITH CRUSHED STONE THAT DRAINS INTO AN APPROVED SEDIMENT TRAP OR SEDIMENT BASIN.
4. ROCK BAGS OR SANDBAGS SHALL BE PLACED SUCH THAT NO GAPS ARE EVIDENT.

TEMPORARY CONSTRUCTION ENTRANCE
 NO SCALE



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BASES OF BEARINGS:
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BENCHMARK:
 The Basis of Elevation is station 157 per record of survey No. 14482, 2.25' City of San Diego brass pin set in concrete base atop of the Mission Bay boat launch at South Shores Park.
 Elevation:
 = 88 NAVD 88 ft.
 = 82 Sea Wood Datum
 = 86 NAVD 29
 Difference = +20 from Sea Wood Datum to NAVD 88 Datum

REVISION NO.	REVISION DATE

SeaWorld SAN DIEGO

BLUE WORLD
 San Diego, CA

Owner Review

EROSION CONTROL PLAN

DATE	March 20, 2015
DR	DR
VT	VT
M & N	8696
CLIENT	SWSD
SHEET NUMBER	C002.207

Arrival View



EXHIBIT NO. 6

APPLICATION NO.

6-15-0424

Renderings

Ocean of Life: Interpretation



Main Path Underwater View



Walk With The Whales



The Ocean Shelf



Deep Water View



Discovery Opportunities

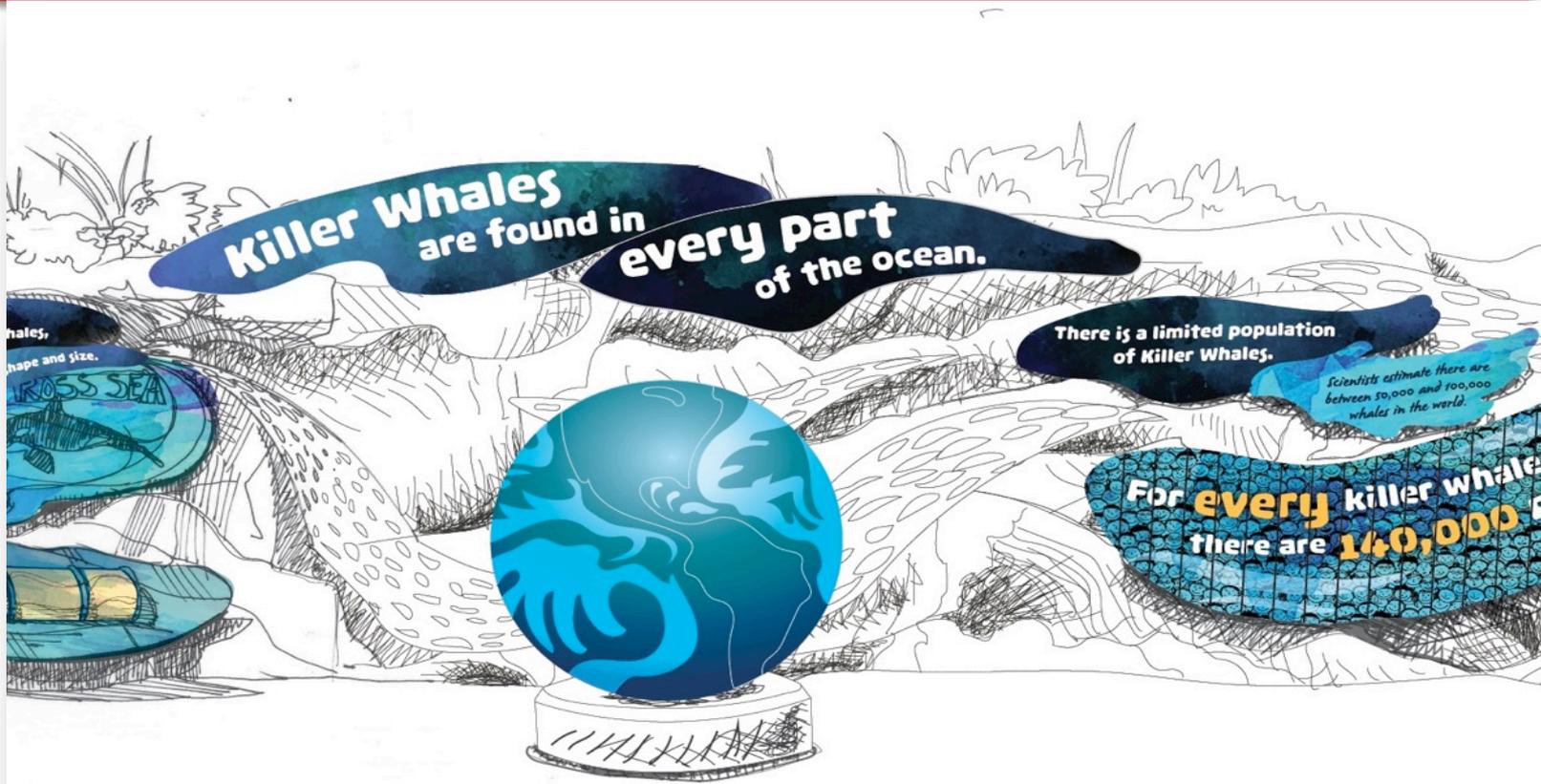


- **Conservation facts**
- **Interactive exhibits**



Inspire, Educate, Conserve

Blue World Focuses on Education and Science



Sample Mural

CDP Application: 6-04-0434 Blue World
Views from outside of leasehold or perimeter.



EXHIBIT NO. 7
APPLICATION NO. 6-15-0424
Photo Survey

Ingraham Street Bridge (peak of bridge light pole 21)



B



C



D



E





M E M O R A N D U M

TO: DARLENE WALTER

FROM: ANN BOWLES, PHD, AND PAMELA K. YOCHEM, PHD, DVM

DATE: 8/21/15

RE: REGARDING NOISE, BLUE WORLD PROJECT CONSTRUCTION

CC: CORRINE BRINDLEY, CHRIS DOLD, AL GARVER, HENDRIK NOLLENS, JOHN REILLY, MIKE SCARPUZZI

We are writing to address your questions about noise that may be produced during the Blue World construction project and ambient noise following construction. One of us (Bowles) leads the Bioacoustics Program at Hubbs-SeaWorld Research Institute (HSWRI) and was a member of the NOAA Acoustic Criteria Panel that developed science-based criteria for protecting marine mammals from exposure to noise in the environment (Southall et al. 2007). The other (Yochem) is a Ph.D. veterinarian and the Vice President for Research at HSWRI; she has over 30 years of research experience in marine mammal health.

Below, we summarize information from the published literature on construction noise and from publications written by our staff containing data on ambient sound measurements in SeaWorld pools. The citations are given in "References" at the bottom of the memo.

Applicable Principles of Acoustic Propagation of Sound:

Richardson et al. (1995) and Erbe (2010) are the best references for this brief description of basic acoustic principles.

First, it is important to note that the decibel (dB), the measure commonly used to express sound level, is not an absolute measure, but calculated relative to a standard quantity (and expressed on a logarithmic scale). The standard used in water is not the same as that in air. In addition, because the density of air and water are very different, it is necessary to compensate for the density difference to compare levels between the two – otherwise the comparison is "apples to oranges". To get an intuitive feel for the relationship between the level of a sound in air and one in water, subtract 62 dB from the level in water.

EXHIBIT NO. 8

APPLICATION NO.

6-15-0424

Noise Memoranda

In homogeneous seawater and in the absence of barriers, sound attenuates (declines in level) as a function of the square of distance, a decline of 6 dB in units of sound pressure level (SPL) for each doubling of distance between source and receiver. In shallow water, the decline may drop to 3 dB or less per doubling of distance. Through structures like walls, the decline may be much greater than 6 dB

Within a pool, where sound may be channeled by surfaces such as the water's surface, bottom, and walls, attenuation can be even less than in shallow water. In addition, the sound field can be complex in a pool and will certainly depend on the amount of energy at given frequencies. Finneran and Schlundt (2007) give detailed measurements made in a small pool on a concrete pad, showing that signals with broader bandwidths attenuate less with distance than those with narrow bandwidths (most construction noise will be broadband). Bowles and Anderson (2012) found that attenuation across a SeaWorld pool averaged 2-3 dB for a 10 kHz tonal (narroband) signal. Thus, *within* the space of a pool, attenuation can be low.

However, where sound travels from *outside* across a boundary like a concrete wall, or multiple walls separated by sand, the attenuation is much greater, just as sound in air is attenuated substantially by a glass window. Generally, the greater the difference in density across the boundary, the greater the attenuation.

Propagation of sound from air into water is a special case. Except when produced directly overhead, within a cone defined by an angle of 13° around the source, sound in air transmits inefficiently into water. Sounds produced anywhere except directly overhead will be attenuated by around 30 dB. This is comparable to the difference between noise inside vs. outside a building when doors and windows are shut. The attenuation across the air-water boundary is greater than across an 8' plywood sound barrier in air.

Both distance and barriers affect sound differently depending on frequency. Higher frequencies, which the whales can hear well, are attenuated more than low frequencies, which they hear poorly (Szymanski et al. 1999). Thus, sound levels that the whales actually hear are likely to be lower than estimates of levels made without reference to their auditory thresholds.

Propagation of noise from construction activities into whale pools will first be a function of distance and second a function of the barriers or channels through which the sound propagates:

- 1) Construction activities with the potential to produce the highest received sound levels will be those in contact with pool walls or the concrete immediately adjacent to a pool, e.g., when cutting through the wall of an existing pool.
- 2) Propagation into pools can be reduced significantly by:
 - a. Increasing distance between the sound source and whales;

- b. Placing the whales on the other side of a wall or away from an overhead source, i.e., away from line-of-sight propagation;
- c. Conducting construction activities behind barriers, for example by emptying a pool to create a layer of air; by introducing a watertight gate; or by working at a distance with soil or air between the work and the wall;
- d. Minimizing or eliminating channels between the sound source and a pool with, such as water-filled pipes or filled gate channels.

We note that exposure of the whales to construction activities will be managed according to protocols designed to minimize exposure to the most intense activities, as described in SeaWorld's Blue World Construction Sound Memorandum (8/21/15).

Levels of Construction Sound Sources:

Drilling and concrete cutting are the activities likely to occur during Blue World construction that will be close to pools with whales. Drilling noise (from unspecified equipment) has been measured at long range (ca. 600 m [1968 ft]) through seawater in Sarasota Bay (Buckstaff et al. 2013). They reported received levels of 68-70 dB re 1 μ Pa (RMS SPL) at this distance. However, they did not provide source levels. We have not found any published measurements of noise from concrete cutting in seawater.

Ambient Noise in Pools:

There is no published, systematic, cross-industry review of ambient sound in oceanaria. However, there are a few published accounts with ambient noise measurements (O'Neal 1998, Wisdom et al. 2001, Finneran et al. 2005, Bowles & Anderson 2012, Scheifele et al. 2012). Generally, the ambient has been relatively uniform, mostly noise emitted by water conditioning equipment and the flow of water. Intermittently, there are higher levels produced by the animals themselves or maintenance activities (e.g., cleaning pools). Ambient levels measured by HSWRI in one of the killer whale pools at SeaWorld (Wisdom et al. 2001) were as quiet or quieter than in comparable facilities. In the low frequency range, levels averaged around 100 – 120 dB re 1 μ Pa²/Hz (the accepted unit of measurement for broadband sound), which is within or below the levels published elsewhere. Above 1000 Hz, it was in the range from 40-50 dB re 1 μ Pa²/Hz, or comparable to quiet surface waters (little wind or waves) and close to the realistic lower limit for ocean noise. Levels measured in another SeaWorld pool were slightly higher (Bowles & Anderson 2012), averaging 40-60 dB re 1 μ Pa²/Hz above about 5 kHz, but still within the range of quiet ocean conditions. Levels measured in other holding facilities were comparable to these or higher (O'Neal 1998, Finneran et al. 2005, Scheifele et al. 2012)¹.

Perspectives on Ocean Noise:

A review of the literature on noise in the ocean is beyond the scope of this document. However, a few notes are relevant.

Killer Whale Hearing. Killer whales hear well from 1 kHz to about 120 kHz (Szymanski et al. 1999).

Killer Whale Sounds: Killer whales vocalize at varying levels. Estimated source levels of their social signals are in the range 135 – 175.7 dB RMS SPL (Holt et al. 2011). Echolocation clicks are higher, in the range 195 – 224 dB re 1 μ Pa (Au et al. 2004).

Ocean Ambient: Generally, ambient levels are greatest in the range from a few Hz to about 300 Hz, and decline at higher frequencies until the thermal limit of noise is reached above about 100 kHz (Dahl et al. 2007, Erbe 2010).

Dahl et al. (2007) summarized the literature on broadband ocean noise and compared it with terrestrial ambient noise. An important conclusion of their analysis is that vessel noise in the ocean is as ubiquitous and as important as traffic noise in the terrestrial environment. Above 1000 Hz, the quietest ocean ambient (without waves, water flow, and wind) is around 30-40 dB re 1 μ Pa²/Hz (Dahl et al. 2007, Figure 2), but more usual conditions of light wind average 50-80 dB in open waters. Heavy shipping has elevated the ocean ambient worldwide (see figures in Dahl et al. 2007 and Erbe 2010), but the majority of this noise is at very low frequencies, in the range that killer whales hear poorly. Smaller boats at relatively close range are the most important human-made noise in killer whale habitat. In the Pacific Northwest, endangered Southern Resident killer whales are exposed to broadband ambient noise levels produced by vessel traffic reaching 120 dB re 1 μ Pa in the 1- 40 kHz band (Holt et al. 2009). In some parts of their critical habitat, the exposure is present for 90% of the whales' daytime hours during the summer.

Snapping shrimp are ubiquitous in tropical and temperate shallow waters, and they produce sounds that span the range of frequencies that killer whales hear well. In coastal zones, they can average 100-120 dB re 1 μ Pa²/Hz from around 300 Hz to 200 kHz (Au and Banks 1997). This noise is continuous, with only moderate changes in level over the course of a day.

NOTE:

- 1) The units of measurement for spectra (representations of level across frequencies) differ among publications. Oceanographers generally use power spectral densities, calculated in 1 Hz bands and expressed in dB re 1 $\mu\text{Pa}^2/\text{Hz}$ (or its equivalent, 1 $\mu\text{Pa}/\sqrt{\text{Hz}}$). However, levels may also be calculated in wider bands and expressed as average spectral level (units SPL, in dB re 1 μPa). Comparisons across these scales are usually “apples-to-oranges”. For the purposes of comparing oceanarium levels with levels in the ocean, we have elected to report levels in dB re 1 $\mu\text{Pa}^2/\text{Hz}$, and have used summary graphs in Dahl et al. (2007, Fig. 2) and Erbe (2010, Fig. 5) as the points of comparison for noise in the ocean.

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August 21, 2015

Alexander Llerandi, Coastal Planner
California Coastal Commission, San Diego Division
7575 Metropolitan Drive, Suite 103
San Diego, California 92108

Regarding: Construction Sound and Sound Transmission
Blue World Coastal Development Application No. 6-15-0424

Dear Alex;

SeaWorld San Diego has a long standing history of successfully performing construction work adjacent to animal areas with no adverse effects on our animals. Blue World construction will be similar in nature to several past projects reviewed and approved by California Coastal Commission;

Construction of Shamu Backstage (existing E pool) (1995) – CDP 6-95-013
Construction of Dine with Shamu (2004) – CDP 6-04-158
Shamu Show Set Change out (2005) – CDP 6-05-031
Shamu Show Set Change out (2010) – CDP 6-10-086

The scope of work consists of two major phases A) construction of a new E pool adjacent to D pool and B) construction of a new F pool. The new pool E will provide a direct channel for whales to move from E pool to D pool. Demolition work will include removal of the existing flatwork, elevator tower, skywalk and removal of a portion of pool D to create a channel between existing D and new E pool.

Construction means and methods are the same as used on approved projects noted above. These include physical barriers between construction work and animal areas of 8' tall panels constructed of 2x4 studs and T-111. They are installed on grade and separate construction areas from non construction or animal areas. This creates a layer of separation between animal areas and construction activities that could generate sound.

Choices have consciously been made by designers, engineers, and a team of zoological professionals to reduce and mitigate sound impacts on the facility. For example, drilled soldier beams have significantly less sound impact than driven piles; therefore the drilling method was chosen over the pile driving method. Following is a review of specific construction methods to be used for Blue World work within 50' adjacent to an occupied or potentially occupied pool and their representative durations. It is anticipated that construction activities beyond 50' of occupied pools will not impact animals in any way different from that which is generated within the 0' – 50' distance. Therefore, for this review no items

outside the adjacent 50' are being identified or addressed in this document. Any work noted below that is conducted above water, for instance removal of the skywalks, whales will be relocated to a pool that is not adjacent to the work being performed.

Construction documents are also issued that obligate and bind contractors to adhere to noise reduction measures and restrictions on equipment and certain tools.

Construction of new E pool and channel connection to D pool; demolition of existing concrete and elevator tower:

Contractors anticipated construction methods (1 week = 5 – 6 day work week):

Flatwork/Concrete Pathway: Method/equipment/impacts – 8' tall construction fences in place. Concrete flatsaw and walk behind saws. Concrete to be cut into smaller squares to minimize and/or eliminate use of jackhammers, squares removed and concrete recycled. Vibration to be minimal and not in direct contact with pool walls. Estimated Duration: 6 – 7 hours per day; 4 days demolition of flatwork.

Elevator Tower: Method/equipment/impacts – Set up temporary fencing protection to protect existing pool E. Utilize large excavator/track hoe to pull building away from existing flatwork adjacent to pools. Vibration minimal and not in direct contact with pool walls; Foundations for building are separate from flatwork which are separate from existing pool. Estimated Duration: 6 hours per day; 2-3 days to remove building.

Demolition of Skywalk: Method/equipment/impacts – Utilizing crane picks, cut structure into segments, rig/sling large segments, lift off base structure, place on ground east of pools to complete demolition away from pools, then haul out. Footings and columns are not tied or doweled in to pool walls. Noise impact minimal from cutting and final demolition located at least 50' from inhabited pools. Estimated Duration: 3 – 5 hours per day; 7 days

Installation of tie-backs for structural anchoring: Method/equipment/impacts – Construction fences in place. Utilize drill rig, generator and air compressor. Set tie backs. Pour slurry grout. Minimal sound impacts from generator and compressor located above grade and behind construction fencing. Equipment is located away from pools to facilitate work and further minimize impacts. Vibration – none. Estimated Duration: 3 – 6 hours per day; 2 weeks concurrent with excavation.

Tie into existing Pool D for gates: Method/equipment/impacts – Construction fences in place. Set water tight gates and drain pool D. Core existing exterior pool D wall for placement of saw guides. Perform same operation on interior of drained pool. Saw cut opening with concrete saw. Crane out large pieces of concrete from saw cutting operation. Estimated Duration: 7 – 8 hours per day; 3 days for demo of opening.

Animal management specific to this tie in will include the draining of pool D. Whales will be in pools A / B / C or existing E during this work.

Construction at existing Dine Area/Existing E / New F pool:

Demolition of Existing Dine with Shamu Shade Structures Only (building remains) :

Method/equipment/impacts – Set up temporary fencing protection to protect existing pool C. Utilize excavator/track hoe to pull shade structures down, perform balance of demolition with bobcats and hand tools on ground after building is down. Estimated Duration: 6 – 7 hours per day; 2 weeks

Shoring: Method/equipment/impacts – Utilize drilled shores to avoid vibration (drilling rig). Soldier piles and lagging set with cranes. Concrete to be placed with concrete pumps. Some moderate vibration from chipping of slurry (cumulative 6 – 8 hours total) to install lagging within the 50' zone and majority will be out of the 50' zone. Estimated Total Duration: 6 – 7 hours per day; 10 weeks concurrent with excavation.

Excavation of Pool: Method/equipment/impacts –Using traditional excavators, backhoes, loaders, trucks to remove existing concrete and soil. Distance from existing C pool is approximately 50' where excavation work would start, the majority of excavation will be outside of the 50' radius of existing pools. Estimated Total Duration: 7 – 8 hours per day; 10 weeks concurrent with shoring.

From an animal management standpoint, precautions are taken to always ensure the safety and well-being of the animals. The contractors, engineers, and trainers, coordinate on a daily basis to ensure that animals are located correctly in accordance with the proposed work for that day. Project schedules always insure that a minimum of 8 hours is provided daily where no construction or park activities are ongoing to provide the whales a standard rest period. This has been our protocol for many years.

The overall means and methods for construction and construction contract requirements have been reviewed with the Curatorial and Veterinary staff to incorporate recommendations and ensure all construction activities are performed to minimize or negate any impacts to the existing structures that could affect or migrate to the adjacent pools. In addition, these requirements are incorporated into our project specification that bind all contractors on site at the time contracts are issued.

If you require any further information, I am happy to discuss in person or I can be reached at (619) 226-3626.

Sincerely,

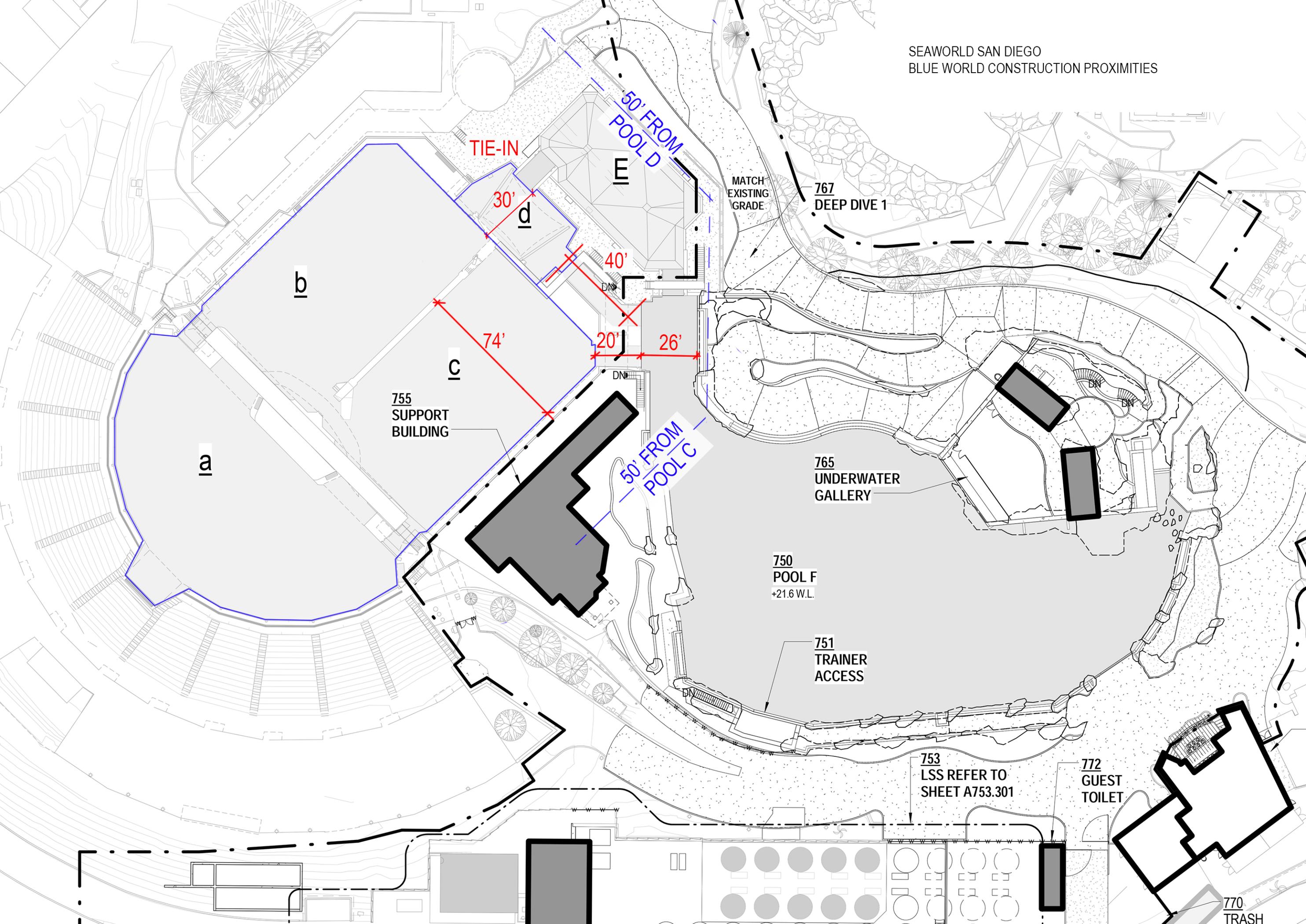


Darlene K. Walter, PMP
Vice – President, Engineering
SeaWorld San Diego

Attachments:

Hubbs-SeaWorld Research Institute Sound Transmission Memo, dated 8/21/15
Diagram – 50' Radius from Existing Pools

SEAWORLD SAN DIEGO
BLUE WORLD CONSTRUCTION PROXIMITIES



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CHICAGO
WASHINGTON, DC
SAN FRANCISCO
SILICON VALLEY
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September 21, 2015

VIA ELECTRONIC MAIL

Mr. Alexander Llerandi, Coastal Program Analyst
California Coastal Commission
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Addendum to Blue World Project Description: CDP Application 6-15-0424

Dear Mr. Llerandi:

We represent SeaWorld San Diego in connection with its coastal development permit application for the planned orca habitat expansion.

SeaWorld San Diego and the California Coastal Commission have enjoyed a close cooperative working relationship for more than 40 years. As a result, SeaWorld is deeply appreciative of the thoughtful and professional consideration Coastal Commission staff members have given to its review and analysis of the Blue World Project application. As you are aware, we have submitted letters dated April 13, 2015, August 21, 2015 and September 16, 2015 in which we have indicated that the care and well-being of SeaWorld's marine mammal collection is under the exclusive jurisdiction of federal agencies. However, without waiving the matters addressed in those letters, SeaWorld also wants to continue to address staff questions related to the killer whale collection within the Blue World Project.

Therefore, in SeaWorld's continuing spirit of cooperation and communication, we are pleased to formally supplement the above-referenced CDP application with the Project Description Addendum attached hereto.

DUANE MORRIS LLP

750 B STREET, SUITE 2900 SAN DIEGO, CA 92101-4681

PHONE: +1 619 744 2200 FAX: +1

EXHIBIT NO. 9

APPLICATION NO.

6-15-0424

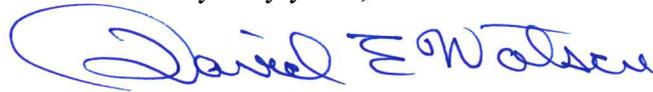
Project Addendum

 California Coastal Commission

Mr. Alexander Llerandi, Coastal Program Analyst
California Coastal Commission
September 21, 2015
Page 2

Please contact me if you have any questions.

Very truly yours,



David E. Watson

DEW
DM2\6154445.1

Enclosure

cc: John Reilly
Darlene Walter
Corrine Brindley
Charles Lester
Sherilyn Sarb

REVISED BLUE WORLD PROJECT DESCRIPTION
CDP APPLICATION 6-15-0424
(Project Description Addendum September 21, 2015)

The Project will be managed consistent with the Virgin Pledge against collection of killer whales from the wild. Based on the Virgin Pledge, to which SeaWorld is a signatory, the Project will not be home to any killer whales taken from the wild after February 14, 2014 and no genetic material from any killer whale taken from the wild after February 14, 2014 will be utilized, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more governmental agencies as unfit for release into the wild. The Project killer whale population will not significantly increase except as may occur incrementally through sustainable population growth consistent with the reproductive guidelines of one or more nationally recognized marine mammal accreditation organizations. The Project may be home to beached or rescued killer whales at the request of one or more governmental agencies.

THE *Virgin* PLEDGE

(Facility name) _____

Is committed to the protection and conservation of oceans for future generations. Except when necessitated by the needs of rehabilitation*, rescue** or support for endangered species***, this facility pledges to never take receipt of cetacea including whales and dolphins that were taken from the wild after 14th February 2014.

REHABILITATION*

Many facilities play an important role in the care and rehabilitation of injured animals. In the case of animals that are taken into care in the event of injury, stranding or any other natural or man-made disaster, the primary intention should always be to rehabilitate and release.

RESCUE**

A rescue refers to an animal that has been deemed non – releasable by relevant government authorities.

SUPPORT FOR ENDANGERED SPECIES***

(Or equivalent status within differing international frameworks)

The role of facilities in supporting on-going conservation programmes is recognised. Ex situ conservation initiatives (captive breeding programmes of certain species) are therefore exempt, assuming that;

- A) the initiative is deemed necessary by relevant authorities e.g. at the request of government, published species action plan or at the recommendation of authoritative bodies such as IUCN
- B) it is as a complementary (and not as an alternative) approach to in-situ conservation (programmes that take place in the species natural habitat)

Signed _____

Name _____

Position _____

Date _____

Due to the substantial volume of public comments submitted to Coastal Commission staff regarding Coastal Development Permit No. 6-15-0424, Exhibit 12 – Letters of Support and Exhibit 13 – Letters of Opposition will be released to the public in a forthcoming Addendum to this staff report.

EXHIBIT NO. 11

APPLICATION NO.

6-15-0424

Public Comments

SCOTT H. PETERS
52ND DISTRICT, CALIFORNIA

2410 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-0508

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515-0552

October 1, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RE: SeaWorld Blue World Project Application

Dear Chairman Kinsey and Members of the Coastal Commission:

I am writing in support of SeaWorld's application for the proposed Blue World Project. This project will provide an enhanced and expanded orca habitat that is endorsed by leading researchers and is consistent with the existing Master Plan.

The Blue World Project will significantly improve the orca environment and establish an educational center for scientists and the public. San Diego is a national hub for research and I support SeaWorld's vision in providing first-class facilities for their animal rescue and marine conservation programs.

SeaWorld has also made commitments to the community through the park's private storm water treatment facility and project's design that is consistent with the 30-foot height limit.

I encourage the Commission to support SeaWorld's Blue World Project and the conservational, educational and economic benefits it will provide to San Diego. Please do not hesitate to contact me should you have any questions.

Sincerely,



Scott Peters
Member of Congress
US House of Representatives
California, 52nd District

SP/be

PRINTED ON RECYCLED PAPER

EXHIBIT NO. 12

APPLICATION NO.

6-15-0424

Support Letters

 California Coastal Commission

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0039
(916) 651-4039
FAX (916) 651-4939

DISTRICT OFFICE
701 B Street, Suite 1840
SAN DIEGO, CA 92101
(619) 645-3133
FAX (619) 645-3144

WEBSITE
<http://sd39.senate.ca.gov>

California Legislature



MARTY BLOCK
SENATOR, THIRTY-NINTH DISTRICT

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GOVERNMENTAL ORGANIZATION

CAUCUSES
CHAIR, CALIFORNIA LEGISLATIVE JEWISH
CAUCUS

September 17, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: SeaWorld Application, Blue World Project

Dear Chairman Kinsey and Members of the Coastal Commission,

I am writing in support of SeaWorld's proposed Blue World Project. This project will bring about positive change for the park, its marine life, and those seeking to learn from and enjoy the educational opportunities afforded by this expanded project.

The Blue World Project will create a significantly enlarged habitat for the existing orca population. This new space will increase stimulation for the whales, provide more educational displays and learning opportunities for guests, and offer additional research prospects for marine scientists.

SeaWorld, as both a theme park and research facility is an important institution in San Diego. The park employs a range of staff members and provides community services and marine life assistance across coastal San Diego. I commend SeaWorld for all that it has done in rescuing animals that are ill, injured or in need of expert care. This expansion effort is in that same continued spirit of quality animal care, education, and research.

As the State Senator for the 39th Senate District, in which the project is located, I am strongly supportive of SeaWorld's application for its Blue World Project. Should you have any questions, I can be reached at my office (619) 645-3133.

Respectfully,

A handwritten signature in black ink that reads "Marty Block".

MARTY BLOCK
State Senator, 39th Senate District

Proudly representing the cities and communities of San Diego, Del Mar, Solana Beach, and Coronado

STATE CAPITOL
STATE CAPITOL, ROOM 6026
SACRAMENTO, CA 95814
OFFICE (916) 319-2079
FAX (916) 319-2179

DISTRICT OFFICE
1350 FRONT STREET, SUITE 6046
SAN DIEGO, CA 92101
OFFICE (619) 531-7913
FAX (619) 531-7924



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SAN DIEGO COUNTY

October 1, 2015

Steve Kinsey, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94101-2219

Dear Chairman Kinsey,

It is my pleasure to write a letter in support of the Coastal Development Permit for Sea World San Diego's Blue World Project. The project includes expanding the killer whale exhibit and adding a marine aquarium. The expansion of the killer whale exhibit will not only increase the swimming capacity for the killer whale habitat, but will also include 500,000 labor hours for the two year construction project.

Sea World San Diego continues to be environmentally conscience during construction. They recently built new restrooms that use sea water instead of fresh water. The Blue Water Project proposes construction of a similar restroom that demolishes two existing aging facilities and builds another environmentally friendly restroom for park guests to use. The newly designed restroom will save over one million gallons of water per year.

Over the years, Sea World San Diego has used their research and rescue efforts to assist various sea animals in need. The Blue World project will create additional educational opportunities and further the existing efforts by providing an interactive display for park visitors.

I encourage the Coastal Commission to grant the permit to Sea World San Diego for the Blue World Project. Should you have any questions regarding my support, please do not hesitate to contact me in my office at (619)531-7913.

Sincerely,

SHIRLEY N. WEBER, PH.D.
California State Assembly, 79th District



TONI G. ATKINS
SPEAKER OF THE ASSEMBLY

September 16, 2015

Steve Kinsey, Chair
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

Dear Chairman Kinsey and Members of the Coastal Commission,

I write in strong support of the Coastal Development Permit that would enable the replacement and expansion of the existing killer whale habitat with a marine aquarium, themed exhibit and immersive killer whale habitat experience. The proposed design is consistent with the existing Master Plan and will expand the swimming opportunities for the killer whales due to the significant increases in the size of the pools.

Replacing a set of restrooms and bakery dating from the 1980s that is approximately 5,500 square feet in size with a new 2900 square foot restroom facility that will use seawater rather than fresh water, will save over one million gallons a year and reduce the bulk and scale of the building.

New pathways for the public to use, lighting and audio enhancements are welcome additions. SeaWorld has its own stormwater treatment facility and all stormwater will be processed onsite. The project as proposed will not be visible outside of the SeaWorld leasehold and will be consistent with the 30-foot height limit.

I encourage the Commission's support of the Coastal Development Permit that will enhance the experience for both the killer whales and the public.

Warmly,

TONI G. ATKINS
Speaker of the Assembly
78th Assembly District

TGA:dds





KEVIN L. FAULCONER

MAYOR

September 16, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Dear Mr. Kinsey:

I am pleased to offer my support for SeaWorld San Diego's new Blue World project and respectfully request that the California Coastal Commission approve of SeaWorld's application.

This project will expand educational opportunities offered by SeaWorld and promote deeper knowledge of whales and their ocean environment. The goal of this project is to advance education and conservation efforts to protect marine life in the wild.

I appreciate your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin L. Faulconer", written over a horizontal line.

Kevin L. Faulconer
Mayor

KLF:fmm



THE CITY OF SAN DIEGO
COUNCILMEMBER TODD GLORIA
THIRD DISTRICT

September 23, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Dear Chairman Kinsey and Members of the Coastal Commission:

I am writing in support of SeaWorld's Blue World Project application, which will replace and expand the existing killer whale habitat at SeaWorld San Diego.

By doubling the size of the marine aquarium to 1.5 acres with a depth of 50 feet, the Blue World Project will enhance the habitat of the killer whales and allow for their increased engagement with SeaWorld experts through new enriching experiences such as the "fast water current" feature and other interactive programs. It will also enable increased enjoyment of our coastal resources and provide new educational experiences for guests.

I encourage the Commission's support of the Coastal Development Permit that will enhance the habitat for killer whales, improve the experience for visitors, and help SeaWorld move forward with their conservation and research efforts.

Sincerely,


TODD GLORIA
Councilmember, Third District

TG:sjh





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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

**CITY OF SAN DIEGO
OFFICE OF COUNCILMEMBER MYRTLE COLE
FOURTH COUNCIL DISTRICT**

September 25, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Dear Chairman Kinsey and Members of the Coastal Commission,

I am writing in support of SeaWorld's proposed Blue World Project. This project will bring about positive change for the park, its marine life, and those seeking to learn from and enjoy the educational opportunities afforded by this expanded project.

The Blue World Project will improve the environment for marine life, visitors and employees. It will create a significantly enlarged habitat for the existing orca population. This new space will increase stimulation for the whales, provide more educational displays and learning opportunities for guests, and offer additional research prospects for marine scientists.

As Chair of the City of San Diego's Economic Development and Intergovernmental Relations Committee, I value SeaWorld as both a theme park and research institution. The park employs a range of staff members, over 700 of whom reside in my District, and provides community services and marine life assistance across coastal San Diego. I commend SeaWorld for all that it has done in rescuing animals that are ill, injured or in need of expert care. This expansion effort is in that same continued spirit of quality animal care, education, workforce development and research.

Thank you for your favorable consideration for SeaWorld's application for its Blue World Project. It is my hope and desire you find it worthy of approval.

Sincerely,

Myrtle Cole

Myrtle Cole
Councilmember, Fourth Council District

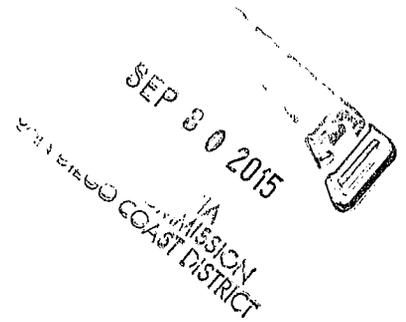


COUNCILMEMBER CHRIS CATE

SIXTH DISTRICT
CITY OF SAN DIEGO

September 23, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108



Dear Mr. Kinsey,

I would like to offer my support for SeaWorld's Blue World habitat project and hope you will do the same.

SeaWorld is an important part of our community and plays a vital role in San Diego's tourism industry by bringing millions of guests from all over the world to their park each year, driving our local economy. Additionally, SeaWorld is one of the region's largest job creators, employing roughly 4,000 San Diegans from all over the County.

Through its wildlife rescue missions and world-class marine research, SeaWorld has built a reputation for being an exceptional steward of our environment and the community. The Blue World habitat expansion project will advance SeaWorld's opportunities for critical marine research and education.

Because the Blue World habitat project is compliant with the SeaWorld Master Plan which was certified by the California Coastal Commission on February 7, 2002 and adopted by the San Diego City Council for effective certification on July 9, 2002, I strongly urge the Coastal Commission to approve the SeaWorld Blue World habitat project.

Sincerely,

Chris Cate
Councilmember
Sixth District
CC/jh



THE CITY OF SAN DIEGO



SCOTT SHERMAN

COUNCILMEMBER
SEVENTH DISTRICT

September 11, 2015

RECEIVED

SEP 21 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Subject: Support SeaWorld Application to Expand Whale Habitat

Please accept this letter of support to approve SeaWorld's application for an enhanced whale habitat through its "Blue World Project." The Blue World Project includes a massive expansion of the killer whale environment at SeaWorld San Diego that will help attract more tourism to our city and provide a more enhanced habitat for the killer whales in SeaWorld's care.

For 50 years, SeaWorld has been a responsible steward of animals, a great community partner, a driving force for tourism, a major employer, and an important economic driver in our region. By approving the application to enhance the whale habitat, you will be contributing to the beneficial impacts SeaWorld has on our region.

As an avid outdoorsman and lifelong San Diegan, I deeply appreciate SeaWorld's leadership in animal care, rescue, and research. In addition to investing hundreds of millions to upgrade and expand the killer whale habitat, the project will commit \$10 million in matching funds for research projects focused on threats to killer whales in the wild.

Please feel free to contact my office at 619-236-6677 or email me at ScottSherman@SanDiego.Gov if you have any questions regarding my strong support for approval of this application. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Scott Sherman".

Scott Sherman
San Diego City Council, District 7



RECEIVED

JUL 13 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

OFFICE OF THE MAYOR
Mary Casillas Salas

July 8, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

I urge you to approve SeaWorld's application for an enhanced whale habitat through its "Blue World" project. This project would help stimulate our region's economy, and would provide an even more enhanced habitat for the killer whales in SeaWorld's care.

For 50 years, SeaWorld has been a responsible steward of animals, a great community partner, a driving force for tourism, a major employer, and an important economic driver in our region. By approving the application to enhance the whale habitat, you will be contributing to the beneficial impacts SeaWorld has on our region.

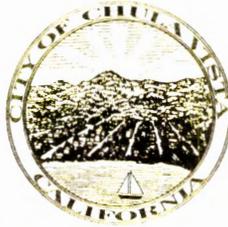
SeaWorld has been a leader in animal care, rescue and research. The new Blue World habitat will expand space for the whales while also adding new features that will improve the guest experience and education and understanding of these magnificent animals.

Furthermore, this new attraction will further drive tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our region each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

I urge the Coastal Commission to approve this project.

Sincerely,

Mary Casillas Salas
Mayor



RECEIVED

JUN 15 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

OFFICE OF THE CITY COUNCIL

PAMELA BENSOUSSAN
DEPUTY MAYOR

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

June 11, 2015

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

As Deputy Mayor of Chula Vista, I am writing to encourage you to approve SeaWorld's application for its "Blue World" project, an enhanced habitat for killer whales in SeaWorld's care. This project, while greatly ameliorating the whale's habitat, will also help stimulate our region's economy.

Over two years ago Sea World opened Aquatica Water Park in Chula Vista and we have seen first hand their careful and responsible stewardship of the animal life and environmental resources at this facility. SeaWorld is a leader in animal care, rescue and research. The new Blue World habitat will expand space for the whales while also adding new educational features that will increase the understanding of and appreciation for these magnificent animals.

SeaWorld is also a great community partner, a driving force for tourism, a major employer, and an important economic driver in the San Diego region. In addition to greatly enhancing the whale habitat, approval of the Blue World Project application will increase the beneficial impacts SeaWorld has on our region. SeaWorld draws millions of visitors to our region each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

I strongly encourage the Coastal Commission to approve this project.

Sincerely,

Deputy Mayor Pamela Bensoussan
City of Chula Vista



COUNCILMEMBER

John McCann

June 29, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED
JUL 02 2015
COASTAL COMMISSION
SAN DIEGO DISTRICT

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

I support SeaWorld's application for an enhanced whale habitat through its "Blue World" project. This project would provide an even more enhanced habitat for the killer whales in SeaWorld's care and help stimulate San Diego's economy. Additionally, allowing SeaWorld to better care for their animals will benefit the public perception of the SeaWorld brand and its various enterprises - including SeaWorld's Aquatica waterpark in Chula Vista.

For 50 years, SeaWorld has been a symbol of marine mammal care and compassion, a great community partner, a driving force for tourism, a major employer, and an important economic driver in our region. By approving the application to enhance the whale habitat, you will be contributing to the beneficial impacts SeaWorld has on our region.

SeaWorld has been a leader in animal care, rescue and research. The new Blue World habitat will expand space for the whales while also adding new features that will improve the guest experience and education and understanding of these magnificent animals.

Furthermore, this new attraction will further drive tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our region each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

I support the Coastal Commission approving this project.

Yours in Service,

John McCann

Councilmember, City of Chula Vista



Sam Abed
Mayor
201 North Broadway, Escondido, CA 92025
Phone: 760-839-4610 Fax: 760-839-4578

June 9, 2015

RECEIVED

JUN 15 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mr. Steve Kinsey, Chairman, California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Dear Mr. Kinsey,

As Mayor of Escondido I am writing to express my support for SeaWorld's application for an enhanced whale habitat through its "Blue World" project. This project would help stimulate our region's economy, and would provide an even more enhanced habitat for the killer whales in SeaWorld's care.

For 50 years, SeaWorld has been a responsible steward of animals, a great community partner, a driving force for tourism, a major employer, and an important economic driver in our region. By approving the application to enhance the whale habitat, you will be contributing to the beneficial impacts SeaWorld has on our region.

Furthermore, this new attraction will further drive tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our region each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

I respectfully request that the Coastal Commission approve this project.

Sincerely,

Sam Abed
Mayor



RON ROBERTS

SUPERVISOR, FOURTH DISTRICT
SAN DIEGO COUNTY BOARD OF SUPERVISORS

RECEIVED

JUL 13 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 7, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Subject: SEAWORLD APPLICATION FOR ENHANCED WHALE HABITAT

Dear Chairman Kinsey:

As a member of the San Diego County Board of Supervisors, I urge you to approve SeaWorld San Diego's application for an enhanced whale habitat through its "Blue World" project. This project would provide an enhanced habitat for the orcas in SeaWorld's care and help stimulate our region's economy.

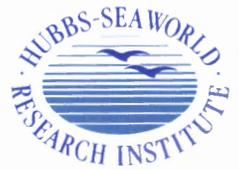
SeaWorld is a leader in animal care, rescue and research. Blue World will expand space for the whales while adding new features designed to improve visitor understanding of these magnificent creatures.

For 50 years, SeaWorld has been a responsible steward of animals, a great community partner and a driving force for local tourism. As a major employer, it has served as an important and steady economic driver in our region. By approving the application to enhance the whale habitat, you will be expanding SeaWorld's beneficial impacts.

Chairman Kinsey, I urge the Coastal Commission to approve this project.

Sincerely,

RON ROBERTS
Supervisor, Fourth District
County of San Diego



April 24, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED

MAY 01 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: SeaWorld's Blue World application

Dear Mr. Kinsey,

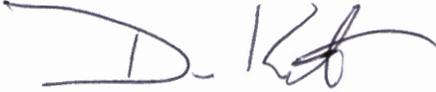
I am the President/CEO of the Hubbs-SeaWorld Research Institute (HSWRI), a non-profit marine research organization that has conducted studies on marine animals for more than 50 years. As an independent research organization, we often provide the results of our studies to resource management agencies that are charged with mitigating the effects of human activities on wild populations of marine animals to ensure that human uses of the oceans do not adversely impact their survival. I have directly participated in research projects conducted at SeaWorld by the park's zoological team and HSWRI scientists that benefit wild animals. SeaWorld's proposed killer whale habitat will not only enrich the whales' environment but will also provide new opportunities for researchers to conduct studies that will benefit killer whales in the wild. For that reason I would like to express my support of the Blue World project.

At HSWRI we have conducted valuable research on killer whales and other marine life that is possible only in a controlled environment. I grew up in San Diego and as a young student visited the Park often with my family, friends and science classes. Over the decades I have personally witnessed the evolution of the habitats developed by SeaWorld to house their zoological collection much in the same way that I have observed the San Diego Zoo move into progressively more enriching habitats for their animals. Blue World represents the latest evolution in killer whale care. SeaWorld has formed an advisory group of experienced marine mammal researchers, veterinarians and educators to ensure that the new habitat will provide greater access to scientists for enhanced research capabilities, as well as new opportunities for educational programs and guest interactions.

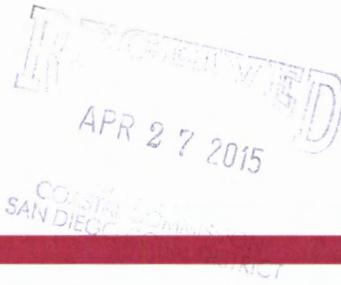
Prior to Shamu coming to SeaWorld, most members of the public had no experience of these magnificent animals. Only a few people got to see them in the wild and many of those who did, feared them. SeaWorld's history of killer whale conservation, education and display changed all that. I have had the great pleasure and honor of studying killer whales not only in our local waters, but also in the coastal waters of Alaska and I continue to be in awe of them whenever I visit them at the SeaWorld parks.

In the interests of advancing marine science, the conservation of killer whales and other marine animals and with respect to the value SeaWorld's killer whales represent to educating the public about the ocean world, I unreservedly support the Blue World project and the opportunity it represents for marine research, education and conservation.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Kent', with a stylized flourish extending from the end.

Donald B. Kent
President/CEO



402 West Broadway, Suite 1000
San Diego, CA 92101-3585
p. 619.544.1300

www.sdchamber.org

April 23, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of the San Diego Chamber of Commerce, I am writing to request that the Coastal Commission approve SeaWorld's application for its "Blue World" project. With nearly 3,000 members representing 400,000 employees, the Chamber is dedicated to growing commerce in the San Diego region and maintaining our legacy as a premiere tourist destination. This project helps continue that legacy by maintaining a standard of excellence in innovation and community attractions, while providing an enhanced habitat for the killer whales in SeaWorld's care.

For 50 years, SeaWorld has been a major contributor to the vitality of the region's economy. Known and regarded as responsible steward for animals, a strong community partner, and a driving force for tourism, SeaWorld is one of the area's major employers. The Blue World project proposes impressive forward movement in the areas of research and science, boasting an unrivaled opportunity to enhance professional skills working with killer whales and other animals in their natural environment.

Furthermore, this new attraction will further drive tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our region each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

SeaWorld's Blue World project will undoubtedly be a welcome addition to the state and region, reaffirming California's role as a leader in animal care and research.

I respectfully urge the Coastal Commission to approve this project, and encourage you to contact Chanelle Hawken, Vice President of Public Policy at (610) 544-1365 or chawken@sdchamber.org with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Sanders'.

Jerry Sanders
President & CEO
Greater San Diego Chamber of Commerce



RECEIVED

MAY 28 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 20, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application 6-15-0424 to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of CalTravel, I strongly urge you to support SeaWorld's application to expand its orca habitat. This project will bring enormous value to California's tourism economy, and will provide an enriched educational opportunity for children and family visitors to our region.

Tourism is an economic driver in the State of California with direct travel spending projected at \$117 billion in 2014. Furthermore, the industry supports more than 1 million jobs. In San Diego tourism is the second largest segment of the economy and employs more than 170,000 people.

SeaWorld is a key contributor to the economic strength of our industry and new attractions are critical to keeping the industry vibrant and growing. More than 4 million guests visit SeaWorld each year and they drive millions in tax revenues for schools and local governments, while employing thousands of workers and contributing hundreds of millions to our regional economy.

Like all theme parks, SeaWorld needs to evolve and continuously create new experiences to drive new and repeat visits. A multi-million dollar investment like Blue World will draw even more tourists to the region and more revenue to the economy.

On behalf of CalTravel, I strongly urge you to support SeaWorld's application for its Blue World project.

Sincerely,


Barb Newton
President and CEO
California Travel Association
bnewton@caltravel.org



MYSTIC AQUARIUM

55 Coogan Boulevard
Mystic, CT 06355
P 860 572 5955
F 860 572 5969
W mysticaquarium.org

July 8, 2015

OFFICE OF THE PRESIDENT

Mr. Steve Kinsey
Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, California 92108

RECEIVED

JUL 14 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COUNTY DISTRICT

Dear Mr. Kinsey:

Mystic Aquarium strongly supports and applauds Sea World San Diego's planned expansion of its Orca habitat, Blue World, on the Sea World San Diego campus.

Mystic Aquarium, a 501c3 non-profit organization, has worked collaboratively with Sea World San Diego for the past 42 years. We recognize and respect Sea World San Diego and their staff as exceptional with regard to policies and practices related to animals under their care.

Sea World San Diego is at the forefront of engaging in and supporting the advancement of knowledge related to Orca's, including their relationship to habitats and ecosystems. Additionally, Sea World San Diego has contributed extensively to the advancement of knowledge related to how the general public reacts to and then acts upon experiences with marine mammals at zoos and aquariums.

The proposed exhibit accomplishes two important objectives that have emerged from recent studies of marine mammal exhibits at zoos and aquariums. First, the new exhibit will provide additional enhancements for the animals replicating more of the ecosystem that wild Orcas live in. Second, the exhibit will more effectively engage visitors with the ecosystem and in non-invasive interaction with the animals. The latter is particularly important as an effective means for carrying out Sea World San Diego's intention to evoke positive action on behalf of the ocean environment from its visitors.

The plan is well conceived and I am honored to represent Mystic Aquarium in providing a heartfelt endorsement for the project.

Sincerely,

Stephen M. Coan, PhD
President and CEO

June 26, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED
JUL 02 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of the San Diego Tourism Marketing District, I strongly urge you to support SeaWorld's application to expand its orca habitat through its "Blue World" project. This ambitious project will bring enormous value to our local and statewide tourism economy, while significantly enhancing the habitat for the whales in SeaWorld's care.

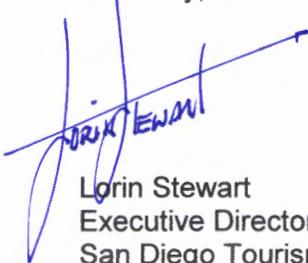
SeaWorld has been a leader in animal care, rescue and research for fifty years. In keeping with this tradition, the new "Blue World" exhibit will expand the habitat for the orcas and add even more features designed to enhance the guests' experience and educational opportunities.

Tourism is a significant economic driver. In San Diego, alone, tourism is the second largest traded economy and employs more than 170,000 people. SeaWorld is a key contributor to the economic strength of our industry. More than 4 million guests visit SeaWorld each year. These guests drive millions in tax revenues for schools and local governments, while employing thousands of workers and contributing hundreds of millions to our regional economy.

Like all theme parks, SeaWorld needs to evolve and continuously create new experiences to drive initial and repeat visits. "Blue World" will draw more tourists to the region, more revenue to the local and statewide economy and enhance the habitat for the orcas in SeaWorld's care.

On behalf of the SDTMD, I strongly urge you to support SeaWorld's application for its "Blue World" project.

Sincerely,



Lorin Stewart
Executive Director
San Diego Tourism Marketing District Corporation
lstewart@sdtdm.org

AL

June 24, 2015

Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED
JUL 06
COMMISSIONER
SAN DIEGO



Dear Commissioner Kinsey,

Cabrillo Marine Aquarium (CMA) is pleased to submit this letter of support for Sea World's expanded killer whale habitat, Blue World, at its San Diego location.

This year CMA is celebrating 80 years of serving the public as a trusted resource that inspires exploration, respect and conservation of Southern California marine life. Every year CMA engages about 300,000 visitors which includes almost 150,000 schoolchildren. Like Sea World, CMA is accredited by the Association of Zoos and Aquariums (AZA) and is a member of the California Association of Zoos and Aquariums. Being accredited by the AZA means that Sea World meets or exceeds professional standards in the aquarium and zoo field which includes the best practices for animal care.

Sea World has shown killer whales to the public for decades. During this time, Sea World and other marine parks have improved the care for these animals dramatically. Blue World will enable the next level of improvement for the well-being of these large ocean predators. Sea World visitors will be even more fascinated by seeing killer whales in a much larger habitat. Without experiences to see killer whales in aquarium habitats people would not see the magnificence of these great animals. Very few people get out on boats to search for killer whales and even fewer actually encounter them. Even when people see killer whales from boats or kayaks, they never see them underwater. Seeing killer whales in habitats like at Sea World truly inspires people. This type of inspiration often leads to a hunger to learn more about the ocean. A public more literate on ocean issues is exactly what is needed today as there are so many challenges to the long term health of the ocean.

Thank you for your consideration of my support for Sea World's Blue World proposal.

Sincerely,

Mike Schaadt
Director
Cabrillo Marine Aquarium

RECEIVED
JUL 06 2015

3720 STEPHEN M. WHITE DRIVE • SAN PEDRO, CALIFORNIA 90731
PHONE 310-548-7562 • FAX 310-548-2649 • www.cabrillomarineaquarium.org
A FACILITY OF THE CITY OF LOS ANGELES DEPARTMENT OF RECREATION AND PARKS
WITH SUPPORT FROM FRIENDS OF CABRILLO MARINE AQUARIUM





2710 North Shoreline
Corpus Christi, Texas 78402-1097
361-881-1200
361-881-1257 fax
1-800-477-GULF

June 16, 2015

Steve Kinsey, Chairman
California Coastal Commission
c/o Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED

JUN 20 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioner Kinsey,

I wanted to write to you today and express my support for Sea World's Blue World plan which will expand and enhance its Killer Whale program at its San Diego park.

Sea World is the global leader in whale and dolphin animal care, rehabilitation and display. They have the largest collection, the most expertise, the greatest veterinary care capacity, and the longest history in caring for marine mammals.

As a long time inspector for the Association of Zoos and Aquariums (AZA) accreditation commission, I have had the opportunity to deeply examine their operations at a number of their parks in Texas, Ohio and Florida. The expertise and resources that the Sea World teams are able to apply toward animal care and training, environmental education, wildlife rehabilitation and research are unprecedented in our industry.

I am convinced that, once executed, the Blue World plan will provide an incredible new experience for park guests, advance the global understanding of killer whales, and continue Sea World's long history of inspiring marine conservation efforts focused on protecting marine mammals in the wild.

Thank you, and please feel free to contact me if you would like any additional information.

Yours truly,

Tom Schmid
President & CEO





Board of Directors

President
Jay Norris

President Elect
Kevin Marshall

Vice Presidents
David Gonzalez
William A. Hall
Lourdes Valdez
Dr. Pablo Velez

Past President
Chris Lewis

Directors
Martin Aguilera
David Cromwell
Alejandro Escalera
Dr. Francisco Escobedo
Todd Galarneau
Carlos Hermida
Eric Johnson
Dr. Henry Kikunaga
Martin R. Lodge
Jim Lowther
Zulema Maldonado
Jesse Navarro
Claudia Valenzuela

CEO
Lisa Cohen

June 10, 2015

RECEIVED

JUN 18 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of the Chula Vista Chamber of Commerce, we urge you to approve SeaWorld's application for an enhanced whale habitat through its "Blue World" project. This project would help stimulate our region's economy, and would provide an even more enhanced habitat for the killer whales in SeaWorld's care.

For 50 years, SeaWorld has been a responsible steward for animals, a great community partner, and a driving force for tourism, a major employer, and an important economic driver in our region. By approving the application to enhance the whale habitat, you will be contributing to the beneficial impacts SeaWorld has on our region.

SeaWorld has been a leader in animal care, rescue and research. The new Blue World habitat will expand space for the whales while also adding new features that will improve the guest experience and education and understanding of these magnificent animals.

Furthermore, this new attraction will further drive tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our region each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

We respectfully urge the Coastal Commission to approve this project.

Sincerely,

Lisa Cohen
CEO
Chula Vista Chamber of Commerce

May 7, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RECEIVED

MAY 12 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

SUBJECT: Support of SeaWorld Application to Expand Whale Habitat

Dear Chairman Kinsey:

The California Chamber of Commerce **SUPPORTS** SeaWorld's application for a coastal development permit to establish its Blue World Project, an expansion of its Orca habitat; which will provide an enriched educational opportunity for visitors. SeaWorld is an important contributor to jobs and our state's economic vitality; this expansion will bring even more tourism to the region, and thus jobs.

California annually generates billions of dollars in direct travel spending into the state's economy and directly supports hundreds of thousands of jobs in the state. CalChamber supports SeaWorld's expansion because of its potential to increase tourism to the region, and thus make a positive impact on the state's economy through job creation and tax revenues.

The Blue World Project includes plans to build a first-of-its kind killer whale environment, establishment of an Independent Advisory Panel and new commitments to protect ocean health and killer whales in the wild. SeaWorld has also committed to fund an additional \$10 million in research through the project that will benefit animals in the wild. This multi-million dollar project will draw even more tourists to the region, and more revenue to the region's and the state's economy.

For these and other reasons, the California Chamber of Commerce **SUPPORTS** SeaWorld's application for the Blue Water Project and we urge the commission to approve it.

Respectfully,



Marti Fisher
Policy Advocate

cc: Mr. Alexander Llerandi, Coastal Program Analyst, San Diego District

MF:ms

CALIFORNIA
ATTRACTIONS AND PARKS
ASSOCIATION, inc.

RECEIVED

April 28, 2015

MAY 04 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California's Great America

Children's Fairyland

Disneyland Parks
and Resorts

Funderland

Gilroy Gardens Theme Park

Golfland Entertainment
Centers

Knott's Berry Farm

LEGOLAND California

Pacific Park

Palace Entertainment

Pixieland Amusement Park

Redwood Valley Railway

Santa Cruz Beach
Boardwalk

SeaWorld Parks
and Entertainment

Six Flags Discovery
Kingdom

Six Flags Magic Mountain

Sonoma Train Town

The Wave Water Park

Universal Parks and Resorts

Water World California

Wild Rivers Water Park

*Partial list

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application 6-15-0424 to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of the California Attractions and Parks Association (CAPA), I strongly urge you to support SeaWorld's application to expand its orca habitat. This project will bring enormous value to California's tourism economy, and will provide an enriched educational opportunity for children and family visitors to our region.

Tourism is an economic driver in the State of California with direct travel spending projected at \$117 billion. Furthermore, the industry supports more than 1 million jobs. In San Diego tourism is the second largest segment of the economy and employs more than 170,000 people.

CAPA is a trade industry association which represents virtually every theme, amusement and water park in California, including SeaWorld. Our members generate more than \$12 billion in commerce each year and generate more than 125,000 jobs.

SeaWorld is a key contributor to the economic strength of our industry and new attractions are critical to keeping the industry vibrant and growing. More than 4 million guests visit SeaWorld each year and they drive millions in tax revenues for schools and local governments, while

employing thousands of workers and contributing hundreds of millions to our regional economy.

Like all theme parks, SeaWorld needs to evolve and continuously create new experiences to drive new and repeat visits. A multi-million dollar investment like Blue World will draw even more tourists to the region and more revenue to the economy.

On behalf of the California Attractions and Parks Association, I strongly urge you to support SeaWorld's application for its Blue World project.

Sincerely,



John Robinson
CEO CAPA



Andreas Fahlman, PhD
Department of Life Sciences
Texas A&M University-Corpus Christi
6300 Ocean Drive, Unit 5892
Corpus Christi, TX 78412
Ph. +1-361-825-3489
Fax. +1-361-825-2025
e-mail: andreas.fahlman@tamucc.edu
web: www.comparativephysiology.tamucc.edu

Alexander Llerandi, Coastal Program Analyst
California Coastal Commission, San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

April 30, 2015

Dear Mr. Llerandi,

I am writing to register my support for SeaWorld's application for an enhanced killer whale habitat called the Blue World project.

Our global ecosystem is facing more threats than ever before. As an academic researcher, I know first-hand that continued research is essential not only to protecting and restoring habitats and food sources for future generations, but also to aid the preservation of entire species. A significant portion of the research conducted to gather vital information to help wild cetaceans are made possible with animals under human care.

The proposed Blue World project will not only provide an expanded habitat for whales, but also new opportunities for researchers to conduct studies that will benefit killer whales in the wild. The new habitat also will provide more opportunities for graduate students to obtain hands-on research experience that ultimately benefits not only their professional development but all marine life. In addition, a dynamic animal environment like Blue World provide educational opportunities that may inspire a host of future marine biologists, veterinarians, scientists, and educate the public how to find ways to preserve the environment so that these species may survive and thrive.

Environments such as the proposed Blue World project are extremely valuable to scientists, educators, and visitors. I encourage you to support this project.

Sincerely,

A handwritten signature in black ink that reads "Andreas Fahlman".

Andreas Fahlman

SALLY S. PRESTON

6418 SEASCAPE DRIVE SAN DIEGO CALIFORNIA



4/18/2015

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

Dear Coastal Commission:

As a resident of San Diego I grow increasingly more concerned with our economic development, social development and the environmental protection of our natural resources.

Today I am sending this letter in support of SeaWorld's Blue World project and ask that you approve their recent permit application. The Blue World project will positively impact our local economy through the creation of jobs and it allows for the expansion of the Orca habitat at Seaworld. It will also provide the means to continue research of whales in the wild.

Moving towards sustainability is a social challenge that we all must recognize and strive to see achieved. Approving the Blue World application is one step in improving the sustainability of San Diego.

Respectfully,

Sally Preston
San Diego County Resident

RECEIVED
APR 28 2015

RECEIVED

MAY 21 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



May 19, 2015

Mr. Steve Kinsey
Chairman, California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RE: SUPORT OF SEAWORLD'S BLUE WORLD PROJECT

The California Retailers Association is pleased to express our support of Sea World's proposed "Blue World" Project, and to urge the Coastal Commission members to approve the project. The California Retailers Association is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, fast food restaurants, convenience stores, supermarkets and grocery stores, chain drug, and specialty retail such as auto, vision, jewelry, hardware and home stores. CRA works on behalf of California's retail industry, which currently operates over 164,200 stores with sales in excess of \$571 billion annually and employing 2,776,000 people—nearly one fifth of California's total employment. The retail industry in California represents one in every four jobs in the State, a total of nearly 5 million jobs (2009), and accounts for 17.8% of the State's GDP. Sea World is a member of our association, since it is a retailer of merchandise in addition to all the other roles it fulfills in the regional economy.

Sea World is a major presence in the Southern California region, and a contributor to it's economic vitality, as a large employer of nearly five thousand people, a taxpayer contributing millions of dollars annually, a tourism attraction that brings revenue to local hotels and restaurants, and a sales tax generator via its retail sales. It has given back much to the community, in financial and volunteer support. The new attraction will further drive tourism to the region, continuing to benefit the local economy and increasing job opportunities.

SeaWorld is also a distinguished zoological and aquatic organization. We understand that SeaWorld has also committed, as a part of this project, to fund \$10 million in research to benefit animals in the wild. With all the "positives" encompassed within the Blue World Project, we respectfully urge the Commission's approval.

Sincerely,

Bill Dombrowski
President & CEO

UNIVERSITY OF CALIFORNIA, DAVIS

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

SCHOOL OF VETERINARY MEDICINE
DEPARTMENT OF VETERINARY PATHOLOGY,
MICROBIOLOGY AND IMMUNOLOGY
TELEPHONE (530) 752-1385 FAX (530) 754-8124

ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8739

RECEIVED

May 18, 2015

MAY 28 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Alexander Llerandi, Coastal Program Analyst
California Coastal Commission, San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: SeaWorld's Blue World application

Dear Mr. Llerandi,

I am writing in support of SeaWorld's application for an enhanced killer whale habitat called the Blue World project. I am a veterinary pathologist with more than 30 years of specialization in the health and diseases of zoo and wild animals, including marine mammals.

Modern zoological parks like SeaWorld play a critical role in conservation of both terrestrial and aquatic species. For parks such as SeaWorld that are accredited by the Association of Zoos and Aquariums, the health and wellbeing of animals in their care is a core value of utmost importance. Knowledge gained through objective scientific observations of animals in managed care and comparison with their wild counter parts allow zoological institutions to continually improve their care as well as to provide information that can improve management of wild populations. In managed settings, environmental enhancement and enrichment allow for mental stimulation and encourage animals to exhibit natural complex, species-specific behavioral repertoires.

The proposed Blue World project will provide a unique, expanded, enhanced habitat for the whales. The project is also designed to provide more opportunities for studies of whale behavior and biology that will benefit both captive and wild killer whales. Additionally, the new habitat will provide more opportunities for hands-on research by marine and veterinary science graduate students, who represent the future of marine conservation. The public will also be inspired by seeing whales in a dynamic environment like Blue World and children may be stimulated to become marine scientists or veterinarians and conservation advocates themselves.

Innovative environments such as the proposed Blue World project are enormously beneficial for the animals and extremely valuable for scientists, educators, and visitors. I encourage you to support this project.

Sincerely,

A handwritten signature in blue ink that reads "Linda J. Lowenstine".

Linda J. Lowenstine, DVM, PhD, DipACVP
Professor Emerita, Veterinary Pathology

**International
Association of
Amusement Parks
and Attractions**

1448 Duke Street
Alexandria, VA 22314 USA

Tel: +1 703/836-4800
Fax: +1 703/836-1192
Email: IAAPA@IAAPA.org
www.IAAPA.org



IAAPA

May 27, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: SeaWorld Expanded Killer Whale Habitat – Blue World Application

Dear Mr. Kinsey,

On behalf of the International Association of Amusement Parks and Attractions (IAAPA), I strongly urge you to support SeaWorld's application to expand its orca habitat. This project will bring enormous value to California's tourism economy, and will provide an enriched educational opportunity for children and family visitors to your region.

As you know, tourism is an economic driver in the State of California with direct travel spending projected at \$117 billion. Furthermore, the industry supports more than 1 million jobs. In San Diego tourism is the second largest segment of the economy and employs more than 170,000 people.

SeaWorld is a key contributor to the economic strength of Southern California and new attractions are critical to keeping SeaWorld vibrant and growing. More than 4 million guests visit SeaWorld each year and they drive millions in tax revenues for schools and local governments, while employing thousands of workers and contributing hundreds of millions to the regional economy.

Like all theme parks, SeaWorld needs to evolve and continuously create new experiences to drive new and repeat visits. A multi-million dollar investment like Blue World will draw even more tourists to the region and more revenue to the economy.

Founded more than 90 years ago, IAAPA is the largest international trade association for permanently located amusement facilities and attractions. IAAPA represents more than 4,800 facility, supplier, and individual members from more than 90 countries. Member facilities include amusement/theme parks, water parks, attractions, family entertainment centers, arcades, zoos, aquariums, museums, science centers, and resorts.

On behalf of IAAPA, I strongly urge you to support SeaWorld's application for its Blue World project.

Sincerely,

R. Paul Noland
President & CEO

Regional Offices:

IAAPA Asia Pacific
Hong Kong SAR, China

IAAPA Europe
Brussels, Belgium

IAAPA Latin America
México City, México

IAAPA North America
Orlando, Florida



8403 Colesville Road, Suite 710
Silver Spring, MD 20910-3314
301-562-0777 tel 301-562-0888 fax
www.aza.org

May 28, 2015

Steve Kinsey
Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Dear Commissioner Kinsey,

I am writing to express the support of the Association of Zoos and Aquariums (AZA) for SeaWorld's expanded killer whale habitat, Blue World, at its San Diego location.

Founded in 1924, the AZA is a 501(c)3 non-profit organization dedicated to the advancement of zoos and aquariums in the areas of conservation, education, science, and recreation. AZA is the independent accrediting organization for the premier zoos and aquariums in America and the world including 23 institutions in California. AZA-accredited zoos and aquariums collectively draw more than 180 million visitors annually, generate more than \$17 billion in annual economic activity, and support more than 166,000 jobs in the United States. They also spend annually \$160 million on field conservation, supporting more than 2,600 projects in 130 countries. Fewer than 10 percent of the 2,800 wildlife exhibitors licensed by the U.S. Department of Agriculture under the Animal Welfare Act meet the more comprehensive standards of AZA accreditation.

SeaWorld San Diego is a member in good standing of AZA and has been accredited continuously since September, 1981. SeaWorld has long been on the forefront and has contributed to the body of scientific research about ocean species, both from their work on animals in the wild and from animals in their care. These two areas of study are complementary, and when considered together, offer unparalleled scientific knowledge with substantial implications for the management of animals at AZA-accredited aquariums and zoos, and for the conservation of animals in the wild.

The opportunity to see and get close to wild animals at AZA-accredited aquariums and zoos is one of the few authentic experiences that can stem the tide of Americans' growing disconnect from nature. As centers for conservation involvement, AZA-

accredited aquariums and zoos are essential to science and environmental education. Their constant delivery of professional programs in informal science education collectively represents one of the chief mechanisms for making this connection. SeaWorld San Diego has demonstrated its unwavering commitment to cultivating future scientists and educators with more than nine million students and teachers having participated in SeaWorld's formal education programs. The National Academy of Sciences has emphasized how critically important informal science education is in pointing out that most of the science Americans know is learned outside of the classroom in just the kind of experiences provided by SeaWorld San Diego and the 214 other AZA-accredited aquariums and zoos nationwide.

The AZA believes that nothing is more important than assuring the highest standards of animal care. AZA accreditation is a publicly recognized badge signifying excellence in, and commitment to, veterinary care, ethics, physical facilities, staffing, conservation, education, safety and security, and in particular, animal management and welfare. As an AZA-accredited institution, SeaWorld San Diego is making an important difference in the conservation of the world's great species and in inspiring California schoolchildren and families to play a part in preserving wildlife. Therefore, I urge you to support SeaWorld's Blue World project for the significant advancements it will make possible in scientific research and welfare for the killer whales in its care and in the rich learning experiences with awe-inspiring animals for the millions of people served through projects like Blue World.

Thank you for your attention to this matter. If I can be of assistance to you, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Maddy". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Jim Maddy
President and CEO



California Association of Zoos and Aquariums

RECEIVED

JUN 01 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Alexander Llerandi, Coastal Program Analyst
California Coastal Commission, San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: SeaWorld's Blue World Application

Dear Mr. Llerandi:

I am writing on behalf of the California Association of Zoos & Aquariums (CAZA), to register our support for our member SeaWorld's application for an enhanced killer whale habitat called the Blue World project.

CAZA's 23 members are accredited by the Association of Zoos & Aquariums, and play an important role in the state's tourism and education endeavors. CAZA's members host more than 20 million visitors each year and use their facilities to educate thousands of California students about conservation and biology.

Our global ecosystem is facing more threats than ever before, and as zoological institutions we know continued research is essential not only to protecting and restoring habitats and food sources for future generations, but also to aid the preservation of entire species. Much of this research is possible through the type of up close and personal interaction with animals that is only available in controlled zoological settings.

SeaWorld's Blue World project will not only provide an expanded habitat for the whales but will add features to enhance activity, exercise and stimuli. The new habitat also will provide more opportunities for researchers to conduct studies that will benefit killer whales in the wild. In addition, a dynamic animal environment like Blue World provides educational opportunities that may inspire a host of future marine biologists, veterinarians, scientists, and educate the public about how to find ways to preserve the environment so that these species may survive and thrive well into the future.

The Blue World habitat will enhance the whales' environment, and will be a valuable asset to scientists, educators, and visitors. I encourage you to support this project.

Sincerely,

Donna Damson
Executive Director
CAZA

PRESIDENT:

Rich Block
Santa Barbara Zoo

VICE PRESIDENT:

Nancy Lang
Safari West

CHIEF FINANCIAL OFFICER:

John Frawley
Aquarium of the Bay

EXECUTIVE DIRECTOR:

Donna Damson
San Diego Zoo Global

VOTING MEMBERS:

Aquarium of the Bay
Aquarium of the Pacific
Birch Aquarium at Scripps
Cabrillo Marine Aquarium
California Science Center
Chaffee Zoological Gardens
Charles Paddock Zoo
CuriOdyssey
Happy Hollow Zoo
Living Desert
Los Angeles Zoo
Mickey Grove Zoo
Monterey Bay Aquarium
Oakland Zoo
Sacramento Zoo
Safari West
San Diego Zoo
San Diego Zoo Safari Park
Santa Ana Zoo
Santa Barbara Zoo
SeaWorld
Sequoia Park Zoo
Steinhart Aquarium

The logo features a large, stylized letter 'A' on the left, with a horizontal swoosh passing through its center. To the right of the 'A', the word 'ALLIANCE' is written in a bold, serif font. Below 'ALLIANCE', the words 'of Marine Mammal Parks & Aquariums' are written in a smaller, italicized serif font.

ALLIANCE

of Marine Mammal Parks & Aquariums

An international organization dedicated to conservation through public display, education, and research

May 19, 2015

Mr. Alexander Llerandi
Coastal Program Analyst
California Coastal Commission, San Diego District
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108

Dear Mr. Llerandi,

I am writing to you on behalf of the Alliance of Marine Mammal Parks & Aquariums in strong support of SeaWorld San Diego's Blue World killer whale housing and display expansion project.

By way of introduction, the Alliance is an international association and accrediting body representing 64 marine life parks, aquariums, zoos, research facilities, and professional organizations dedicated to the highest standards of care for marine mammals and to their conservation in the wild through public education, scientific study, and wildlife presentations. Alliance member facilities collectively represent the largest body of marine mammal expertise and experience in the world.

As a long-time accredited Alliance member, SeaWorld San Diego fulfills the Alliance's requirements on marine mammal husbandry, training, education, and veterinary care practices, which are widely recognized as the most comprehensive and stringent in the world. They must earn reaccreditation with our organization every five years by undergoing a thorough inspection by our experts every five years.

Alliance standards for SeaWorld and all of our member facilities optimize the physical health of and environmental conditions for the animals in their care and maximize their educational and scientific value. Animals at SeaWorld and in other Alliance-accredited facilities receive high-quality, nutritious food and routine and preventative veterinary care supervised by licensed professionals. They exercise and play in ways that are mentally and physically beneficial, and many voluntarily engage in training done through positive reinforcement methods based on mutual respect. This training engages and stimulates the animals and also enables them to participate in their own care. These standards are based on the expertise and experience of thousands of veterinarians, trainers, animal care experts who work in or with marine mammal parks and aquariums.

By meeting Alliance standards, SeaWorld San Diego is among the best zoological institutions in the world and is a leader in the care and husbandry of their killer whales and other animals. Their planned expansion will significantly enhance the animals' habitat and enable better access to the animals for researchers, educators and guests. It will also enhance the educational experience for guests and foster deeper knowledge of killer whales and their ocean environment, inspiring guests to care about the conservation of the oceans and their inhabitants.

This sophisticated, state-of-the-art killer whale habitat expansion is unprecedented anywhere in the world and will be fitting asset to one of the world's most beautiful cities.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Dezio". The signature is written in dark ink and is positioned above the printed name and title.

Kathleen Dezio
Executive Director



IMATA

International Marine Animal
Trainers' Association

RECEIVED

JUN 24 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

June 8, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: SeaWorld Blue World Application

Dear Mr. Kinsey,

On behalf of the International Marine Animal Training Association (IMATA), I would like to express our support of SeaWorld's Blue World orca habitat expansion project. IMATA recognizes its role in and responsibilities to the continued existence of oceanaria, aquaria, and rescue & research facilities housing marine animals and is dedicated to advancing the humane care and handling of marine animals by fostering communication between professionals that serve marine animal science through training, public display, research, husbandry, conservation, and education.

Now in its 51st year in San Diego, SeaWorld is accredited by IMATA for its program to develop its animal care and training staff. IMATA has reviewed SeaWorld's trainer development program to ensure appropriate educational opportunities are being provided, quantification of skills and advancement are employed, materials containing modern training techniques are available readily, and that management experience of senior staff is appropriate for an environment in which trainers can improve their craft as an effective animal trainer.

Simply stated – Sea World's plan to expand its whale habitats will enhance animal welfare, include safety enhancements for animal care staff, and create a dynamic new setting in which to educate and entertain guests.

IMATA supports the Blue World Project.

Respectfully,

Linda Erb
President IMATA

1200 S. Lake Shore Drive | Chicago, Illinois 60605 USA

Phone: (312) 692-3193 | Fax: (312) 939-2216

www.imata.org

AC



998 WEST MISSION BAY DRIVE • SAN DIEGO, CALIFORNIA 92109 • PHONE: 858.488.0551 • FAX: 858.488.2524

June 2, 2015

RECEIVED

JUN 05 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support for SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of Evans Hotels, I am writing to request that the Coastal Commission approve SeaWorld's application for its "Blue World" project. Evans Hotels is a well-recognized, family-owned business known for its Mission Bay properties, the Bahia Resort Hotel and Catamaran Resort Hotel & Spa. Over the past 50 years, those properties have developed a strong partnership with SeaWorld to create memorable vacation experiences for our hotel guests.

This project helps continue that legacy by maintaining a standard of excellence in attractions and guest experience, while most importantly providing an enhanced habitat for the killer whales in SeaWorld's care. The Blue World project proposes impressive forward movement in the areas of research and science, boasting an unrivaled opportunity to enhance professional skills working with killer whales and other animals in their natural environment.

It is worth consideration that SeaWorld has been a major contributor to the vitality of the region's economy for over 50 years as a driving force for tourism and one of the area's major employers. This new attraction will further increase tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our region each year, contributes tens of millions to the local economy, employs thousands of residents, and provides millions in tax and rent payments to local governments and schools in our region.

SeaWorld's Blue World project will be a welcome addition to Mission Bay, San Diego, and our entire region, reaffirming California's role as a leader in animal care and research.

I respectfully urge the Coastal Commission to approve this project. Should you wish to discuss this matter further, I can be reached at rgleason@evanshotels.com or (858) 539-8844.

Sincerely,

Robert H. Gleason
President and Chief Executive Officer



Center for Marine Biotechnology & Biomedicine
Scripps Institution of Oceanography
UCSD
9500 Gilman Drive Mail Code 0204
La Jolla, CA USA 92093-0204
858 822 0792
EMAIL: pponganis@ucsd.edu

May 29, 2015

Alexander Llerandi, Coastal Program Analyst
California Coastal Commission, San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: SeaWorld's Blue World Application

Dear Mr. Llerandi,

I am writing to express my support for SeaWorld's application for an enhanced killer whale habitat called the Blue World project.

Our global ecosystem is facing more threats than ever before. As a researcher in the diving physiology of marine mammals, I know first-hand that continued research is essential to the understanding and protection of these remarkable species. Some of my research is possible only through the access and interaction with animals that are available in controlled zoological settings. In conjunction with SeaWorld, my research subjects have ranged from penguins to seals and whales.

The proposed Blue World project will provide not only an expanded habitat for the whales, but also new opportunities for researchers to conduct studies that will benefit killer whales and other cetaceans in the wild. The new habitat will also afford more opportunities for the training and hands-on research experience of graduate students from San Diego's universities. In addition, a dynamic animal environment like Blue World may inspire a host of future marine biologists, veterinarians, and other scientists.

Some may oppose SeaWorld's application, claiming that killer whales should either be released to the wild or placed in remote sea pens. In general, release of long-term captive cetaceans to the wild has been unsuccessful, and maintenance of semi-captive animals in a remote sea pen is laden with difficulties, including disruption of the local ecology, security of the animals, adequate monitoring and treatment of health issues, and the logistics for animal husbandry (i.e., supplemental feeding). Lastly, these animals at SeaWorld serve as ambassadors to the general public for species conservation and protection. Millions of guests visit SeaWorld. Not all can afford the costs to see killer whales at sea. And, although ecotourism can be good, one would not want millions of tourists overwhelming a fragile environment to see these animals in the wild.

In summary, the proposed Blue World project enhances the whales' habitat and is extremely valuable to scientists, educators, and visitors. I encourage you to support this project.

Sincerely,

Paul J. Ponganis MD, PhD
Research Physiologist



AMERICA'S TEACHING ZOO
EXOTIC ANIMAL TRAINING & MANAGEMENT
MOORPARK COLLEGE

7075 Campus Road
Moorpark, CA 93021
www.moorparkcollege.edu
805 378-1441
fax 805 378-1569

RECEIVED

JUL 20 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Coastal Development Permit 6-15-0424 SeaWorld

Dear Mr. Kinsey,

This is a letter of support for SeaWorld's Blue World orca habitat. Moorpark College has been educating leaders in the animal care industry since the early 1970s. We take our students to SeaWorld every year, and utilize Sea World professionals as guest speakers and advisors to our program. The professional expertise found among Sea World's staff is world-renowned. Many of our graduates have pursued careers at SeaWorld. We have seen first-hand, and taught students to provide, the excellent care SeaWorld gives their animals. SeaWorld's focus on the highest standards of animal care are directly aligned with the philosophy of our program — the animals come first. Additionally, this past year, our students were able to help SeaWorld in their efforts to rescue more than 700 marine mammals. SeaWorld has been providing this assistance to California's native marine wildlife for decades, and their efforts on behalf of these animals is important in helping them deal with changes to the ocean environment that are presenting new and increasing challenges to survival.

SeaWorld's science-based approach to behavior modification, husbandry and veterinary medicine has allowed them to make important advances in the care of captive marine mammals. Their support of research, both with animals in the wild and those under human care, has led to expanding our knowledge of these species. SeaWorld is accredited by the American Zoological Association (AZA), which means they meet or exceed the AZA's rigorous standards for animal care and support of wildlife conservation.

As strides have been made in the science of animal welfare, captive environments have been changing. Methods to educate the public have also been changing as we learn how better to educate people about animals. We feel strongly that since The Blue World orca habitat will provide SeaWorld's killer whales with a larger and more diverse environment and increased opportunities for behavioral enrichment, it will benefit the whales that will live there. Importantly, it will also provide a more naturalistic habitat for educating students and park guests, furthering the public's understanding and appreciation for these animals. Such experiences are vital to generating public support for the conservation of this important species. This habitat will also allow more research which will benefit animals in the wild and at SeaWorld.

We strongly urge you to support Sea World's Coastal Development Application to build the Blue World project.

Respectfully,

Gary L. Wilson, M.S.
Professor, Exotic Animal Training
and Management

Cynthia E. Stringfield, D.V.M.
Professor, Animal Ethics, Veterinary
Care, Nutrition, Wildlife Conservation

Brenda Woodhouse
Professor, Exotic Animal Training
and Management

Michlyn Hines
Zoo Operations Supervisor

Alisa Behar
Zoo Operations

Lory Palmer, BSBA, RVT
Registered Veterinary Technician

Charles R. Brinkman IV
Counselor

Cindy H. Wilson
Instructor/Zoo Operations



July 14, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED

JUL 20 2015

COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

I am more than qualified to address this topic and to lend my support for the Sea World application.

I am a former SeaWorld employee (from 1966 to 1969) and I met my wife Sharon (1968 to 1972) while working at Sea World. I was not the only employee to meet someone special and get married.

As a young man (I was 16) what I learned from SeaWorld about how to conduct myself was extraordinary, from interpersonal relationships to business to respect for our environment. As a respected business professional I look back I remain thankful for SeaWorld for giving me a great start and foundation as a professional!

It has saddened, no angered me to see the false and misleading press (CNN) and dishonest movie (Black Fish) that has mislead so many good intentioned people. When I worked there SeaWorld trainers, scientists and anyone with access to the animals treated them with respect and great care and not the mischaracterizations from the movie and others in the press.

This same philosophy of respect for the animals was part of a management's philosophy of treating everyone and everything with respect and that philosophy extended to guests, employees, vendors and the animals which enhanced the guest experience; this philosophy came from top executives and extended all the way down to a 16 year old kid working in the Traffic Department during summer.

I would hate to see that this project does not get approved due to agenda driven political pressure. Rather I would like to see it approved on merit. If approved it will positively affect all of San Diego from the school children who will learn about these magnificent animals to the workers involved in the construction, from the SeaWorld scientists and employees involved in animal rescue to the guest relation employees all whom will remain gainfully employed long after the project is complete.

Last of all there is no doubt that Blue World enhances the whales' environment. It would be a shame not to approve it and let SeaWorld continue their fine work in science, education and entertainment for San Diego and the many visitors it brings to our community.

I strongly urge the Coastal Commission to approve this project.

Sincerely,

John C. Henberger, Jr.
President

P.S. I have no financial interest or a business relationship with SeaWorld. My motives to have this project approved are the love I have for San Diego and how SeaWorld has made our community a better place.

9188 Harness St. • Spring Valley, CA 91977-3996 • Telephone (619) 460-7150 • Fax (619) 460-8409

RECEIVED

JUL 20 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 15, 2015

Mr. Steve Kinsey, Chairman
California coastal Commission
c/o Mr. Alexander Lierandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RE: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

I am writing to ask for your support of SeaWorld's application for the "Blue World" Project.

As a contractor who has worked on the SeaWorld site, several times in support of upgrades to the existing whale pools and knowing a small part of the cost and time that goes into this care of an for these animals I have to say I can't imagine a better environment for their care and study.

As a father and uncle I have had many opportunities to see the joy and awe in the faces of my own child and others to see a killer whale "just on the other side" of the Plexiglas.

In addition to creating work for many trades and material suppliers, increasing tourism and tax revenue, this is your opportunity to help insure the SeaWorld tradition of Aquatic Education continues. I hope for your enthusiastic support of this project.

Sincerely,

PROGRESSIVE STEEL FABRICATORS, INC.



Curtis R. Mayfield
Vice President

 **INDUSTRIAL
COATINGS &
FIREPROOFING**
A **SAFWAY** Group Company

RECEIVED

JUL 20 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 13, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of Industrial Coatings & Fireproofing, Inc., I am writing to ask your support for SeaWorld's application for an enhanced whale habitat called the "Blue World" project. This project will not only help stimulate our region's economy, it also will provide an even more enhanced habitat for the killer whales in SeaWorld's care.

For 50 years, SeaWorld has been a responsible steward of animals, a great community partner, a driving force for tourism, a major employer, and an important economic driver in the San Diego region. By approving the application to enhance the whale habitat, you will be contributing to the economic benefits SeaWorld brings to our city.

The Blue World project will bring hundreds of good, middle-class jobs to San Diegans for nearly two years. The park estimates 500,000 labor hours will be utilized during construction. These skilled professionals will cover an array of trades. While both union and non-union companies will be utilized, the vast majority of workers will come from San Diego County.

In addition to the construction cycle, this new attraction will further drive tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our County each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

I urge the Coastal Commission to approve this project.

Sincerely,

Shawn Claypool

Vice President

ICF, Inc.



AL

SAN DIEGO COUNTY HOTEL-MOTEL ASSOCIATION

RECEIVED

JUN 08 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

June 3, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application 6-15-0424 to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of the Hotel-Motel Association, I strongly urge you to support SeaWorld's application to expand its orca habitat. This project will bring additional value to San Diego's tourism economy, and will provide an enriched educational opportunity for children and family visitors to our region.

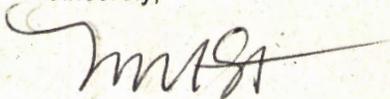
Tourism is the second largest segment of the economy in San Diego and employs more than 170,000 people. SeaWorld contributes tens of millions of dollars to the local economy. They employ thousands of full-time and part-time residents, and provide millions in tax and rent payments to local governments and schools in our region.

As a key contributor to the economic strength of the hospitality industry overall, SeaWorld must develop new attractions to keep the park vibrant and growing. More than 4 million guests visit SeaWorld each year and many spend time in local hotels, restaurants and other attractions.

Like all theme parks, SeaWorld needs to evolve and continuously create new experiences to drive new and repeat visits. A multi-million dollar investment like Blue World will draw even more tourists to the region and more revenue to the economy.

On behalf of HMA, I strongly urge you to support SeaWorld's application for its Blue World project.

Sincerely,



Mike Staples
President

MISSION BAY LESSEES ASSOCIATION

1945 Quivira Way, Suite 5
San Diego, CA 92109
(619) 276-2800, fax (619) 224-9314

May 4, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED
JUN 08 2015
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO DISTRICT

Re: Support SeaWorld Application 6-15-0424to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of the Mission Bay Lessees Association, I strongly urge you to support SeaWorld's application to expand its orca habitat. This project will bring enormous value to California's tourism economy, and will provide an enriched educational opportunity for children and family visitors to our region.

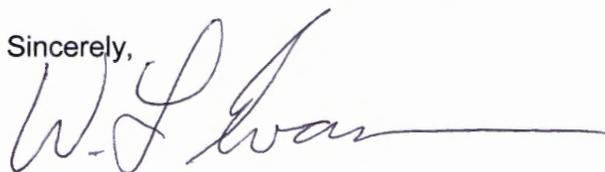
Tourism is an economic driver in the State of California with direct travel spending projected at \$117 billion. Furthermore, the industry supports more than 1 million jobs. In San Diego tourism is the second largest segment of the economy and employs more than 170,000 people.

SeaWorld is a key contributor to the economic strength of our industry, especially to the hotel and business lessees in Mission Bay. New attractions are critical to keeping the industry vibrant and growing. More than 4 million guests visit SeaWorld each year and they drive millions in tax revenues for schools and local governments, while employing thousands of workers and contributing hundreds of millions to our regional economy.

Like all theme parks, SeaWorld needs to evolve and continuously create new experiences to drive new and repeat visits. A multi-million dollar investment like Blue World will draw even more tourists to the region and more revenue to the economy.

On behalf of the Mission Bay Lessees Association, I strongly urge you to support SeaWorld's application for its Blue World project.

Sincerely,



William L. Evans
President

June 9, 2015



Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED

JUN 15 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Support SeaWorld's Blue World Application

Dear Mr. Kinsey,

The San Diego Oceans Foundation, an organization promoting ocean sustainability in the San Diego region, urges you to approve SeaWorld's application for an enhanced whale habitat through its Blue World project.

Personal, up-close interactions with animals are critical to inspiring current and future generations to care about animals in zoological settings and those in the wild. Millions of youth right here in San Diego have benefited from this experience only because of the opportunities provided by SeaWorld.

After construction, Blue World will be one of the largest, most sophisticated killer whale habitats in the world. The enhanced whale environment will expand space for the whales while also adding new features that will improve the education experience for youth and overall understanding of these magnificent animals.

We're proud of SeaWorld as they continue to demonstrate their leadership role in environmental stewardship. By approving the application to enhance the whale habitat, you will be contributing to the beneficial impacts SeaWorld has for the youth in our region.

We urge the Coastal Commission to approve this project.

Sincerely,

A handwritten signature in black ink that reads "Samantha Harrod". The signature is written in a cursive, flowing style.

Samantha Harrod
Executive Director
San Diego Oceans Foundation



June 4, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED

JUN 15 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Support SeaWorld's Blue World Application

Dear Mr. Kinsey,

Special Olympics San Diego, an organization representing people with intellectual disabilities in the San Diego region, urges you to approve SeaWorld's application for an enhanced whale habitat through its Blue World project.

Personal, up-close interactions with animals are critical to inspiring current and future generations to care about animals in zoological settings and those in the wild. Millions of youth right here in San Diego have benefited from this experience only because of the opportunities provided by SeaWorld.

After construction, Blue World will be one of the largest, most sophisticated killer whale habitats in the world. The enhanced whale environment will expand space for the whales while also adding new features that will improve the education experience for youth and overall understanding of these magnificent animals.

For 50 years, SeaWorld has been a responsible steward of the animals in their care, and a great community partner. By approving the application to enhance the whale habitat, you will be contributing to the beneficial impacts SeaWorld has for the youth in our region.

We urge the Coastal Commission to approve this project.

Sincerely,



Karen Terra, Director



• VEGAS STARTS HERE.™

July 17, 2015

RECEIVED

JUL 23 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Steve Kinsey
Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Dear Commissioner Kinsey

I am writing to you today to express my support for Sea World's expanded killer whale habitat, Blue World, located in San Diego.

I have served the state of California as a Commissioner on the *California Travel & Tourism Commission*. I earned a *Certificate in Wildlife Law Enforcement* from the California Department of Fish and Game (first in class). I have 25 years of experience with animals in education and entertainment in the state of California and 40+ years in the field. I assisted in the development and served as an instructor of ten years for the Association of Zoos and Aquariums (AZA) Professional Management School. I have worked with U.S. Fish and Wildlife Department and attended the *Convention In Trade of Endangered Species (CITES)*. I served on the *AZA Species Survival Program (SSP)* for Asian and African elephants for 18 years. I served as President of the *Alliance of Marine Mammal Parks and Aquariums (AMMPA)* for two years. Currently I am the Chair of the Alliance International Government Affairs Committee. I believe that this qualifies me to comment on the proposed new habitat for Orcas in San Diego.

Sea World and the San Diego Zoo are world famous educational facilities that are top of the list 'must see' attractions for visitors and locals. Countless generations have visited San Diego because of the opportunity to visit Sea World and learn about killer whales. Since it first opened its doors Sea World has been a leader in research, education, veterinary medicine, rescue & rehabilitation, public display and facility development related to marine mammals. Sea World is a leader worldwide in the care and husbandry of this species. Their contributions to science and research are unequalled.

The development of this new facility will serve to continue the exceptional opportunities for researchers, scientists and animal care professionals in their understanding of this important species. Further it will allow the tens of thousands of school age children that visit the park every year to benefit from the collective knowledge and develop in them an appreciation of the oceans and the animals that live there. Through these efforts we can continue to expand our commitment to the environment and to conservation.

I respectfully implore you to support Sea World's Blue World project as they continue to advance and enhance the scientific knowledge of killer whales and other marine species along with the greater understanding of the environments that they live in.

Sincerely,

David R. Blaska
Director of Animal Care

3400 LAS VEGAS BOULEVARD SOUTH, LAS VEGAS, NEVADA 89109

P: 702.791.7111

mirage.com

JUL 24 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

ACRYLIC BATH, SHOWER & WALL SYSTEMS

July 22, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of Bath Fitter and The Starnino family, we strongly urge you to support SeaWorld's application to expand its orca habitat. This project is consistent with SeaWorld's existing master permit, and will bring enormous value to our region's tourism economy. The project also will benefit the orcas in SeaWorld's care while providing an enriched educational opportunity for children and family visitors to our region.

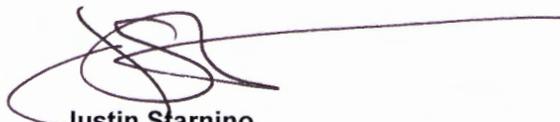
As a local hotel property we support projects that drive visitor demand to economically benefit the San Diego region. Tourism is the second largest segment of San Diego's economy and employs more than 170,000 people.

SeaWorld is a key contributor to tourism and the economic strength of our region. More than 4 million visitors visit the park each year. And, they drive millions in tax revenues for schools and local governments, while employing thousands of workers and contributing hundreds of millions to our regional economy.

The multi-million dollar investment in this enhanced orca habitat will draw even more visitors to our region and more revenue to our economy.

Furthermore, these improvements will strengthen SeaWorld's already exceptional care for the orcas. SeaWorld is a leader in animal husbandry, research and rescue. This project will not only enrich the environment for the park's killer whales, but will also provide visitors with expanded education and interaction opportunities.

Sincerely,



Justin Starnino

**Franchise Owner & General Manager
BATH FITTER - SAN DIEGO**

8170 Miramar Road, San Diego, CA 92126

Off: 858-549-1461 Fax : 619-923-3689

www.bathfitter.com

justin@bathfittersd.com



998 WEST MISSION BAY DRIVE • SAN DIEGO, CALIFORNIA 92109 • PHONE: 858.488.0551 • FAX: 858.488.2524

July 23, 2015

RECEIVED

JUL 27 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of Evans Hotels, we strongly urge you to support SeaWorld's application to expand its orca habitat. This project is consistent with SeaWorld's existing master permit, and will bring enormous value to our region's tourism economy. The project also will benefit the orcas in SeaWorld's care while providing an enriched educational opportunity for children and family visitors to our region.

As a local hotel property we support projects that drive visitor demand to economically benefit the San Diego region. Tourism is the second largest segment of San Diego's economy and employs more than 170,000 people. Additionally, SeaWorld is a key contributor to tourism and the economic strength of our region. More than 4 million visitors visit the park each year. And, they drive millions in tax revenues for schools and local governments, while employing thousands of workers and contributing hundreds of millions to our regional economy.

The multi-million dollar investment in this enhanced orca habitat will draw even more visitors to our region and more revenue to our economy and furthermore, these improvements will strengthen SeaWorld's already exceptional care for the orcas. SeaWorld is a leader in animal husbandry, research and rescue. This project will not only enrich the environment for the park's killer whales, but will also provide visitors with expanded educational opportunities.

For these reasons we strongly urge you to support SeaWorld's application for its Blue World project.

Sincerely,

Dan Fullen
Chief Operating Officer
Evans Hotels

Atlanta
Boston
Chicago
Dallas
Houston
New York
Philadelphia
San Francisco
Seattle
Southern
California
Tampa Bay
Toronto

RECEIVED

AUG 11 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

t. 707.253.1222
f. 707.253.8222

1035 Barrow Lane
Napa, CA 94558

citypass.com

August 5, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support for SeaWorld Application 6-15-0424to Expand Whale Habitat

Dear California Coastal Commission,

I am writing to you today to express my appreciation for SeaWorld and in support of their new Blue World project.

Sea World is a special place. Like many other San Diego teenagers, they gave me my first job back in 1970. They allowed me to work full time with a flexible schedule, allowing me to attend and pay for my college education. The skills and work ethic I learned at Sea World and was invaluable throughout my professional career, especially when starting my own successful business many years later.

No one cares more or does more to help animals both in captivity and in the wild than Sea World. I know first-hand that they are a wonderful organization that cares about animals and deserves to keep growing. The Blue World Project is just another great example of their culture of constant improvement. I was there in 1969 and look at them now! They just keep getting better. The world's wildlife needs Sea World's message of conservation and environmental protection. It's even more important today than when they started in 1964. Sea World has helped millions of people from Southern California and all over the world gain a better understanding of the importance of protecting of the world's wildlife and their environment.

Please approve this important project. Thank you!

Sincerely,

Mike Gallagher

Co-Founder & Co-Chairman
mikeg@citypass.com

United Senior Advisory Council

September 30, 2002

Mr. Steve Kinsey
Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Dear Mr. Kinsey:

The United Senior Advisory Council (USAC) a non-profit corporation founded in 2005 is committed to maintaining and expanding our resources which support and enhance senior citizens. We also focus our efforts on underprivileged youth and mentoring programs. I am writing today to urge you to approve SeaWorld's application for an enhanced whale habitat through its Blue World project.

SeaWorld has been an important part of San Diego's community for half a century. Many of us and our fellow seniors first started enjoying this wonderful facility when we were just beginning to raise our families. Now we have the pleasure of bringing our grandchildren to SeaWorld!

In addition to the economic benefits and jobs, SeaWorld has allowed us to see and interact with these amazing Killer Whales and other sea life. It has inspired us, our children and grandchildren.

After completion Blue World will be one of the largest, most sophisticated killer whale homes in the world. The enhanced whale environment will expand space for the whales while also adding new features that will improve the experience for all visitors.

By approving the application to enhance the whale habitat, commissioners will be contributing to the beneficial impacts SeaWorld has for the youth in our region.

I urge the Coastal Commission to approve this project.

Sincerely,
Frank Engle
Chairman

July 24, 2015

RECEIVED

JUL 27 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

San Diego Coast District Office
7575 Metropolitan Drive Suite 103
San Diego, CA 92108

Subject: Increased capacity of SeaWorld's marine habitat for Orca (killer whales)

I strongly support SeaWorld's request for an increase in the size of its water habitat for their Orca. Their care for these animals, as for all of their sea life, is remarkable. The dedication and sophistication of the application of medical knowledge and human interaction is recognized worldwide. The collection of Orca is the star attraction of SeaWorld.

I was born in National City in 1943 and can remember when there were stories of sailors on naval vessels shooting at Orca in the wild for target practice. When SeaWorld presented the killer whale as an intelligent as well as beautiful animal, that attitude of arrogance and disrespect changed quickly. The public across the nation, and world, recognized the unique value and importance the Orca holds. That respect has never been lost.

I ask the Coastal Commission to allow SeaWorld to enlarge its killer whale habitat for greater public appreciation as well as scientific observation. In addition to what SeaWorld has done for it's own population, it has saved over 5,000 seals and sea lions this year. Once these animals have been medicated, they are released into the wild again. No other research center/educational facility has done that.

Please allow SeaWorld to continue to improve the lives of sea creatures, both captive and wild. Please approve SeaWorld's Blue Project for the Orca.

Thank you for your time and attention.



Janet Newlan Bower
9046 Terrace Drive
La Mesa, CA 91941
(619) 469-8743
newbower@gmail.com

Coastal Commission
7565 Metropolitan Drive
San Diego, CA 92108-4402

RECEIVED

JUL 28 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Coastal Commissioners,

I'm writing to urge you to support SeaWorld's Blue World project. I spent 19 years of my adult life as a member of the SeaWorld team, retiring from there in 2007. I strongly believe in SeaWorld and that this new habitat is the best thing for the park's killer whales. As an employee, I have personally experienced numerous interactions between guests and animals that inspired people and made them more passionate about protecting our oceans.

SeaWorld has a long history of providing the best care in the world for animals in a zoological setting. They also have spent years educating students about marine conservation, rescuing, rehabilitating and returning ill and injured animals to the sea, and helping scientists learn more about a variety of species.

Blue World will be one of the largest, most sophisticated killer whale habitats in the world. The enhanced environment will expand space for the whales while adding new features that will improve the education experience and overall understanding of these magnificent animals.

By approving the Blue World application you will be contributing to the beneficial impacts SeaWorld has on the community and surround states.

Sincerely,



M. Sandra Arquette
6596 E Dalton Way
Prescott Valley, AZ 86314-9271

THE WESTIN GASLAMP QUARTER, SAN DIEGO
910 Broadway Cir, San Diego, CA 92101-6114 United States
T 619.239.2200
westin.com/gaslampquarter

RECEIVED

JUL 30 2015

COASTAL COMMISSION
SAN DIEGO DISTRICT

July 27, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application 6-15-0424 to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of The Westin San Diego Gaslamp Quarter, I strongly urge you to support SeaWorld's application to expand its orca habitat. This project will bring enormous value to California's tourism economy, and will provide an enriched educational opportunity for children and family visitors to our region.

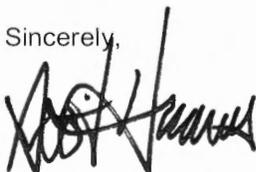
Tourism is an economic driver in the State of California with direct travel spending projected at \$117 billion. Furthermore, the industry supports more than 1 million jobs. In San Diego tourism is the second largest segment of the economy and employs more than 170,000 people.

SeaWorld is a key contributor to the economic strength of our region and new attractions are critical to keeping the industry vibrant and growing. More than 4 million guests visit SeaWorld each year and they drive millions in tax revenues for schools and local governments, while employing thousands of workers and contributing hundreds of millions to our regional economy.

Like all theme parks, SeaWorld needs to evolve and continuously create new experiences to drive new and repeat visits. A multi-million dollar investment like Blue World will draw even more tourists to the region and more revenue to the economy.

I strongly urge you to support SeaWorld's application for its Blue World project.

Sincerely,



Scott E. Hermes, CMP
General Manager & Area Managing Director

WESTIN
HOTELS & RESORTS



G. W. C. WHITING
(1883-1974)

WILLARD HACKERMAN
(1918-2014)

TIMOTHY J. REGAN
PRESIDENT AND CEO

FOUNDED 1909

THE WHITING-TURNER CONTRACTING COMPANY

ENGINEERS AND CONTRACTORS

CONSTRUCTION MANAGEMENT
GENERAL CONTRACTING
DESIGN-BUILD
SPECIALTY CONTRACTING
PRECONSTRUCTION
BUILDING INFORMATION MODELING
INTEGRATED PROJECT DELIVERY

LIC #311107
4747 EXECUTIVE DRIVE, Suite 210
SAN DIEGO, CA 92121
858-792-0600
WWW.WHITING-TURNER.COM

INSTITUTIONAL
COMMERCIAL
CORPORATE
TECHNOLOGY
INDUSTRIAL / PROCESS
INFRASTRUCTURE
SUSTAINABILITY

July 29, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED

AUG 04 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of The Whiting-Turner Contracting Company, I am writing to ask your support for SeaWorld's application for an enhanced whale habitat called the "Blue World" project. This project will not only help stimulate the San Diego economy, it also will provide an even more enhanced habitat for the killer whales in SeaWorld's care.

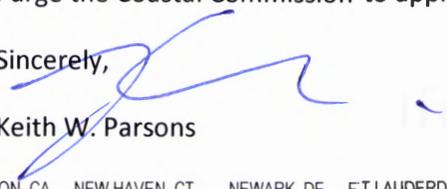
For 50 years, SeaWorld has been a responsible steward of animals, a great community partner, a driving force for tourism, a major employer, and an important economic driver in the San Diego region. By approving the application to enhance the whale habitat, you will be contributing to the economic benefits SeaWorld brings to our city.

The Blue World project will bring hundreds of good, construction and management jobs to San Diegans for nearly two years. The park estimates 500,000 labor hours will be utilized during construction. These skilled professionals will cover an array of trades. While both union and non-union companies will be utilized, the vast majority of workers will come from San Diego County.

In addition to the construction cycle, this new attraction will further drive tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our County each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

I urge the Coastal Commission to approve this project.

Sincerely,


Keith W. Parsons

WT

PLEASANTON, CA NEW HAVEN, CT NEWARK, DE FT LAUDERDALE, FL CORPORATE HEADQUARTERS: ORLANDO, FL ATLANTA, GA BOSTON, MA BETHESDA, MD
CHARLOTTE, NC SOMERSET, NJ LAS VEGAS, NV CLEVELAND, OH BALTIMORE, MD ALLENTOWN, PA DALLAS, TX CHANTILLY, VA RICHMOND, VA

July, 29, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RECEIVED

AUG 04 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Support SeaWorld Application 6-15-0424to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of my family, I strongly urge you to support SeaWorld's application to expand its orca habitat. This project will provide an enriched educational opportunity for our children and family, along with visitors to San Diego. It will also bring enormous value to California's tourism economy.

Being San Diego natives, we value tourism and recognize the economic impact it has on our community. More than 4 million guests visit SeaWorld each year and they drive millions in tax revenues for schools and local governments, while employing more than 170,000 people and contributing hundreds of millions to our regional economy.

More important to my family, is the educational aspect that Sea World brings to our lives. My children have been raised going to Sea World and they have learned to appreciate the marine life represented there. With every exhibit that is updated or added, they increase their knowledge beyond what books can offer.

On behalf of my San Diego family, I strongly urge you to support SeaWorld's application for its Blue World project.

Sincerely,

Heidi Allingham
9326 Edgewood Dr.
La Mesa CA 91941

Construction BW Support Letter

RECEIVED

AUG 10 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 24, 2015

Mr. Steve Kinsey, Chairman
California Coastal Commission
c/o Mr. Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Re: Support SeaWorld Application to Expand Whale Habitat

Dear Mr. Kinsey,

On behalf of exp US Services, I am writing to ask your support for SeaWorld's application for an enhanced whale habitat called the "Blue World" project. This project will not only help stimulate our region's economy, it also will provide an even more enhanced habitat for the killer whales in SeaWorld's care.

For 50 years, SeaWorld has been a responsible steward of animals, a great community partner, a driving force for tourism, a major employer, and an important economic driver in the San Diego region. By approving the application to enhance the whale habitat, you will be contributing to the economic benefits SeaWorld brings to our city.

The Blue World project will bring hundreds of good, middle-class jobs to San Diegans for nearly two years. The park estimates 500,000 labor hours will be utilized during construction. These skilled professionals will cover an array of trades. While both union and non-union companies will be utilized, the vast majority of workers will come from San Diego County.

In addition to the construction cycle, this new attraction will further drive tourism to our region, benefitting our local economy and expanding jobs. SeaWorld draws millions of visitors to our County each year, contributes tens of millions to the local economy, employs thousands of full-time and part-time residents, and provides millions in tax and rent payments to local governments and schools in our region.

I urge the Coastal Commission to approve this project.

Sincerely,



Matthew Schoenherr, PE

Monday, July 27, 2015

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive #103
San Diego, CA 92108

RECEIVED

JUL 30 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear San Diego Coast District Representative,

Two weeks ago I wrote a three-page letter in support of the issuance of permits for SeaWorld San Diego's Blue World Project, an expansion of their killer whale habitats. I outlined benefits of the new project and commented on some of the arguments against the project which are likely to be made by anti-captivity activists. Over the past few days, I have found growing opposition to the project, including a petition with nearly 5,000 signatures ¹, several blog posts by known animal-rights campaigners ², and, on Thursday, a U-T San Diego article announcing that because of the amount of comments received in opposition of the project, the meeting and discussion of the project was postponed from August to October ³.

I am a fifteen year old girl from Southern California who has had a SeaWorld San Diego pass for nearly six years and has been researching the orca captivity debate for almost two years. Since beginning my research in September of 2013, I have learned much about orcas, and I continue to learn every day. By reading objective and scientific sources as well as more biased blog posts, I have come to support SeaWorld's animal care programs.

I am writing specifically to combat the many extravagant claims of anti-captivity activists that I have seen over the past few days. The fact that these claims are making an impact on the permitting of the expansion makes me frustrated, but I do understand that receiving public comment is an important part of the permitting process. Please accept my comments as counters to the arguments of the opponents of the project, and feel free to contact me with any questions you may have.

First, I would like to point out the errors in the reasoning behind opposing the project. Activists claim that they are not trying to force SeaWorld to shut down (a move that would seriously hurt the San Diego economy ⁴), but instead are trying to cause them to change their business model, phasing out animal exhibits and shows and towards simulator-type attractions and rides. Beyond the fact that this would take away what's unique about SeaWorld as opposed to other Southern California theme parks, the logic behind the idea is highly flawed.

To begin with, the backlash over orca captivity following the film *Blackfish* has caused SeaWorld attendance to drop and therefore, money to be lost. Anti-captivity advocates often urge SeaWorld to retire their orcas to sea pens, or netted-off sections of the ocean such as bays. According to theme park experts, SeaWorld would have to create several exciting new attractions, presumably within a short time span, for the loss of its orcas to be made up financially ⁵. These attractions would be very expensive, costing several million dollars each. Moreover, the building and operation of sea pens would presumably cost the company many millions of dollars. Animal rights activists claim that the sea pens could be built for as little as \$30,000, but this cost is cited as being the cost of a pen for a single animal ⁶. There are currently 11 orcas at SeaWorld San Diego ⁷. Therefore, the costs would be much greater. When one adds in the costs of animal transport, staff transport and pay, maintenance,

food costs, veterinary care, and various other expenses, the cost of these sea pens, on top of new attractions at the parks, would be prohibitive. The company has also lost large amounts of money due to the campaigns of anti-captivity activists, adding greatly to the expense of these projects and rendering them even less feasible.

A prominent anti-SeaWorld orca biologist, Dr. Naomi Rose, claims that SeaWorld can offset these costs by allowing guests to come visit the orcas at their new homes and charging admission⁸. The orcas could continue to be a money-making tourist attraction, but would no longer live at the SeaWorld parks. Instead they would live in the sea pens, living more naturally until they die and orca captivity is gone for good.

It seems like a perfect solution to move SeaWorld's orcas to ocean sanctuaries; however, it is not as ideal as it seems. For the orcas to be in the water temperature that is best for them, they would have to be moved to a location like the waters off Canada, Washington, or even Iceland. To avoid potentially harmful or stressful things such as boat noise and pollution, the sea pen would have to be far away from busy areas and be out of the way of the general public. Both of these factors illustrate that the location would make it difficult for SeaWorld to invite paying guests to come and see the animals.

Another alarming statement Dr. Rose makes is that in sea pens, "Breeding would not be allowed and captive orcas would no longer exist within the next few decades"⁸. Many anti-captivity activists tout ending SeaWorld's breeding program as a viable alternative to ending orca captivity. However, this would mean that males and females would need to be separated, causing an unnatural environment for the animals. Male and female orcas travel together in the wild, and sons stay with their mother for much or all of their lives in some wild populations. Separating animals is believed to cause stress, and therefore keeping males and females apart would likely do so as well.

Ocean sanctuaries would also put trainers and other animal care staff in greater danger. In such a large enclosure as a sea pen, the chances of being able to rescue a trainer from an aggressive animal are smaller. Not only would the pen be massive in size to accommodate the space needs of nearly a dozen orcas, therefore making rescue efforts difficult, but rip currents, ocean tides, and storms could make a rescue even more difficult. Even if protective measures were put in place, there would still be some risk of injury or death to animal caretakers, and that risk would potentially be greater than that of working with orcas in traditional captive environments. The sea pens would also be dangerous to the animals themselves, as captive orcas have been known to become entangled in nets. Boat noise could cause hearing damage, and pollution could also have negative impacts on the wellbeing of the orcas. In the case of an oil spill, the animals would be trapped in one place, not being able to swim away from the oil, which could lead to fatalities.

Therefore, it seems as though the most feasible thing for SeaWorld to do, if they were to phase out their orcas, would be to shut down entirely and sell their whales to another park. Not only would this create a huge negative impact on San Diego's economy, it would cause their influential rescue program to shut down as well. Since 1970, SeaWorld has rescued, rehabilitated, and released over 26,000 animals at an average of nearly 578 animals per year. If SeaWorld shut down and there was no new revenue coming in to fund the rescue program, the program would have to close its doors. This would be a major blow to the rescue centers along the California coast, as they would have to treat all the animals SeaWorld would have been caring for, as well as the animals they would normally handle. In fact, closing SeaWorld would probably mean that some animals would have to be ignored.

Clearly, none of the ways that SeaWorld could supposedly phase out orca captivity are practical. That does not change the fact that animal rights activists claim that display of killer whales is unethical. I hope that the following paragraphs will show that these claims are completely unfounded. I do not believe that SeaWorld is perfect, but I believe that the assertions of organizations such as People for the Ethical Treatment of Animals (PETA), which has sent the Commission lengthy formal comments on the Blue World Project, are false.

The activists claim that captive orcas reach ages that are much less than their natural lifespans, citing ages of 100 years for female killer whales and 60 years for males, with the implication that something is wrong with a public display facility if their animals do not reach these ages. The reality is that the majority of respected scientists and government organizations, including the National Marine Fisheries Service, realize that the average, and therefore typical, age is 50 years for females and 30 years for males, with maximum lifespans of 80–90 years for females and 50–60 years for males⁹. Moreover, these numbers are representative of the orcas off of Washington State and Canada, while 80% of SeaWorld's wild-caught whales are from the North Atlantic near Iceland, and 95.83% of the orcas at SeaWorld parks have Icelandic bloodlines¹⁰. Unfortunately, scientists have not yet been able to find the average age of North Atlantic killer whales, and therefore the ages that SeaWorld's whales should be reaching is mostly unknown. However, four of SeaWorld's whales are in their thirties, and one of their animals is in her fifties.

Research conflicts on what the average age or life expectancy of SeaWorld's orcas is. A recent study by two anti-captivity former SeaWorld trainers and animal rights activists, John Jett and Jeffrey Ventre, suggests that it is much lower than that of wild whales. A separate study released in July 2015 suggested that it is equivalent to that of wild orcas; this paper was co-authored by members of the zoological community, including two SeaWorld employees¹¹. Both papers were peer-reviewed. According to my own calculations, the average age of the orcas that are currently at SeaWorld San Diego is 26 years¹². This is nearly equivalent to the average age of a male orca in the Pacific Northwest (some researchers cite the average age for males as 25–30 years), and therefore is not a terribly young age for a killer whale.

Moreover, campaigners often claim that orcas in the wild travel 100 miles a day, citing this as a reason that these animals should not be in captivity, as clearly it is impossible to build a tank large enough to allow this type of travel. This claim was probably originally based off of the 2008 National Marine Fisheries Service recovery plan for the Southern Resident population of orcas in the waters off of Washington State, but it has since been repeated hundreds of times by animal rights organizations and misled individuals. The recovery plan stated that the animals can swim up to 160 kilometers per day, which is the equivalent of 100 miles¹³. However, most orca researchers believe that this level of travel takes place only when the animals are foraging or feeding, behaviors which do not need to be performed in captivity. It is also important to note that the 100-miles-a-day number is also a maximum of what the animals have been observed to be capable of, and is not representative of their normal travel habits.

A third protestor claim that is commonly presented is the argument that SeaWorld punishes their whales and forces them to perform through the use of food deprivation. Claiming that the whales are starving and only perform in order to be fed is a highly emotional assertion that has been very successful in turning large numbers of people against SeaWorld. Fortunately, such claims are not true. Each animal has their daily food "base", the normal amount of food which they are guaranteed to

receive during the day. Additional food is used as a primary reinforcer, which rewards desired behavior, in a manner akin to training a dog. The animal receives all the food he or she needs, and any additional food is a "treat", much like dog biscuits which many people reward their pets with after successfully completing a desired behavior.

Specifically, People for the Ethical Treatment of Animals (PETA) makes some absurd claims that common sense can easily debunk. One such assertion is that SeaWorld "continue[s] to deny the orcas everything that's natural and important to them" ¹⁴. This is ludicrous because PETA proposes to know what the animals think. From their many press releases and blog posts, PETA makes it clear that they are committing the scientists' cardinal sin of "anthropomorphism", which means that they are assigning human traits, emotions, and thoughts to animals. PETA cannot know what an animal thinks, and when they claim to do so, they are anthropomorphizing by assuming that the same things which are important to them, as human beings, are also important to orcas.

PETA also claims that the Blue World Project will "do nothing more to meet the animals' complex physical, psychological, and social needs" ¹⁴. This is odd, as the expansion is basically a sea pen inside of SeaWorld, without the problems that would come from an ocean sanctuary.

The Blue World Project corrects many problems, whether they are physical, psychological, or social. First, zoos have transformed from cages that were often compared to jail cells into large habitats that mimic the natural environment which the animals live in. Unfortunately, SeaWorld has not yet made this transition, but the Blue World Project will change that. In fact, after the project is completed, there will not be any major differences between the sea pens that animal rights activists campaign for and the new habitats at SeaWorld, and the SeaWorld habitat may even be better, since there will not be any risk of harm from boat noise or pollution, both of which are currently plaguing the wild orcas of the Pacific Northwest.

Moreover, the Blue World Project will reduce the frequency of stereotypical behaviors caused by what can only be described as boredom. Currently, the orcas at SeaWorld will sometimes swim laps around their pools and "log" at the surface, or stay at the surface for long periods of time. These behaviors are thought to cause the dorsal fins of some animals to collapse or bend, which is not an animal welfare issue but is still a complaint against SeaWorld. The new habitat will decrease these behaviors in several ways. The animals will have 24/7 enrichment. Aquariums will be built next to the glass with fish and kelp living inside, providing visual enrichment to the whales, and the kelp will sometimes be harvested and provided to the whales as a "toy" ^{15 16}. The orcas, whose skin is highly sensitive to touch, will also be able to rub themselves on the shallow areas and on the rock work. Additionally, there will be a fast water current, or "killer whale treadmill", which will provide physical and mental challenge for the animals.

The large size of the new habitat will be hugely beneficial in keeping orca families together. Scientists believe that some orcas in the wild stay together for their entire lives, and, unfortunately, SeaWorld has occasionally separated mothers and calves in the past, and the large size of the new habitat will ensure that the animals can stay together. Moreover, the new tank should allow and encourage the animals to act much as they would in the wild, allowing researchers to observe the animals in new ways and view things they cannot see in the wild.

The Blue World Project will also be much safer than sea pens for trainers, park guests, and orcas. False bottom fast rising floors can be installed, which can prevent drowning and would also partially immobilize an aggressive orca, making it easier to rescue a trainer or guest. The fast-water

current, which would be the tank's equivalent of a rip current, could easily be shut off. If an injury did occur, the victim could quickly be given medical attention and transport to a hospital, whereas the transport of a victim located at a sea pen could take long amounts of time, as the sea pens would likely be in more remote locations. Orcas could continue to live in their ozone-filtered water, safe from pollution and oil spills. There is ambient noise at SeaWorld; however, it is not underwater and would not be detrimental in the manner of boat noise.

I am a SeaWorld San Diego pass member. I have been a pass member since October of 2009. SeaWorld is what inspired me to love and care for the ocean and the earth, beginning with orcas. Since then I have truly come to love all (or almost all!) animals. This is not uncommon, as many people who visited SeaWorld as children are now passionate about the earth and its inhabitants. After the Blue World Project is completed, there will be new generations of children, who will come to SeaWorld and see the killer whales in huge and natural environments and be inspired to care for the world, perhaps even more so than the generations before them ever were.

I would like to request information about when and where any public meetings for the Blue World Project's California Coastal Commission permit will be. If possible, I would also like to request a copy of the application for a permit for the Blue World Project, as well as a copy of PETA's letter to the California Coastal Commission (I am unsure if the Commission is allowed to release letters from organizations, but if it is allowed it would be greatly appreciated).

In conclusion, I support the permitting and building of the Blue World Project as a Southern California citizen, future constituent, animal lover, and SeaWorld San Diego pass member. Thank you for your time and consideration of this detailed issue.

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹² The average was calculated excluding animals at SeaWorld San Diego who are two years old or younger, in order to match the techniques used to calculate wild orca averages. Therefore, the male killer whale named "Makani" and the female killer whale named "Amaya" were excluded. Based on data found at <http://orcahome.de>, "Captive Orca Statistic". Retrieved June 30, 2015.

¹³ <http://nmfs.noaa.gov>, "Recovery Plan for Southern Resident Killer Whales (Orcinus orca)", page 26. Retrieved July 1, 2015.

¹⁴ <http://www.peta.org>, "Formal PETA Comments Blast SeaWorld's 'Blue World Project' as Way Too Little, Way Too Late". Retrieved July 24, 2015.

¹⁵ <http://seaworldcares.com>, "Making Better Habitats, Creating Better Understanding", retrieved July 8, 2015.

¹⁶ SeaWorld's orcas already enjoy kelp on occasion, as their trainers are able to harvest it from nearby Mission Bay. The Blue World Project will increase the frequency that the animals will receive this form of enrichment. See <https://youtu.be/rjJv39wz47M>, timestamp 2:37–3:01.

Saturday, July 11, 2015

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive #103
San Diego, CA 92108

RECEIVED

JUL 16 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear San Diego Coast District Representative,

I am writing in support of the issuance of any and all permits needed for the commencement of construction for an upcoming project at SeaWorld San Diego (Coastal Development Permit Application No. 6-15-0422). The development, titled the Blue World Project, is meant to "replace and expand existing orca enclosure with new 450,000 gallon and 5.2 million gallon pools and construct new restroom facilities" ¹.

It has come to my attention that misinformed animal rights activists are unhappy with these plans, and therefore I believe they may start letter writing and online petitioning campaigns in order to stop any plans for expansion. Many activists, fueled by the so-called 2013 "documentary" *Blackfish*, demand that SeaWorld should empty their orca tanks and therefore release the animals as opposed to simply expanding and enriching the animals' lives at the current facility. Alleging the existence of such problems such as longevity, exercise, and even food deprivation during animal training, these activists protest against anyone who agrees with, or in this case, issues permits to, SeaWorld, even when the motive is to improve animal welfare. I am writing to hopefully put such fears to rest and to illustrate the great benefit that can be found in this project.

The activists claim that the captive animals reach ages that are much less than their natural lifespans, citing ages of 100 years for female killer whales and 60 years for males, with the implication that something is wrong with a public display facility if their animals do not reach these ages. The reality is that the majority of respected scientists and government organizations, including the National Marine Fisheries Service, realize that the average, and therefore typical, age is 50 years for females and 30 years for males, with maximum lifespans of 80-90 years for females and 50-60 years for males ². Moreover, these numbers are representative of the orcas off of Washington State and Canada, while 80% of SeaWorld's wild-caught whales are from the North Atlantic near Iceland, and 95.83% of the orcas at SeaWorld parks have Icelandic bloodlines ³. Unfortunately, scientists have not yet been able to find the average age of North Atlantic killer whales, and therefore the ages that SeaWorld's whales should be reaching is mostly unknown. However, four of SeaWorld's whales are in their thirties, and one of their animals is in her fifties.

Moreover, campaigners often claim that orcas in the wild travel 100 miles a day, citing this as a reason that these animals should not be in captivity, as clearly it is impossible to build a tank large enough to allow this type of travel. This claim was probably originally based off of the 2008 National Marine Fisheries Service recovery plan for the Southern Resident population of orcas in the waters off of Washington State, but it has since been repeated hundreds of times by animal rights organizations and misled individuals. The recovery plan stated that the animals can swim up to 160 kilometers per day, which is the equivalent of 100 miles ⁴. However, most orca researchers believe that this level of travel takes place only when the animals are foraging or feeding, behaviors which do not need to be

performed in captivity. It is also important to note that the 100–miles–a–day number is also a maximum of what the animals have been observed to be capable of, and is not representative of their normal travel habits.

A third protestor claim that is commonly presented is the argument that SeaWorld punishes their whales and forces them to perform through the use of food deprivation. Claiming that the whales are starving and only perform in order to be fed is a highly emotional assertion that has been very successful in turning large numbers of people against SeaWorld. Fortunately, such claims are not true. Each animal has their daily food “base”, the normal amount of food which they are guaranteed to receive during the day. Additional food is used as a primary reinforcer, which rewards desired behavior, in a manner akin to training a dog. The animal receives all the food he or she needs, and any additional food is a “treat”, much like dog biscuits which many people reward their pets with after successfully completing a desired behavior.

Beyond the claims of activists who simply want the orcas to be released into the ocean or released into sea pens, or netted–off areas of ocean, the Blue World Project at SeaWorld will greatly increase the welfare of the animals. With its huge volume, large surface area, and stimulating and enriching design, the Blue World Project will help to decrease stereotypical behaviors akin to the “pacing” behaviors seen in some zoo animals, increase exercise opportunities, promote the natural behaviors observed in the wild, and give the visiting public a chance to see these magnificent animals in an environment not unlike their natural home.

The Blue World Project corrects many problems. First, zoos have transformed from cages that were often compared to jail cells into large habitats that mimic the natural environment which the animals live in. Unfortunately, SeaWorld has not yet made this transition, but the Blue World Project will change that. In fact, after the project is completed, there will not be any major differences between the sea pens that animal rights activists campaign for and the new habitats at SeaWorld, and the SeaWorld habitat may even be better, since there will not be any risk of harm from boat noise or pollution, both of which are currently plaguing the wild orcas of the Pacific Northwest.

Moreover, the Blue World Project will reduce the frequency of stereotypical behaviors caused by what can only be described as boredom. Currently, the orcas at SeaWorld will sometimes swim laps around their pools and “log” at the surface, or stay at the surface for long periods of time. These behaviors are thought to cause the dorsal fins of some animals to collapse or bend, which is not an animal welfare issue but is still a complaint against SeaWorld. The new habitat will decrease these behaviors in several ways. The animals will have 24/7 enrichment. Aquariums will be built next to the glass with fish and kelp living inside, providing visual enrichment to the whales, and the kelp will sometimes be harvested and provided to the whales as a “toy”^{5 6}. The orcas, whose skin is highly sensitive to touch, will also be able to rub themselves on the shallow areas and on the rock work. Additionally, there will be a fast water current, or “killer whale treadmill”, which will provide physical and mental challenge for the animals.

The large size of the new habitat will be hugely beneficial in keeping orca families together. Scientists believe that some orcas in the wild stay together for their entire lives, and, unfortunately, SeaWorld has occasionally separated mothers and calves in the past, and the large size of the new habitat will ensure that the animals can stay together. Moreover, the new tank should allow and encourage the animals to act much as they would in the wild, allowing researchers to observe the animals in new ways and view things they cannot see in the wild.

I am a 15 year old SeaWorld San Diego pass member. I have been a pass member since October of 2009. SeaWorld is what inspired me to love and care for the ocean and the earth, beginning with orcas. Since then I have truly come to love all (or almost all!) animals. This is not uncommon, as many people who visited SeaWorld as children are now passionate about the earth and its inhabitants. After the Blue World Project is completed, there will be new generations of children, who will come to SeaWorld and see the killer whales in huge and natural environments and be inspired to care for the world, perhaps even more so than the generations before them ever were.

I would like to request information about when and where any public meetings for the Blue World Project's California Coastal Commission permit will be. If possible, I would also like to request a copy of the application for a permit for the Blue World Project.

In conclusion, I support the permitting and building of the Blue World Project as a Southern California citizen, future constituent, animal lover, and SeaWorld San Diego pass member. Thank you for your time and consideration of this detailed issue.

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Citations

¹ <http://www.coastal.ca.gov>, "Possible Future Items", retrieved July 9, 2015.

² <http://www.nmfs.noaa.gov>, "Killer Whales (Orcinus Orca)", retrieved July 9, 2015.

³ This is based on my own calculations, which in turn are based on statistics found at <http://orcahome.de/orcastat.htm>, <http://cetacousin.com>, which I used to find the parents of some captive-born orcas, and <http://orcahome.de/orcadead.htm>. These are all well-known database websites used by those on all sides of the captivity debate.

⁴ Page 26, "Recovery Plan for Southern Resident Killer Whales (Orcinus orca)", retrieved from <http://nmfs.noaa.gov> on July 1, 2015.

⁵ <http://seaworldcares.com>, "Making Better Habitats, Creating Better Understanding", retrieved July 8, 2015.

⁶ SeaWorld's orcas already enjoy kelp on occasion, as their trainers are able to harvest it from nearby Mission Bay. The Blue World Project will increase the frequency that the animals will receive this form of enrichment. See <https://youtu.be/rjJv39wz47M>, timestamp 2:37-3:01.

June 7, 2015

Steve Kinsey, Chairman
California Coastal Commission
c/o Alexander Llerandi, Coastal Program Analyst
San Diego District
7575 Metropolitan Dr. Suite 103
San Diego, CA 92108

RECEIVED

JUL 27 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Mr. Kinsey,

RE: Support for SeaWorld Application To Expand Whale Habitat

I am writing to express our support for the SeaWorld Blue World Project. SeaWorld is one of Southern California's most distinguished zoological and aquatic organizations. Most recently their commitment to saving sealions off San Diego's coast and assisting injured sea creatures. This commitment continues with expansion of the whale habitat. The Blue World Project was developed by scientific experts who participated in the design of the new habitat. The project will also include better access for researchers and SeaWorld's commitment to fund \$10 million in research.

SeaWorld has been a longtime fixture for our family. We frequently have visitors from out of the area, and out of the country, who have longed to visit SeaWorld in an effort to better understand what lives in our oceans. A new exhibit will only enhance the desire for visitors to come to San Diego.

It is because of the continuous commitment to research and animal welfare and the enjoyment it brings to tourist, that we, long time San Diego residents, support SeaWorld's Blue World Project. We strongly urge your support of the project.

Thank you for your consideration.



Cindy Gompers Graves



MICHAEL N. GRAVES



July 20, 2015

SUPPORT FOR SEA WORLD'S KILLER WHALE EXHIBIT EXPANSION

Alex Llerandi, Coastal Program Analyst
California Coastal Commission
San Diego Coastal District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

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JUL 23 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Mr. Llerandi:

As a veterinarian with clinical experience in treating and caring for pinnepeds and cetaceans I am urging the California Coastal Commission to approve Sea World's application for enlargement of their San Diego based Killer Whale exhibit. In addition to my hands-on clinical experience I am currently serving as volunteer consultant to the American Humane Association. In this latter role I recently attended an all day meeting at Sea World San Diego where the plans for this expansion were discussed in detail. In addition to the added space for the whales there are many other state of the art physiological and behavioral enriching components incorporated into this design. As Sea World has research and education as a large part of their mission, elements for these important aspects are also being designed into this very comprehensive plan. All of these components are important, but what I observed as the main driving force for this expansion was a sincere desire to offer a better quality of life for their animals.

As you are probably aware, individuals aligned with the radical animal rights movement are opposed to this needed expansion. They feel if they oppose this development there will be some magic, which results in the whales being released, and everyone lives happily ever after. That kind of thinking is for fairy tails, the reality is these whales, which are now in the early stages of semi-domestication, if released would have a very high probability of dying as they lack the skills to survive in the wild. I would suggest as an alternative that we house and care for these whales in the best possible manner and use our access to them to further close the huge information gap which currently exists for this species, so as to be able help their wild brethren when that need occurs as we know that it will. To do this Sea World's project for the expansion of their Killer Whale facility needs the support and to be "green lighted" by the California Coastal Commission.

Sincerely,



James F. Peddie, DVM
4201 Faria Road
Ventura, CA 93001
jfpeddie@gmail.com

Joyce Peterson
8675 Nottingham Place
La Jolla, CA 92037

RECEIVED

OCT 01 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

September 26, 2015

California Coastal Commission
7575 Metropolitan Drive
San Diego, CA 92108

RE: Recommend approval of Sea World's Blue World project

Dear Coastal Commission;

I recommend that you approve Sea World's Blue World Project at your October 8th meeting. I hope you have the courage to ignore the radical, terror and extremist hate groups that have voiced unreasonable opposition to Sea World's proposal. Some of the members of these groups have caused damage and terror worldwide by destroying scientific animal studies, burning homes and apartment projects, and generally causing fear in honest citizens.

I am a 70 year old native San Diegan who has visited Sea World every year since it opened. Many years ago at one of the whale shows, I was chosen to touch Shamu's tongue. This was a wonderful experience that I will never forget. Both my sons have taken summer school courses at Sea World, which gave them an appreciation of marine life and its conservation. Additionally we have gone on the "behind the scene at Sea World" tours, where we saw all types of sea animals being rehabilitated in a clean and nurturing environment.

Sea World has been an exceptionally good neighbor and employer in San Diego. Being able to view marine life up close and personal is an extremely important part of any child's education, and also serves to remind adults of our commitment to marine conservation. Additionally Sea World personnel have rescued countless sick and suffering marine birds and mammals from San Diego beaches, nursing them back to health and later returning them to the sea. This is truly a public service of which Sea World can be proud.

I complement your Staff for their courage in recommending approval of the Blue World project, and hope the Commissioners will also follow Staff recommendation for project approval at your October 8th meeting.

Sincerely;



Joyce Peterson

Kevin J. Carr
3438 Browning Street
San Diego, CA 92106
(619) 224-1439

July 24, 2015

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-2370

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JUL 27 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Reference: SeaWorld's Blue World Project

Dear Coastal Commissioners,

I am writing to strongly encourage you to support SeaWorld's Blue World project. I have been employed by SeaWorld for more than 25 years as an environmental engineer and water quality manager. I strongly believe that the new proposed habitat is an innovative and remarkable facility for the park's killer whales. This will be a one-of-a-kind, unique environment for the whales that is unparalleled in the animal husbandry and zoological industry.

The new and innovative facility will most certainly enhance environmental and human-based resources of the California coast and the ocean in an environmentally sustainable manner for generations to come.

I have personally experienced SeaWorld's commitment to exceptional animal husbandry for the species and believe that we are exceptionally positioned to provide the best care available in the world to these magnificent animals in a zoological setting. The benefits realized from the innovative habitat that will be used for educating generations of students and visitors alike are incalculable. SeaWorld has contributed to the education of tens-of-thousands of local students over the past several decades about marine conservation, rescuing, rehabilitating and returning ill and injured animals to the sea.

I have observed and participated in numerous experiences that have involved interactions between guests and animals that inspired people and made them more passionate about protecting our oceans. The unique opportunity to feel, see, and be part of the ocean environment has inspired countless children and adults to care more about our ocean resources. This caring often translates into action and more awareness of our precious ocean resources.

Blue World will be one of the largest, most sophisticated killer whale habitats in the world. The enhanced environment will expand space for the whales while adding new features that will improve the education experience and overall understanding of these magnificent animals.

Again, I urge you to approve the Blue World application and by doing so you will be contributing to the beneficial impacts SeaWorld has in our community.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin J. Carr", followed by a horizontal line.

Kevin J. Carr
Water Quality Manager

Wednesday, June 10, 2015

Steve Kinsey
Chairman
California Coastal Commission, C/O Alexander Llerandi
San Diego District - 7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Subject: In Support of SeaWorld's Blue World Habitat

Dear Chairman Kinsey:

I am asking you to approve the Blue World project - one of the largest, most sophisticated killer whale habitats in the world.

Personal, up-close interactions with thriving animals like those provided at SeaWorld are critical to inspiring current and future generations to care about animals in professional care and those in the wild.

Blue World's enlarged environment will provide whales with even more dynamic opportunities that will support their broad range of behaviors and provide choices that can challenge them both physically and mentally. The environment will also enhance the educational experience for guests, foster deeper knowledge of killer whales and their ocean environment, and inspire conservation efforts to protect animals in the wild.

As part of the project's vision, SeaWorld also has committed \$10 million in matching funds for research projects focused on threats to killer whales in the wild, especially those identified by the National Oceanic and Atmospheric Administration.

Projects like Blue World help expand the public's appreciation for killer whales as the beautiful, intelligent animals they are. That appreciation is critical to inspiring continued conservation of all animals and their habitats.

Please vote to SUPPORT the Blue World Project.

Sincerely,

Jessica Olson
4939 Greenbrier Ave
San Diego, CA 92120

Approximately
15,011 received

Orca Facility, SeaWorld@Coastal

From: Lindsey Vargas <user@votervoice.net>
Sent: Monday, July 20, 2015 10:25 AM
To: Orca Facility, SeaWorld@Coastal
Subject: In Support of SeaWorld's Blue World Habitat

Dear Chairman Kinsey,

I am asking you to approve the Blue World project - one of the largest, most sophisticated killer whale habitats in the world.

Personal, up-close interactions with thriving animals like those provided at SeaWorld are critical to inspiring current and future generations to care about animals in professional care and those in the wild.

Blue World's enlarged environment will provide whales with even more dynamic opportunities that will support their broad range of behaviors and provide choices that can challenge them both physically and mentally. The environment will also enhance the educational experience for guests, foster deeper knowledge of killer whales and their ocean environment, and inspire conservation efforts to protect animals in the wild.

As part of the project's vision, SeaWorld also has committed \$10 million in matching funds for research projects focused on threats to killer whales in the wild, especially those identified by the National Oceanic and Atmospheric Administration.

Projects like Blue World help expand the public's appreciation for killer whales as the beautiful, intelligent animals they are. That appreciation is critical to inspiring continued conservation of all animals and their habitats.

Please vote to SUPPORT the Blue World Project.

Sincerely,

Lindsey Vargas
1028 Capen Ave
Diamond Bar, CA 91789
lindseyvargasobe1@yahoo.com

Approximately
4,700
received

Recipient: Steve Kinsey, Todd Gloria, Kevin Faulconer, Deborah Lee, State Rep. Toni Atkins, and Gov. Jerry Brown

Letter: Greetings,

I am aware that you have been receiving many comments about SeaWorld's Blue World Project (CDP Application No. 6-15-0424) lately, and that many of them have been against the project.

Anti-captivity activists argue that SeaWorld's orcas should be moved to open-water sea pens instead, but this is illogical. Pollution problems, boat noise, and trainer safety issues show that the Blue World Project is a much better choice.

In addition, moving the orcas out of SeaWorld San Diego would hurt the San Diego and California economy, while the Blue World Project is likely to bring more visitors in.

Please support animal welfare and issue the permits necessary for the Blue World Project. Thank you.

Comments

Name	Location	Date	Comment
Akula E	Orlando, FL	2015-09-10	I support animal welfare. BWP is the best way to give these animals more space and enrichment, while remaining safe and continuing to educate the public.
ryan fritch	Columbus, OH	2015-09-10	This is beneficial to the killer whales at seaworld as well as helping create a better environment to study the whales. As an attraction it will likely create an influx of patrons which will provide more income in which a portion will go to the research and rescue of other marine animals
Jo Fraser	Poole, United Kingdom	2015-09-10	Time for an update and this is perfect for improving their welfare and help people to see when it's built that the park really cares
Classy Kalia	San Diego, CA	2015-09-10	The new habitats will not only be larger and more enriching for the animals, but they will allow researchers to observe animals in more natural environments. Safer for trainers than a sea pen, as well, because there will not be uncontrollable currents.
Sara Shaffer	Florida, FL	2015-09-11	I'm a seaworld supporter and would love for this project to go through
Michelle Leber	McHenry, IL	2015-09-11	I support Sea World!!
Tyler Spencer	Petaluma, CA	2015-09-11	The Blue World Project will bring a change to the already amazing orca lives. Treat this project as an improvement.
Arays OceanSong	Highlands Ranch, CO	2015-09-11	I've always been supportive of SeaWorld but have been just as aware of its flaws. This project is making up for the park's past problems that have made it so controversial. I'll always have faith in those who try to do better. Blue World is a step in the right direction.
Johnnie Keuser	Camarillo, CA	2015-09-11	Please support SeaWorld and their Blue World Project. This will not only give the killer whales a bigger living environment, but provide many different forms of enrichment.
Janelle M	Long Beach, CA	2015-09-11	I'm signing because feel that expanding the tanks is the best thing to do for these killer whales. Due to living in captivity their whole lives they are unable to be released. Expanding the tanks gives them more room to swim and will include more opportunities for enrichment.
Hal White	Rockledge, FL	2015-09-11	SeaWorld wants the best for all of the animals in their care. Movies like blackfish are agenda films twisting the truth and outright lying to the public to force all cetaceans into sea pens run by PETA so they can have the world exclusive on captive orca and they will charge for this and have it run by people who know nothing about captive orca care. Where SeaWorld has 50 years of understanding how to take care of these animals and help them thrive. This project will enable these animals a lifestyle that will help them be healthier and stronger than ever before. And hopefully reverse dorsal collapse. Being put in a small sea pen and still doing the circles in toxic bacteria and virus laden waters will only do these animals harm or even kill them. Bring this project to life and let SeaWorld open the blue world project in 2018..
SHARRON THOMPSON	Santee, CA	2015-09-11	I am signing this because I am tired of PETA and Blackfish with their lies. I am a passport member of SW and if I thought for one second if any if that was true. I'd cancel it in a heartbeat. Remember Keiko cuz if these orcas were out there in the ocean. Its a death sentence. Please approve the permits for them. Thank you from a 5th Generation Native of San Diego, Ca
nina marie	Germany	2015-09-11	Ich SeaWorld liebe<3

Name	Location	Date	Comment
Lindsey Morris	West Long Branch, NJ	2015-09-12	Heard both sides of this story. PETA vs. Sea World. In the huge scope of the ocean. This is a small yet vital program that will educate and delight the general public. It's so important to enlighten the young especially.
Donald Phillips	Ramona, CA	2015-09-13	This is an expansion for the whales and improving the habitat for them and education for the public. A win, win.
Karen Weems	Haines City, FL	2015-09-14	It will be a great way for the everyday person to see and learn about the killer whales without interfering with and causing problems for the wild populations of killer whales.
Casey Ludwig	Mountain, WI	2015-09-14	I love SeaWorld :)
Jackee Whale	Bilston, United Kingdom	2015-09-14	I believe this is a great way to go.
Deborah Moss	Sorrento, FL	2015-09-14	I believe in and support SeaWorld's rescues of and care for all animals.
Linda Ridgley	Panorama City, CA	2015-09-15	SeaWorld wants to build a more enriching environment for their beautiful whales. Please sign the permit.
Kayleigh Coffman	Greenville, TX	2015-09-19	Cause I love SeaWorld. And I love orcas . And without them in captivity more children would not know that they exist. And I started loving them thanks to Keiko. And Keiko should of never been released. And with that love for orcas . I have research them on the computer ,seen them in the wild but my favorite place to see them is in captivity because you get so close to them. I love my zoos and aquariums ,I think what they do there is amazing so don't stop doing it.
sheri london	santa monica, CA	2015-09-22	I CARE!
Daniel Frank	Alexandria, VA	2015-09-22	SeaWorld matters!
Kasey Melkonian	Tyrone, GA	2015-09-24	This is an awesome idea! They need to be given the permits so people will realize that change is wanting to happen! Always stand with Seaworld!
Alejandro Loya	Placentia, CA	2015-09-24	I'm signing because SeaWorld parks have always had one main goal. That is to teach the public to care more about our earth. One visit to SeaWorld has changed my life forever and I will forever be grateful that there are organizations like SeaWorld that are around to inspire people to better care for our surroundings. Blue World Project is something I am absolutely not surprised about. SeaWorld is always trying to enrich and improve their animal's environments and this is the perfect example of SeaWorld literally going to the maximum to give their whales a more sophisticated and advanced habitat that replicates the ocean in a great amount. I just hope more people realize the benefits of zoos and aquariums and like myself, support Blue World Project!
Jennifer Lowry	chandler, AZ	2015-09-25	I stand with seaworld and all the good work they do for animals everywhere and our oceans. SeaWorld is the only reason I visit San Diego. Do not cower to the lies and propaganda, support SeaWorld as SeaWorld has supported you for 50 years.
Jeff Acosta	Sacramento, CA	2015-09-25	SeaWorld wants to continue improving the care for their animals and I believe in what they're doing with the expansion of the tanks. Please pass the permit and let them build the bigger tanks.
Noel Ibanez	San Diego, CA	2015-09-25	It makes sense to protect these animals and provide the best possible home.
jennie belanger	oceanside, CA	2015-09-25	Absolutely Support this 100%
Jen Levine	Oxnard, CA	2015-09-25	sea world treats their animals better than any zoo in the world. Let them fight back against the propaganda against them and at the same time expand their habitats!

Name	Location	Date	Comment
Alec Marschke	Manchester, MD	2015-09-25	I stand with Seaworld.
jennifer williams	San Diego, CA	2015-09-25	I love sea world...
Lacey Ewald	Pueblo, CO	2015-09-25	Sea world is an important contributor to the conservation of these magnificent creatures. These orcas are ambassadors for their wild counterparts, and can not successfully be released (many being captive born especially.) they deserve the quality of life this new habitat will produce
tommy whalen	Sewickley, PA	2015-09-25	I want to help seaworld build the blue world project in san diego.
Jacob Bowman	Saint Catharines, Canada	2015-09-25	I'm a Marine Mammal Caregiver and performer at MarineLand Canada, as someone who works in this field and has spent hundreds of hours watching Kiska, I can only see beneficial results from the Blue Wold Project. Please let Seaworld create this amazing sanctuary for their animals.
Clay Carabajal	San Antonio, TX	2015-09-25	I feel as though SeaWorld helps to generate conservation education through new interactive areas like Blue World. This project seems like a big step in an all new way to look at Marine Zoological care
Hunter Kinney	Bronston, KY	2015-09-25	SeaWorld is a leader in Marine Mammal care and should be able to expand habitats as they see needed.
Shanna Webb	Orlando, FL	2015-09-25	I believe this will be good for the future if the animals, education and the economy!
Leann L	Orlando, FL	2015-09-25	Blue World Project is a much needed expansion for these Orcas. People need to face the fact they will never be released and allow them a bigger and better living space. This will do just that. Approval is a must for the continued welfare of these animals.
Jonathan Sangiorgio	Brandon, FL	2015-09-25	Go SeaWorld! Blue World needs to be endorsed and needs to get started because I want to see the orcas get an expansion opportunity
tepa hall	Plano, TX	2015-09-25	I support and stand behind SeaWorld and all the amazing work they do.
Brian Turner	Orlando, FL	2015-09-25	I believe this will do nothing but be beneficial to the orcas that are already there.
Rebecca Mersinger	Alvin, TX	2015-09-25	This is absolutely required for the health and safety of the animals.
Jay Goodman	San Diego, CA	2015-09-25	This new enclosure will assist in not only furthering the enrichment of these magnificent beings, but also allow a more natural environment for the trainers to help the wild Orca population.
cheri mccloskey	Peoria, AZ	2015-09-25	Seaworld really does care, they are trying and Blackfish is full of lies. SeaWorld has transformed my daughters lives. They are good for San Diego.
Brittany Walloga	Apopka, FL	2015-09-25	I love sea world and their mission.
Val Phillips	Cape Canaveral, FL	2015-09-25	Allow SW to enhance the environment the orcas live in. They aren't releasable so any delay is a delay in providing a more enriching place for the animals to live in.
Lauren Attaway	Rockport, TX	2015-09-25	I believe in this project.
Colleen Kennedy	Newport News, VA	2015-09-25	I love SeaWorld!!
Steven Snodgrass	San Diego, CA	2015-09-26	I support and agree with SeaWorld San Diego on these matters of expanding these tanks! PLEASE HURRY and grant ALL PERMITS NEEDED! Thank You
Paisley Wallace	San Diego, CA	2015-09-26	I love seaworld
Larri Rogers	Phoenix, AZ	2015-09-26	Let's continue to be able to teach people about our wonderful sea animal. No new animals will be captured. It will make it better for the animals already there.

Name	Location	Date	Comment
Lisa Davidson	Palm Harbor, FL	2015-09-26	These whales deserve more space. They would not survive release and our coasts are polluted with chemicals and boat traffic so a seapen is not a good option.
Sarah Berry	Doylestown, PA	2015-09-26	As a wildlife conservation major I believe this is the best way to move forward in the management of killer whales as a species.
Don Simmons	Peoria, AZ	2015-09-26	I fully support Sea World in their efforts to rescue and rehabilitate these animals and to provide them with the best quality of life possible while they are in their care.
Gerardo Cordova	Omaha, NE	2015-09-26	I fully seaworld and all it does and this project will revolutionize care for the orcas for the better
Thunchanok Sumethanont	San Antonio, TX	2015-09-26	It will definitely make the the place much better for the whales.
Kim Peterson	San Diego, CA	2015-09-26	i support SeaWorld's expansion of the killer whale pools. I've long supported SeaWorld and truly believe they are doing the very best for them!
Kelly Fenter	San Diego, CA	2015-09-26	I agree with enriching their environment and these whales are very well cared for and loved by guests and employee alike.
Alexandra Gregory	Harrisonburg, VA	2015-09-26	The new expansion to the orca habitat could immensely better the lives of these whales. It would also be an imperative way to educate the public on such amazing whales.
Linda Tilson	Orange City, FL	2015-09-26	The orcas need a larger more suitable environment.
justin lagacy	Hamilton, Canada	2015-09-26	Sea world is great!
James Ivey	San Diego, CA	2015-09-26	For the whales
Bree Dalling	Plano, TX	2015-09-26	They deserve bigger tanks
Aaron Hammond	Century, FL	2015-09-26	It's what the whales deserve, and what everyone (including SeaWorld) has wanted for them all along. Why would you try to take that from them?
Christina Jamison	Gloucester, VA	2015-09-26	Unfortunately due to the holes in the orcas' teeth, lack of an immune system, etc, most of the whales at sea world can't feasibly be released into sea pens at this point, they would die. The only solution without further technology (new things are invented and solutions are found everyday, there is always hope) the best bet for these animals is to build them a better environment and ban the breeding and importation of them. Let them live out their life at sea world (in this better structure they want to build for them) and then don't bring anymore in unless it's for a rehab purpose and they're being released, like they do with their sea turtle program for instance.
jessica wimberly	San Diego, CA	2015-09-26	The whales would benefit from these improvements.
Eric Kuzemchak	Sparks, NV	2015-09-26	So Sea World can continue to learn about whales and save them from extinction.
Pat Pulcher	Wilmington, DE	2015-09-26	I believe this will be a good environment for the whales. Sea pens are not the answer. No one can care more for these animals than the SeaWorld staff.
Amy Weldon	Baltimore, MD	2015-09-26	I'm signing because I stand for conservation, education and I believe in the future of species like orcas being preserved by spreading the message of hope to future generations through live interactions in stunning facilities where the animals can thrive. I stand with SeaWorld.
Valerie Severe	timonium, MD	2015-09-26	Because I stand with Sea World. As a fellow animal keeper.

Name	Location	Date	Comment
Eryn Murphey	Midlothian, VA	2015-09-26	Educational zoological facilities are rapidly becoming of higher and higher importance in today's world. These animals and their facility are not only ambassadors and advocates for an ecosystem that is in grave peril, but having these animals within captivity also serves immeasurable scientific and species survival purposes. Despite what extremist activist organizations may say, these animals have adapted successfully and potentially irrevocably to their environment. Releasing them IS NOT AN OPTION. Why question or withhold allowing these animals to have a larger and more appropriate captive habitat, as well as offering the public a unique new way to connect with the natural world?
Catherine Azzam	Towson, MD	2015-09-26	I understand the importance of Sea World's work in the areas of education and conservation. This new habitat will benefit the animals and help spread the word about all the work that Sea World does to restore natural habitats and rehabilitate injured marine animals. I stand with Sea World.
kristi sargent	Centreville, VA	2015-09-26	I'm signing because this is a wonderful investment from Sea world to make the Shamu experience interactive for generations. Thank you SeaWorld for everything you do
Darby sheehan	Edmond, OK	2015-09-26	I stand with SeaWorld!
becca kadel	lake elsinore, CA	2015-09-26	I love SeaWorld!
Brandy Criner	San Antonio, TX	2015-09-26	I support SeaWorld and all they do to provide the best care for the animals
Shoshauna Borowitz	Camarillo, CA	2015-09-26	I'm signing because u want to support all the hard work that sea world does in protect sea life.
Jennifer Wenger	West Covina, CA	2015-09-26	I love SeaWorld
Misty Herlehy	Seward, AK	2015-09-26	The orcas need more space, and more natural space.
Nicole Crismas	Green Cove Springs, FL	2015-09-26	The Killer Whales need a bigger habitat! Sign the petition!
wendt harris	Chula Vista, CA	2015-09-26	This expansion is a great idea! I can't wait
Susan Werkheiser	East Stroudsburg, PA	2015-09-27	I believe sincerely this would expand the whales' environment for the better and enhance the opportunity for people to learn about these animals and build a sense of conservation for them. "Touch the heart, teach the mind."
Kennedy Smith	Phoenix, AZ	2015-09-27	The whales are beautiful and deserve more space!
Bronwyn Neely	Oceanside, CA	2015-09-27	Seaworld does such great things and these beautiful creatures deserve a new pool as grand and what these plans are!
Heather Phillips	Clearwater, FL	2015-09-27	Blue World would give the animals much needed room and new opportunities for enrichment.
Tamara Roettger	Lake Isabella, CA	2015-09-28	I'm signing because I believe in SeaWorld & the work that they do. They love their animals & they love their work.
Arthur Moreau	San Diego, CA	2015-09-28	I stand with SeaWorld
Adriana Garcia	Manta, Ecuador	2015-09-29	I'm signing because it is a magnificent and expensive project that will make the installations better and of a better quality allowing whales to be more comfortable and entertained, we love this whales and it is important to always give them the best that we can!
Logan Jimenez	Baraboo, WI	2015-09-29	It's ironic that people who are critical of SeaWorld's supposed "lack of animal care" are the very ones opposing SeaWorld's efforts to enhance the lives of its orcas. Please let this project move forward.
Ler kackson	San Diego, CA	2015-09-29	I believe in what Sea World does and represents.
Alex Elia	Bayonne, NJ	2015-09-29	It's the right way to go

NOTE FROM COMMISSION STAFF

In addition to the comments of support and form letters included in the staff report addendum for CDP No. 6-15-0424, several thousand additional comments have been received by Commission staff. Due to limited resources, and pursuant to Section 13057 of the California Code of Regulations, a summary of the relevant communications is provided below.

The additional public comment expressing support for the proposed development raised multiple points:

- SeaWorld has a long history of caring for orcas and other marine mammals.
- SeaWorld employs multiple experts to care for the orcas.
- The orcas in SeaWorld are protected from the natural and man-made threats that orcas in the wild experience.
- SeaWorld is a long-standing contributor to San Diego and is a large employer.
- SeaWorld is an educational facility that provides many people their first or only opportunity to interact with multiple marine animals in a single place.
- SeaWorld has provided multiple field trips to students to allow them to learn about the marine environment at the park.
- SeaWorld has long been a safe, enjoyable family destination.
- SeaWorld is a good employer who takes the training and safety of its employees seriously, as well as the care of the animals in its parks.
- SeaWorld is a large contributor to marine research – both monetarily and with data.
- Orca captivity provides an excellent and hard-to-reproduce opportunity to be able to study orcas up close in a controlled environment, helping to set baselines to compare to orcas in the wild.
- SeaWorld has long bred orcas in captivity, and those orcas form social connections just like the orcas in the wild.
- The orcas in captivity could not survive if released into the wild.
- SeaWorld has inspired many people to pursue a career in the marine sciences.
- SeaWorld has not taken an orca from the wild for decades, and its captive population is mostly captive bred and are cared for under vetted guidelines from both the government and recognized marine mammal groups.

PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS
FOUNDATION

July 23, 2015

Alex Llerandi
Coastal Program Analyst II
California Coastal Commission

Via e-mail: Alexander.Llerandi@coastal.ca.gov

Washington, D.C.
1536 16th St. N.W.
Washington, DC 20036
202-483-PETA

Los Angeles
2154 W. Sunset Blvd.
Los Angeles, CA 90026
323-644-PETA

Norfolk
501 Front St.
Norfolk, VA 23510
757-622-PETA

Oakland
554 Grand Ave.
Oakland, CA 94610
510-763-PETA

Dear Mr. Llerandi,

I'm writing on behalf of PETA and its more than 3 million members and supporters—including more than 315,000 California residents and 28,000 in San Diego—to urge you to vote no on SeaWorld's proposed Blue World Project (application no. 6-15-0424; "Project"). Approving SeaWorld's expansion plan would be an enormous step backward for animals abused in the entertainment industry at a time when public opinion has shifted away from captivity and decisionmakers in the state are working to put an end to it.

In an attempt to repair a fractured reputation for its unethical business and unsavory recent actions, SeaWorld is misleading the public and hoping people will believe that superficial aesthetic changes to their tanks equates to a better quality of life for the orcas who are enslaved there. In addition, there is nothing in SeaWorld's proposal that actually improves the lives of the orcas there or that will stimulate them physically or mentally **despite claims to the contrary**.

In reality, these new tanks will:

- Fail to provide adequate space and range of motion for natural behavior
- Have the same devastating physical and psychological effects on marine mammals, leading to distressing stereotypic behavior observed only in captivity
- Negatively affect the local landscape and delay true conservation efforts
- Work against overwhelming public opinion, which favors retiring captive orcas to coastal sanctuaries

For these and the many reasons outlined in the attached appendix, the California Coastal Commission can and should deny SeaWorld's permit application.

Thank you for your consideration.

Sincerely,



Jared S. Goodman
Director of Animal Law

PETA FOUNDATION IS AN
OPERATING NAME OF FOUNDATION
TO SUPPORT ANIMAL PROTECTION.

AFFILIATES:

- PETA U.S.
- PETA Asia
- PE
- PE
- PE
- PE
- PE
- PE

EXHIBIT NO. 13
APPLICATION NO. 6-15-0424
Opposition Letters
 California Coastal Commission

Appendix

1. The Commission Can and Should Consider the Orcas' Welfare in Denying the Permit for the Project

The California Coastal Commission (Commission) can and should consider the impact of proposed coastal development on the welfare of marine mammals, both captive and wild. Federal law does not preclude this consideration but, in fact, invites it. SeaWorld's analysis to the contrary is misleading and incomplete.

1.1. The Commission's Authority Over Marine Mammals Is Expansive

Congress passed the Coastal Zone Management Act¹ (CZMA), in part, to "encourage the states to exercise their full authority over the lands and waters in the coastal zone" to protect "living marine resources" and "wildlife" from "ill-planned development."² California, through the California Coastal Act of 1976 (Coastal Act),³ created the Commission to fulfill this mandate.⁴ Thus, the Commission does not just have the authority to consider the impact of coastal development on marine mammals—this is what it was designed to do.

The CZMA was enacted to "[p]rotect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources."⁵ The Coastal Act was deemed by the legislature to be "*necessary* to provide for continued state coastal planning and management" in order "to provide *maximum state involvement* in federal activities allowable under federal law or regulations ... which affect California's coastal resources" and "to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources."⁶

The Commission's authority over California's coastal resources, including marine mammals, is primary. Federal agencies must coordinate with and seek the approval of the Commission before taking actions that may adversely affect the state's coastal resources.⁷ The Commission routinely reviews projects governed by other federal laws, including the Marine Mammal Protection Act⁸ (MMPA). The Commission's power is limited only to the extent that it conflicts with or is specifically preempted by these laws.

Federal law governing the treatment of marine mammals is limited and does not conflict with or preempt the Commission's powers under the Coastal Act and the CZMA. The Commission may therefore exercise its authority to consider the interests of captive wild animals in determining whether to deny a coastal development permit.

1.2. The Federal Regulation of Marine Mammals Is Limited

The MMPA prohibits harassing, hunting, capturing, or killing a marine mammal without a permit, which may be issued, under certain circumstances, to allow the public display of a

¹16 U.S.C. §§ 1451-66.

²16 U.S.C. § 1451(c),(g), (i).

³Cal. Pub. Res. Code §§ 30000-30900.

⁴Cal. Pub. Res. Code §§ 30300, 30330.

⁵*Id.* § 30001.5(a).

⁶*Id.* § 30004(b) (emphases added).

⁷16 U.S.C. § 1456(c)(3)(A).

⁸16 U.S.C. §§ 1361-1423h.

protected animal. The MMPA thus functions as a gatekeeper, keeping marine mammals in the wild.

Once marine mammals are taken captive for public display, their care is governed by the Animal Welfare Act⁹ (AWA), which imposes minimal standards of care¹⁰ in an effort to ensure the humane care and treatment of captive animals. The AWA thus functions as a guide, operating exclusively upon those who hold animals captive.

Neither law explicitly or implicitly prevents the Commission from considering the impact that coastal development may have on the welfare of captive marine mammals. In fact, the AWA expressly invites states to consider and improve the welfare of captive animals.¹¹ The MMPA, meanwhile, only prevents states from authorizing or prohibiting the harassment, hunting, capturing, or killing of marine mammals.

1.2.1. The AWA Fails to Ensure the Humane Care of Marine Mammals

The AWA's standards for the treatment of captive animals are archaic and under-enforced. Under the AWA, for example, a captive orca who is 24 feet long may lawfully be confined to a tank that is merely 12 feet deep.¹² Although the AWA also requires that orcas must receive shade¹³ and companionship,¹⁴ the Miami Seaquarium has been allowed, under the auspices of an AWA exhibitor's license, to isolate an orca named Lolita in an unshaded tank for decades. Lolita has not seen another orca since she watched her tank mate, Hugo, die in 1980. The fact that the Miami Seaquarium holds an AWA license is evidence that SeaWorld's claim that "to maintain a valid exhibitor's license, each licensee must undergo routine inspections to ensure ongoing compliance with the requirements of the AWA and the MMPA," is either erroneous or blatantly false.

1.2.1.1. License Renewal Is Automatic

In litigation over Lolita's unlawful confinement, the U.S. Department of Agriculture (USDA), which administers the AWA, has made it clear that it does not condition license renewal in compliance with the AWA. Rather, the USDA takes the position that a facility's flagrant violation of the AWA is completely irrelevant to the agency's decision to renew the exhibitor's license. In fact, the USDA claims it must renew the licenses of all applicants that submit the requisite paperwork and renewal fee on time.

Thus, the fact that SeaWorld holds an AWA license is not evidence of the company's "ongoing commitment to compliance with federal law." It merely reflects the fact that SeaWorld submitted its application and paid its renewal fee in a timely manner.

1.2.1.2. Facility Inspections Are Discretionary and Ineffective

⁹7 U.S.C. §§ 2131-59.

¹⁰9 C.F.R. §§ 3.100–3.118.

¹¹7 U.S.C. § 2143(a)(8) (federal standards governing the care of exhibited animals "shall not prohibit any State (or a political subdivision of such State) from promulgating standards in addition to those" promulgated under the AWA).

¹²9 C.F.R. § 3.104(b).

¹³9 C.F.R. § 3.103(b).

¹⁴9 C.F.R. § 3.109.

Moreover, the USDA's inspections of public display facilities are not required by law, as SeaWorld suggests. They are wholly discretionary.¹⁵ They do, however, generally occur annually by one of the fewer than 200 inspectors responsible for inspecting thousands of licensed facilities.

Even when inspections reveal violations of the AWA, these violations may go uncorrected for months and sometimes years. The USDA has been repeatedly criticized by its own Office of the Inspector General (OIG) for its failure to enforce the AWA when evidence of noncompliance is found.¹⁶ Chronic violators of the AWA routinely receive reduced fines and penalties, and sometimes investigations are abandoned altogether, even when violations were egregious. In one report, the OIG noted that the lack of appropriate enforcement "weakened the agency's ability to protect ... animals," and the enforcement process was "ineffective in achieving [violation] compliance with AWA and regulations" because the agency took "little or no enforcement action against most violators."¹⁷

1.3. Inspections by Accrediting Organizations Are Irrelevant and Confidential

The Association of Zoos and Aquariums (AZA) and the Alliance of Marine Mammal Parks and Aquariums (AAMPA) are private industry organizations that exist to ensure the ongoing display of captive animals. Moreover, while the USDA's inspections are a matter of public record, inspections by these organizations are confidential. Since neither organization is subject to any public records acts, any concerns they may have about SeaWorld's operations are totally confidential.

Even if SeaWorld is in perfect compliance with the standards of care imposed by the AWA, AZA, and AAMPA, this compliance would not and should not limit the Commission's interest in preventing the suffering of captive marine mammals. The CZMA requires the Commission to consider the impact of coastal development on marine mammals. The AWA expressly invites states to improve the well-being of captive marine mammals. And the AZA and AAMPA have no authority to limit the Commission's jurisdiction in any way.

1.4. The Marine Mammal Protection Act's Scope and Preemptive Power Is Limited

Similarly, the MMPA has no power to limit the Commission's interest in the welfare of captive marine mammals. In fact, the MMPA scarcely applies to captive marine mammals at all, except to authorize permits to allow the removal of marine mammals from the wild for the purpose of public display¹⁸ and then to require that facilities that display marine mammals offer a "program for education or conservation purposes," be licensed under the AWA, and be open to the public on a regular basis.¹⁹

The MMPA does not attempt to influence the treatment of marine mammals once they are captive, and therefore no regulations to this effect have ever been promulgated, because to do so

¹⁵See 7 U.S.C. § 2146(a) (research facilities must be inspected annually, and exhibitors are inspected as "necessary").

¹⁶See, e.g., USDA, OIG Audit Report: APHIS Animal Care Program, Inspection and Enforcement Activities i–ii (Sept. 2005), available at <http://www.usda.gov/oig/webdocs/33002-03-SF.pdf> (The USDA "is not aggressively pursuing enforcement actions against violators of the AWA").

¹⁷USDA, OIG Audit Report: APHIS Animal Care Program, Inspections of Problematic Dealers 1-2 (2010), available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>.

¹⁸16 U.S.C. § 1371(a)(1).

¹⁹16 U.S.C. § 1374(c)(2)(A).

would exceed the statutory authority. In fact, the National Marine Fisheries Service (NMFS), which administers the MMPA, once planned to require "take" permits for all captive marine mammals, including those born in captivity. However, NMFS reversed course when the MMPA was amended in 1994, noting that the recent amendments had "eliminated the basis" for these and other proposed changes.²⁰ Since NMFS, the agency responsible for administering the MMPA, does not interpret the statute to cover marine mammals once they are in captivity at AWA-licensed facilities, it is abundantly clear that the statute does not restrict the Commission in any way.

1.4.1. The MMPA Preempts Only State Regulation of Marine Mammal Takes

The MMPA does not "pre-empt[] all state laws involving any aspect of the display and exhibition of marine mammals," as SeaWorld falsely asserts. The MMPA very specifically preempts only state regulations "relating to the taking of" marine mammals.²¹ Thus, the Commission may not regulate the take²² of a marine mammal but may absolutely consider the impact that coastal development may have on the welfare of captive marine mammals.

While the AWA authorizes state regulation that is consistent with the Coastal Act and thereby improves captive-animal welfare, the MMPA's express preemption provision applies whether a state law conflicts with or is consistent with the MMPA. Accordingly, the MMPA preempted Alaska's law that prohibited walrus hunts that were otherwise authorized under the Coastal Act.²³ The MMPA also preempted Hawaii's seasonal regulation of parasailing, which prevented the harassment of humpback whales in the winter.²⁴ Thus, the Commission may not directly authorize or prohibit the hunting or harassment of marine mammals, as Alaska and Hawaii did, and this restriction is reflected in state law.²⁵ But the MMPA does not in any way prevent the Commission from considering the impact of coastal development on marine mammals in captivity or in the wild.

1.4.2. The MMPA Does Not Preempt All Laws "Relating to" Captive Marine Mammals

SeaWorld attempts to overstate the MMPA's preemptive reach by relying on dicta from the Supreme Court's statutory interpretation analysis in *Morales v. Trans World Airlines*.²⁶ In *Morales*, the Court ruled that a state consumer protection law addressing misleading advertising of airline rates was preempted by the federal Airline Deregulation Act (ADA). There, the use of the phrase "relating to" in the ADA preempted all state laws relating to airline *rates*. It did not preempt all laws relating to *airlines*.²⁷ Here, the MMPA's preemption of all laws "relating to" the *taking* of marine mammals does not preempt all laws relating to *marine mammals*. No matter

²⁰61 Fed. Reg. 21926 (May 10, 1996); *c.f.* 58 Fed. Reg. 53320-01 (Oct. 14, 1993) (NMFS at that time asserted that "holding a marine mammal captive is, in itself, a take under the MMPA").

²¹16 U.S.C. § 1379(a).

²²*See* 16 U.S.C. § 1362(13) (defining "take").

²³*People of Togiak v. U.S.*, 470 F.Supp. 423, 427 (D.D.C. 1979).

²⁴*UFO Chuting of Hawaii, Inc. v. Young*, 327 F. Supp. 2d. 1220 (D.Hi. 2004), vacated by *UFO Chuting v. Young*, 380 F. Supp. 2d. 1144 (D.Hi. 2005) (later congressional action authorized the parasailing regulation).

²⁵*See* Cal. Fish & Game Code § 4500(b) (conditioning the state's jurisdiction to regulate the taking of marine mammals upon a federal transfer of authority).

²⁶504 U.S. 374 (1992).

²⁷*Morales*, 504 U.S. at 390 (the ADA does not preempt "state laws against gambling and prostitution as applied to airlines," and the Court not need consider "state regulation of the nonprice aspect of fare advertising" as that is "obviously ... far more tenuous").

how much SeaWorld would like it to be so, the mere existence of the phrase "relating to" cannot expand the plain language of the MMPA.

SeaWorld's reliance on the 10th Circuit's dicta in *Mountain States Legal Foundation v. Hodel*²⁸ is similarly misplaced. In that case, the Court found that the government is not responsible for damage done to private lands by wild horses so long as the land retains some economic value. In doing so, the Court considered the "plenary federal authority for the conservation of marine mammals" only to illustrate that the rights of state landholders are limited by the federal government's interest in protecting certain species. If anything, here, as there, SeaWorld should expect that its right to use its coastal property will be limited by the government's interest in conserving marine mammals.

In this instance, SeaWorld does not just argue that the MMPA preempts all laws "relating to" the public display of marine mammals. SeaWorld argues that because no state may pass a *law* relating to the public display of marine mammals, the Commission may not even *consider* the welfare of captive marine mammals when deciding whether to authorize development in the coastal zone. In considering the welfare of marine mammals, the Commission is not passing any law at all, let alone one authorizing or prohibiting the take of a marine mammal. Accordingly, no preemption can be found.

2. The Project Would Fail to Provide an Adequate Aquatic Environment for Marine Mammals

The project proposes to create new tanks that marginally increase the size of the current tanks to 350 feet long, with depths ranging from 18 to 50 feet at the deepest. Using the most fundamental understanding of marine mammals, it's clear that these new tanks in no way support an orca's broad range of behavior.

2.1. Orcas at SeaWorld Are Restricted From Engaging in Natural Behavior

Orcas are one of the fastest animals in the sea, traveling at speeds of up to nearly 28 miles per hour.²⁹ They are also adapted for swimming extended distances and durations. Individual orcas have been recorded traveling nearly 100 miles per day³⁰ and are capable of covering vast distances of many thousands of miles.³¹ They regularly dive 200 to 300 meters (656 to 984 feet)³² and spend 95 percent of their time submerged.³³ In the wild, orcas swim almost

²⁸799 F.2d 1423, 1427 (10th Cir. 1986).

²⁹Terrie M. Williams, *Swimming*, in *ENCYCLOPEDIA OF MARINE MAMMALS* 1140, 1145 (William F. Perrin *et al.* eds., 2008) (Orcas swim at an average "casual" speed of 3.6 meters per second (m/sec) or 8.05 miles per hour (mph), and "sprint" at up to 12.5 m/sec or 27.96 mph.); John K.B. Ford, *Killer Whale: Orcinus orca*, in *ENCYCLOPEDIA OF MARINE MAMMALS* 654 (William F. Perrin *et al.* eds., Academic Press 2002) (traveling over distances at speeds of over 20 kilometers per hour (km/h), or 12.43 mph); *id.* (a mean traveling speed of 10.4 km/h, or 6.46 mph).

³⁰*See, e.g.,* Robin W. Baird, *The Killer Whale: Foraging Specializations and Group Hunting*, in *CETACEAN SOCIETIES: FIELD STUDIES OF DOLPHINS AND WHALES* 131, 136–37 (Janet Mann *et al.* eds., U. Chi. Press, 2000) (160 km (99.42 miles) in 24 hours) [hereinafter *Foraging Specializations*].

³¹Ingrid N. Visser, *Propeller Scars on and Known Home Range of Two Orca (Orcinus orca) in New Zealand Waters*, 33 *N.Z. J. OF MARINE AND FRESHWATER RES.* 635, 638 (1999) (15,600 km (9693 miles) in six years).

³²Craig O. Matkin *et al.*, *Expanding Perspectives: Investigating Pod Specific Killer Whale Habitat with ARGOS Satellite Telemetry*, Presented at the Alaska Marine Science Symposium, Anchorage, Alaska (Jan. 2012) (orca for whom "regular dives of 200–300 m were recorded and

continuously.³⁴ **In SeaWorld's plans for new tanks, an orca would have to swim more than 1,500 lengths back and forth per day to approximate the 100 miles they may naturally travel with their pod in one day in the ocean.**

Orcas are highly acoustic animals who use a range of signals for distinct purposes,³⁵ including clicks for echolocation to navigate and detect environmental objects and prey³⁶ and whistles and pulsed calls for social communication.³⁷ Orca pods have distinctive sets of discrete call types known as dialects that are passed down through vocal learning,³⁸ i.e., the dialect is learned by calves through contact with their mothers and other pod members. Holding orcas in the confined and virtually barren tanks at SeaWorld has been said to be a cruel form of sensory deprivation.

Dr. Hal Whitehead, an expert on cultural transmission in cetaceans—the order that includes whales and dolphins—and coauthor of a groundbreaking review of culture in orcas and other cetaceans, compares the experience of a "highly acoustic cetacean" such as an orca "living in a tank with acoustically reflective walls to that of a visually oriented animal, like a human, living captive in a room covered with mirrors on all walls and the floor. The experience is likely to be profoundly disturbing, especially over the long term."³⁹ Similarly, oceanographer Jean-Michel Cousteau compared keeping orcas in tanks to "a person being blindfolded in a jail cell."⁴⁰

2.2. The Orcas at SeaWorld Already Exhibit Stereotypic Behavior of Physical and Psychological Distress From Captivity

Orcas are highly intelligent social apex predators. Among other things, the physical constraints of the artificial enclosures at SeaWorld limit their opportunity to exercise, disperse from

one dive of 400 m was logged"); Robin W. Baird *et al.*, *Factors Influencing the Diving Behaviour of Fish-Eating Killer Whales*, 83 CAN. J. OF ZOOLOGY 257, 262–63 (2005) (a population that uses "primarily near-surface waters" still dives "below 150 m on a regular basis" and up to 264 m).

³³National Marine Fisheries Service, Northwest Regional Office, *Proposed Conservation Plan for S. Resident Killer Whales* (Orcinus orca) 16 (2005), available at <http://orcasphe.net/pdfs/SRKWpropconsplan-Oct05.pdf>.

³⁴Rob Williams and Dawn P. Noren, *Swimming Speed, Respiration Rate, and Estimated Cost of Transport in Adult Killer Whales*, 25(2) MARINE MAMMAL SCI. 257 (2009).

³⁵Volker B. Deecke *et al.*, *Quantifying Complex Patterns of Bioacoustic Variation: Use of a Neural Network to Compare Killer Whale (Orcinus orca) Dialects*, 105 J. ACOUSTICAL SOC'Y AM. 2499, 2499–2500 (1999).

³⁶John K.B. Ford *et al.*, *Killer Whales: The Natural History and Genealogy of Orcinus Orca in British Columbia and Washington State* 21 (2d. ed., U. Wash. Press, 2000).

³⁷*Id.*

³⁸Rendell and Whitehead, *supra*, at 314 (citations omitted).

³⁹Vanessa Williams, CAPTIVE ORCAS: "DYING TO ENTERTAIN YOU": THE FULL STORY 35 (Whale and Dolphin Conservation Society, 2001) (quoting Hal Whitehead, Speech, *The Value of Oceanaria* (Whales in Captivity: Right or Wrong? Symposium 1990).

⁴⁰Tyler Haden, *Cousteau on SeaWorld Tragedy*, THE INDEPENDENT (Feb. 27, 2010). Like social structures and dialects, foraging is also an important component of orca culture, and their methods of finding, capturing, and eating prey as well as the types of prey vary widely. Orcas are the oceans' apex predators and forage on, inter alia, fish, seals, sharks and rays, and other cetaceans. They are also known for their use of a range of often complex and cooperative hunting techniques, including launching out of the water to take prey on dry land, coordinating to create a wave to wash prey off ice floes, and debilitating prey by ramming or striking them with their tail fluke. See generally Rendell and Whitehead, *supra*, at 314–15 (citations omitted). Alternatively, all captive orcas are fed only frozen and then thawed dead fish, which prevents them from engaging in any of the social and cultural aspects of hunting. Williams, *supra*, at 34–35.

incompatible pairings, escape from conflict, or engage in natural types of behavior, such as swimming at high speeds or diving, causing them extreme stress and frustration. Small enclosures have been shown to induce stress in various species,⁴¹ and "among the carnivores, naturally wide-ranging species," which includes orcas, "show the most evidence of stress and/or psychological dysfunction in captivity."⁴²

A study by dolphin researcher Laurence Couquiaud concluded that "some behaviors tend to occur when space is limited; the environment does not provide occupational activity; and when animals are kept alone, deprived of stimulus diversity, or are subject to environmental stress."⁴³ Other research says that "stereotypical behavior patterns ... tend to emerge when the animal cannot engage in behavior it is highly motivated to perform, such as searching or hunting for food, seeking social interaction or just trying to escape."⁴⁴



The image on the left shows a facial wound to an orca named Nakai. An expert opined that it was the result of a fight with another orca with whom Nakai was incompatibly housed (photo courtesy of the Orca Research Trust). The image on the right shows a collapsed dorsal fin, which is common among captive orcas but very rarely seen in wild orcas.

At SeaWorld, orcas lie listlessly at the surface or the bottom of a tank for extended periods. Research has shown that behavior such as spending inordinate amounts of time "surface resting" and lying motionless at the bottom of the tanks is common when orcas are unable to carry out even the most rudimentary types of behavior that they would naturally engage in.⁴⁵

Further evidence of suffering caused by the captive conditions at SeaWorld is found in the lengthy record of orcas killing and seriously injuring humans, other whales, and even themselves in captivity. SeaWorld's own corporate incident logs reveal that the company itself has recorded "600 pages of incident reports documenting dangerous and unanticipated orca behavior with trainers," consisting of "some 100 occurrences of killer whales biting, hitting, lunging toward, pulling on, pinning, dragging, and aggressively swimming over SeaWorld trainers" regularly for

⁴¹See generally Kathleen N. Morgan and Chris T. Tromborg, *Sources of Stress in Captivity*, 102 APPLIED ANIMAL BEHAV. SCI. 262, 277–78 (2007).

⁴²Georgia Mason, *Captivity Effects on Wide-Ranging Carnivores*, 425 NATURE 472 (2003).

⁴³Couquiaud, *supra* at 297.

⁴⁴Françoise Wemelsfelder, *Animal Boredom: Understanding the Tedium of Confined Lives*, in MENTAL HEALTH AND WELL-BEING IN ANIMALS (Franklin D. MacMillan ed. 2005), at 85.

⁴⁵Ros Clubb and Georgia Mason, *Captivity Effects on Wide-Ranging Carnivores*, 425 NATURE 473 (2003); See generally JETT and VENTRE, *supra*.

decades.⁴⁶ There has been only one reliable report of an orca in the wild seriously injuring a human.⁴⁷

Orcas attempt to establish dominance over one another in the captive environment and will repeatedly charge with open mouths and rake others with their teeth.⁴⁸ SeaWorld trainers have noted that this behavior regularly results in injury to the orcas. In the wild, aggression toward other orcas is relatively uncommon⁴⁹ and conflict is resolved through dispersion and shifting alliances within groups of orcas,⁵⁰ a natural behavior that is impossible to replicate in captivity.

Other abnormal, stereotypical behavior observed in captive orcas held at SeaWorld includes repetitive movements such as swimming in circles, unresponsiveness, excessive submissiveness, hyper-sexual behavior, self-inflicted physical trauma and mutilation, stress-induced vomiting, and compromised immunology. **These types of behavior are not seen in wild orcas.**

In attempts to quell these types of stereotypical behavior, which are common in captive orcas, SeaWorld's own veterinary records show that orcas are administered diazepam just to withstand the stress of captivity. Marginally bigger tanks will not remedy the devastating physical and mental stress that SeaWorld inflicts on the ocean's most intelligent species.

2.3. Marine Animal Deaths at SeaWorld Remain Consistent

Since 1971, *at least* 36 orcas have died from effects of captivity, at an average age of 13. This number does not account for the numerous stillbirths that occur at SeaWorld. Wild male orcas live an average of 30 years and can live up to 60 years while wild female orcas can live an average of 50 and up to more than 100 years. Orcas at SeaWorld often die by the time they reach their teens, and few have even approached the *average* life expectancy of their wild counterparts, despite SeaWorld's false claims otherwise. Contrary to what SeaWorld would have the public believe, only one orca at SeaWorld—Corky, who was captured in the wild—has actually reached SeaWorld's claimed "average life expectancy" of 41.6 years. All other orcas who have perished at SeaWorld died far short of how long they are expected to live.

2.4. SeaWorld Is Misleading and Lying to the Public When It Claims That It Doesn't Separate Mothers and Their Offspring

John Hargrove, an ex-trainer at SeaWorld, said that the process of separating orca mothers from their calves was "horrible," and he knew of at least 19 mother-calf pairs at SeaWorld who had been separated.⁵¹ Reportedly, the mother and calf shown in SeaWorld's photo propaganda⁵² aren't even together—the calf was taken from her mother when she was 4 years old and sent to a

⁴⁶E.g., Brief for Respondent Secretary of Labor at 25–28, *SeaWorld of Fla. v. Perez* (D.C. Cir. No. 12-1375).

⁴⁷*Keiko Reminds Man of Whale Attack*, LODI NEWS-SENTINEL, Jan. 17, 1996.

⁴⁸See, e.g., Morgan Report, *supra*, at 4, 12; Tim Zimmermann, *The Killer in the Pool*, OUTSIDE MAGAZINE (July 30, 2010).

⁴⁹Marino and Frohoff, *supra*, at 3.

⁵⁰*Id.*

⁵¹Melissa Cronin, "Ex-SeaWorld Trainer Reveals 'Stupid' Company Lie to Jon Stewart," *The Dodo*, March 27, 2015 <<https://www.thedodo.com/jon-stewart-seaworld-trainer-1061696870.html>>.

⁵²SeaWorld, Tweet, Jan. 15, 2015 <<https://twitter.com/SeaWorld/status/423572134573522944/photo/1>>.

marine park in Spain.⁵³ Hargrove said that when Takara, the calf, was taken, her mother, Kasatka, began "emitting vocalizations that had never been heard before ever by anyone ... obviously Takara was gone and Kasatka was trying anything she could to try to locate and communicate with Takara, which is absolutely heartbreaking. These vocalizations continued on for a long time."⁵⁴

3. Coastal Sanctuaries Provide a More Natural Environment Than Tanks

With a budget of \$95 million, SeaWorld could make a true difference in the lives of the orcas it currently holds by investing that money in the creation of coastal sanctuaries and the retirement and rehabilitation of orcas.

In coastal sanctuaries or sea pens, the orcas would be able to feel and experience the ocean, interacting with other wildlife and ocean creatures, learn to hunt and catch their own meals, and swim in a natural environment with adequate space that provides them with the physical and mental stimulation that is crucial to their existence.

Coastal sanctuaries can still offer the public an opportunity to see these magnificent animals from designated whale-watching towers or elsewhere ashore, not by watching them from the other side of a plexiglass panel that encapsulates a holding cell.

4. SeaWorld Makes Misleading Conservation Claims

SeaWorld never intended to be an organization with a mission to protect and conserve the wild population of orcas. It is and always has been a for-profit amusement park. Only in recent years, after growing public concern for animal welfare, has SeaWorld started including in its marketing strategy a pretense that its business is vital to wild conservation efforts. There is no evidence and there are no quantifiable results from its decades of capturing and breeding orcas, besides research that only helps SeaWorld keep orcas in captivity, that suggest this claim is true.

Numerous studies conducted by animal behaviorists have concluded that the unnatural portrayal of animals used in entertainment actually undermines the scientific, welfare, and conservation goals of those who seek to protect them by leading to the incorrect perception that the animals must not be in jeopardy if such uses are permitted.^{55,56} A 2010 study published in the *Journal of Human-Animal Studies* concluded that "there is no compelling or even partially suggestive evidence for the claim that zoos and aquariums promote attitude change, education, and interest in conservation in visitors."⁵⁷

⁵³Melissa Cronin, "Ex-SeaWorld Trainer Reveals 'Stupid' Company Lie to Jon Stewart," *The Dodo*, March 27, 2015 <<https://www.thedodo.com/jon-stewart-seaworld-trainer-1061696870.html>>.

⁵⁴Melissa Cronin, "Yes, SeaWorld Does Take Orca Calves From Their Moms. Here's Proof," *The Dodo*, March 24, 2015, <<https://www.thedodo.com/seaworld-separates-orcas-1057282183.html>>.

⁵⁵Stephen R. Ross *et al.*, *Inappropriate Use and Portrayal of Chimpanzees*, 319 *Science* 1487 (Mar. 14, 2008).

⁵⁶Stephen R. Ross *et al.*, *Specific Image Characteristics Influence Attitudes About Chimpanzee Conservation and Use as Pets*, 6(7) *PLoS ONE* (2011).

⁵⁷Lori Marino *et al.*, "Do Zoos and Aquariums Promote Attitude Change in Visitors? A Critical Evaluation of the American Zoo and Aquarium Study," *Society and Animals* 18 (2010) <http://animalsandsociety.org/assets/322_marinoazastudy.pdf>.

SeaWorld spends less than 1 percent of its revenue on rescue and conservation, and it continues to breed aggressive and suffering orcas who can never be released to the wild.⁵⁸

5. SeaWorld Is Said to Be One of the Largest Polluters of the California Coast

In 2012, SeaWorld was fined \$6,000 for dumping excessive amounts of ammonia and animal waste into San Diego's Mission Bay.⁵⁹ This is not an isolated incident, as SeaWorld has reportedly been cited for pollution dozens of times over the years. Bigger tanks that hold more water lead to more water and more waste that needs to be disposed of.

6. General Opinion Toward Animals Held in Captivity Is Rapidly Changing

In the last several years, the vocal public outcry against using animals for commercial entertainment has led businesses to begin phasing out their animal acts. Most recently, Ringling Bros. announced that after 100 years of forcing wild elephants to perform tricks on stage, it will officially retire elephant acts by 2018.⁶⁰

All over the country, jurisdictions are passing legislation that bans cruel training practices and the use of wild animals for entertainment altogether. The Orca Welfare and Safety Act (AB 2140), now in interim study, received a huge outpouring of support. When it was considered at the assembly hearing, virtually everyone other than SeaWorld employees urged its passage.

The California bullhook ban⁶¹ (S.B. 716) is well on its way to passing through the assembly. Two major California cities, Los Angeles⁶² and Oakland,⁶³ have already passed bullhook bans that go into effect in 2017 and 2018, respectively. (A bullhook is a sharp metal weapon resembling a fireplace poker that is used to inflict pain and fear on elephants.) Elephants in the circus, similar to orcas at SeaWorld, are forced to perform unnatural and confusing tricks for daily public shows. According to former SeaWorld employees, other cruel training techniques like food deprivation are used to train orcas.

7. Conclusion

SeaWorld is not a business that cares about ethics—it cares about its bottom line. Just this month, an espionage campaign by SeaWorld was discovered in which at least one employee had

⁵⁸Tim Zimmermann, "Can SeaWorld Be Saved?" Nov. 24, 2014 <<http://timzimmermann.com/2014/11/24/can-seaworld-be-saved/>>.

⁵⁹Frank Gormlie, "San Diego Coastkeeper and SeaWorld: Is Something Fishy Going On?" San Diego Free Press, Oct. 23, 2012 <<http://sandiegofreepress.org/2012/10/san-diego-coastkeeper-and-seaworld-is-something-fishy-going-on/#.U--t1PRdWSo>>.

⁶⁰Richard Pérez-Peña, "Elephants to Retire From Ringling Brothers Stage," *The New York Times*, March 5, 2015, <http://www.nytimes.com/2015/03/06/us/ringling-brothers-circus-dropping-elephants-from-act.html?_r=0>.

⁶¹Don Thompson, "California May Be First to Ban Use of Bullhooks on Elephants," *Napa Valley Register*, May 23, 2015 <http://napavalleyregister.com/ap/state/california-may-be-first-to-ban-use-of-bullhooks-on/article_99970001-bfd2-5162-8612-6dcaf8f8a596.html>.

⁶²Emily Albert Reyes, "City Council Bans Use of Bullhooks on Circus Elephants in L.A.," *Los Angeles Times*, Jul. 22, 2015 <<http://www.latimes.com/local/lanow/la-me-ln-elephant-bullhooks-20140430-story.html>>.

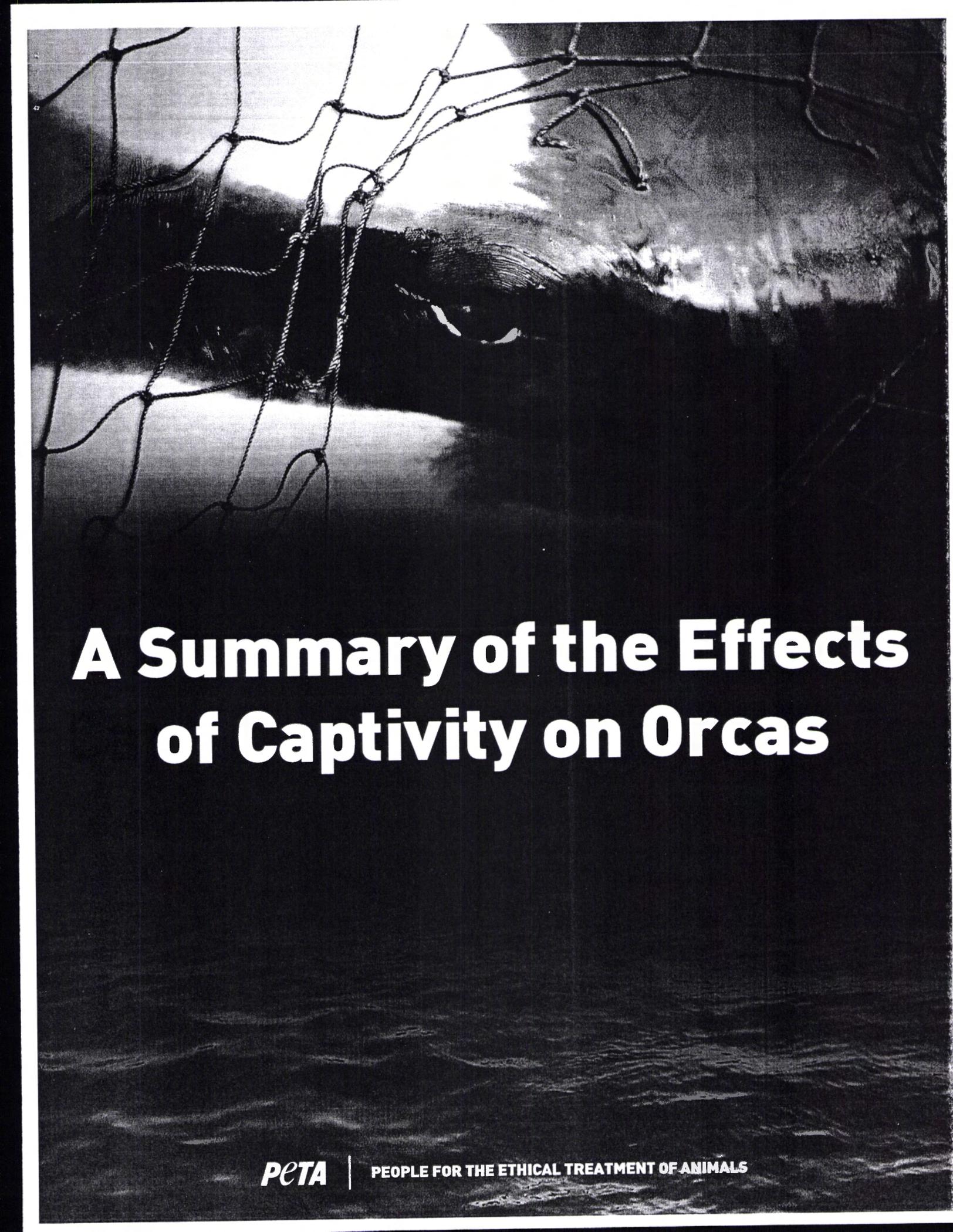
⁶³AP, "California: Oakland Bans Bullhooks," *The New York Times*, Dec. 18, 2014 <http://www.nytimes.com/2014/12/19/us/california-oakland-bans-bullhooks.html?_r=0>.

been posing as a PETA activist for years, regularly attending demonstrations held at SeaWorld and trying to incite other activists to intensify their protesting to include illegal activities that PETA does not engage in.⁶⁴

The project is another desperate attempt by SeaWorld to deflect negative attention away from its failing business model. This is further evidenced by the fact that SeaWorld announced plans for the project two days after its stock dropped 33 percent, even before applying for any permits or finishing concrete plans.

We strongly urge the California Coastal Commission to consider this information carefully and prevent the cruel confinement of more orcas by voting against SeaWorld's Blue World Project. This tank expansion is not in the best interests of the animals' welfare or the California coast.

⁶⁴Chris Palmeri, "SeaWorld Employee Masqueraded as Animal Activist, Peta Says," Bloomberg.com, July 14, 2015 <<http://www.bloomberg.com/news/articles/2015-07-14/seaworld-employee-posed-as-animal-activist-for-years-peta-says>>.



A Summary of the Effects of Captivity on Orcas

PETA

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS

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The Effects of Captivity on Tilikum and Orcas Generally at SeaWorld

Orcas are highly intelligent and social apex predators, and living in captivity causes them extensive physical and psychological harm. Among other things, the physical constraints of the artificial enclosures at SeaWorld limit their opportunity to exercise, disperse from incompatible pairings, escape from conflicts, or engage in natural types of behavior, such as swimming at high speeds or diving, causing them extreme stress and frustration.

The stress of the captive environment is manifested in “physiological and behavioral abnormalities indicative of psychological distress and emotional disturbance,” including stereotypic behavior, unresponsiveness, excessive submissiveness, self-inflicted physical trauma and mutilation, compromised immunology, and excessive aggression.¹ At SeaWorld Orlando, Tilikum lies listlessly at the surface or the bottom of the tank for extended periods, displays aggression toward humans, bites on the gates and concrete sides of the tanks, and is charged at and raked by other orcas so severely that he sometimes bleeds, shivers, and needs to be kept out of shows. While Tilikum has reached the average life expectancy for a male orca, the same stressors impair captive orcas’ immune systems so that they have a mortality rate two and a half times higher than wild orcas, notwithstanding SeaWorld’s alleged superior veterinary care and husbandry.

I. Orcas Are Extremely Intelligent Mammals Whose Brains Are Highly Developed in Areas Responsible for Complex Cognitive Functions, Including Self-Awareness, Social Cognition, Culture, and Language

Orca brains share a number of important features with human brains that are associated with complex intelligence.

As with the human brain, orca brains are much larger than expected for their body size. The proportion of brain and body size is typically expressed as an encephalization quotient (EQ). The EQ for orcas is 2.57, which means that even when their large body size is taken into account, their brains are still two and a half times larger than expected.² Orcas therefore have more brain tissue available to serve complex cognitive functions, such as self-awareness (a sense of personal identity), social cognition, culture, and language.³

In addition, the neocortex (the outer wrinkled surface of the cerebrum) of the orca brain is highly differentiated—i.e., different parts have different specialized functions—and even surpasses the human brain in the degree of its convolutedness—a measure of the surface area indicating the amount of information processing possible in the brain.⁴ The neocortex is involved in integrating information from the different senses to form mental representations of objects and thoughts and is also part of the cerebral cortex—the system that processes higher-order thinking and complex, abstract processes, such as language, self-awareness, meta-cognition (the ability to think about one’s own thoughts), social cognition, and theory of mind (the ability to think about and infer the thoughts of others).

In addition to all these complexities, the orca brain also contains spindle-shaped cells known as *von Economo neurons* in the same areas of the brain as humans.⁵ These spindle cells are found in the parts of the brain that are thought to be involved in high-level cognitive processing, such as social and emotional cognition, awareness, and intuition.⁶ This includes “feelings of empathy, guilt, embarrassment, and pain, as well as judgement [*sic*], social knowledge, and consciousness of visceral feelings.”⁷

Finally, orca brains possess a highly developed paralimbic region,⁸ which is believed to be involved in processing and integrating emotional information with other thought processes. In fact, the human brain is not elaborated in the same way and does not have an identifiable paralimbic lobe, which suggests that the orca brain may have evolved certain kinds of sophisticated or complex functions and thought processes related to the processing of emotion that did not evolve in the human brain—or at least not to the same extent.

II. Tilikum Is Deprived of Every Facet of His Culture and the Opportunity to Engage in Natural Behavior, Causing Extreme Stress and Suffering

Along with their complex intelligence and cognitive abilities, orcas are among the most highly social, far-ranging, communicative, and culturally complex mammals on the planet. Orca populations are distinguishable by diet, morphology, dialect, social structure, genetics, and behavior. Their transmission of these group-specific vocal and physical types of behavior from generation to generation in complex multicultural societies is recognized as a form of culture that, to researchers' knowledge, is unique outside humans.

SeaWorld causes Tilikum severe psychological and emotional suffering by depriving him of, among other things, adequate space, environmental enrichment, social stability, and the opportunity to perform natural behavior such as swimming long distances, diving, and foraging. The confined space, repeated scheduled performances, and related training completely compromise his autonomy. This deprivation is physically and psychologically harmful to orcas, and, as discussed below, causes them to display indicators of stress and trauma, which, notably, includes aggression, self-injury, and increased mortality.

A. The Tanks at SeaWorld Provide Inadequate Space and Result in Stress

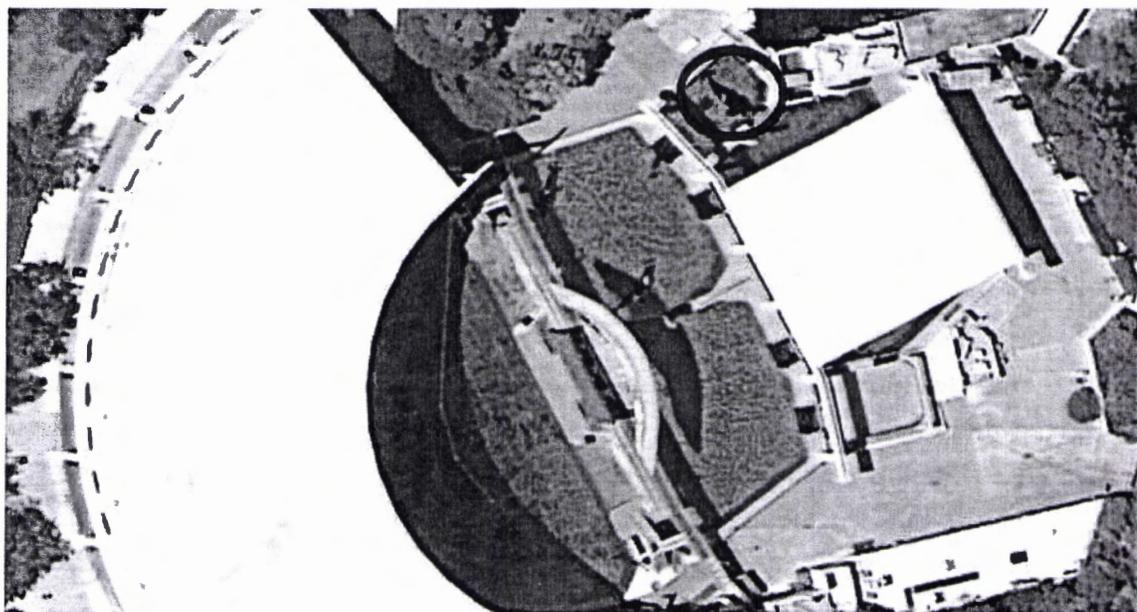
The tanks at SeaWorld offer woefully inadequate space for an orca. Orcas are one of the fastest animals in the sea, traveling at speeds of up to nearly 28 miles per hour.⁹

They are also adapted for swimming extended distances and durations. Individual orcas have been recorded traveling nearly 100 miles per day¹⁰ and are capable of covering vast distances of many thousands of miles.¹¹ They regularly dive 200 to 300 meters (656 to 984 feet)¹² and spend 95 percent of their time submerged.¹³ In the wild, orcas swim almost continuously.¹⁴

According to a reference book for zoos, aquariums, and wildlife parks and a standard course textbook for zoo biology students, the design and construction of marine-mammal habitats “should consider the natural history and behavior of the species to be maintained and should permit the performance of most, if not all, of their natural behaviors.”¹⁵ In addition, it “must meet the physical, psychological and behavioral needs of the animals.”¹⁶ Put simply, “[m]arine mammals need enough space to allow them to perform natural behaviors with freedom of movement.”¹⁷

At SeaWorld, orcas are kept in a series of tanks that average approximately 86 feet by 51 feet and are only 34 feet deep—not even twice as deep as the average orca is long. At up to 22 feet long and 12,000 pounds, Tilikum is unable to engage in virtually any natural movement: He is unable to swim any meaningful distance or dive and is forced to spend a majority of his life on or just below the surface of the water.¹⁸ The largest tank at any of SeaWorld’s facilities holds approximately 0.0001 percent of the minimum volume of water (45.3 billion gallons) that an orca traverses daily in nature.¹⁹ Tilikum would have to swim the circumference of that tank more than 1,900 times in a single day to approximate the distance he would have swum in that time in the wild before he was captured.

After Tilikum killed trainer Dawn Brancheau in February 2010, he was, at least at times, held in a tank intended for use only when administering medical care or husbandry procedures that was so small that his rostrum (nose) and fluke (tail) apparently could touch the sides of the tank. Small enclosures have been shown to induce stress in various species,²⁰ and “[a]mong the carnivores, naturally wide-ranging species,” such as orcas, “show the most evidence of stress and/or psychological dysfunction in captivity.”²¹



Tilikum is seen inside the circle in this aerial photo of SeaWorld.

B. SeaWorld's Constant Manipulation of Tilikum's Social Structure Results in Stress

SeaWorld utterly disregards the importance of orcas' complex familial and sociological bonds. Long-term studies of wild orcas have shown that most populations live in stable social groups with strong long-term associations, and some individuals, such as mothers and sons, stay together for life.²² In resident orca populations of the Pacific Northwest, orcas live in "highly stable matrilineal pods averaging 12 animals" and "there is no known case of individuals changing pods."²³ In fact, these close relationships are so crucial that even adult offspring of a post-reproductive orca mother have been shown to have a significantly increased mortality risk in the year after their mother's death.²⁴ While other populations typically appear to live in smaller groups, even these individuals generally leave their natal pods only occasionally and temporarily travel with other groups.²⁵

In contrast to the stable social structure in nature, SeaWorld transfers orcas between facilities regularly to "balance" the genetic pool for breeding²⁶ and for use in performances and often houses together orcas who don't know one another and

are incompatible.²⁷ In addition, SeaWorld removes calves from their mothers at ages far younger than they would be separated in the wild, if at all, and it is clearly distressing to these animals.

The orca Kayla exemplifies this disregard for stable social structure. Kayla was born at SeaWorld San Antonio in 1988, taken from her mother at only 11 months of age, moved to the now-defunct SeaWorld Ohio at the age of 2, returned to San Antonio in 1999, and finally moved to Orlando in 2006, where she remains today.²⁸ Another orca, Katina, who is held at SeaWorld Orlando, also had her first calf, Kalina, taken away from her. When Kalina, known as the Original Baby Shamu, was 4 years old, she was shipped to Ohio for reportedly disrupting shows at the facility.²⁹ The night that Kalina was taken, Katina “remained immobile in a corner of the pool, emitting wretched cries into the night.”³⁰

Research has shown that social instability—such as changes in group dynamics, competition for resources, and unstable dominance hierarchies—is a major stressor that is believed even to have caused the deaths of several captive dolphins.³¹ In fact, while Tilikum has remained at SeaWorld for more than two decades, the company’s own behavioral profile for him acknowledges that “[d]uring times of frustration due to social stress in the environment, Tilikum has exhibited aggressive behavior by mouthing [or biting] the stage, vocalizations, tightening body posture, banging gates, a deep fast swim, and sometimes lunging toward control trainer.”³²

In short, Tilikum is deprived of the stable, nurturing social family and pod structure that was so central to his life in the wild. The artificial groupings at marine facilities are, according to one expert, “a tremendous violation of the basic premise of the pod” and result in “constant stress.”³³

C. The Tanks at SeaWorld Create a Distressing Acoustic Environment

Orcas are highly acoustic animals who use a range of signals for distinct purposes,³⁴ including clicks for echolocation to navigate and detect environmental objects and prey³⁵ and whistles and pulsed calls for social communication.³⁶ Orca pods have distinctive sets of discrete call types known as dialects that are passed down

through vocal learning,³⁷ i.e., the dialect is learned by calves through contact with their mothers and other pod members. Indeed, in one well-studied population, family-specific call types dramatically increase in the days following a birth, which “supports the idea that discrete calls in orcas indeed function as family badges and suggests that the family may actively enhance vocal learning of a signal that is crucial for recognizing and maintaining contact with the family.”³⁸ These dialects “are maintained despite extensive associations between pods,” and some calls are shared between pods, “suggesting another level of population structure” and further evidencing the importance of communication to their complex society.³⁹

SeaWorld’s apparently wholesale disregard for orcas’ stable social structure, as discussed above, strips Tilikum and the others of the opportunity to develop and transmit dialects—their principal form of communication and a crucial component of their identity. Additionally, the tanks at SeaWorld likely make any effort by Tilikum to communicate highly distressing. Dr. Hal Whitehead, an expert on cultural transmission in cetaceans—the order that includes whales and dolphins—and coauthor of a groundbreaking review of culture in orcas and other cetaceans, compares the experience of a “highly acoustic cetacean” such as an orca “living in a tank with acoustically reflective walls to that of a visually oriented animal, like a human, living captive in a room covered with mirrors on all walls and the floor. The experience is likely to be profoundly disturbing, especially over the long term.”⁴⁰ Similarly, oceanographer Jean-Michel Cousteau compared keeping orcas in tanks to “a person being blindfolded in a jail cell.”⁴¹

III. The Stressors of the Captive Environment at SeaWorld Result in Aggression, Self-Injury, and Other Physical and Behavioral Abnormalities

As a result of the aforementioned circumstances, captive orcas display behavioral indicators of severe stress and trauma, including stereotypies (abnormal repetitive behaviors), self-inflicted physical trauma, and excessive aggression toward humans and other orcas, among other abnormalities not observed in wild populations.⁴²

A. Aggression Between Orcas and Between Orcas and Humans

Evidence of suffering caused by the captive conditions at SeaWorld is found in the “long record of orcas ... killing and seriously injuring humans, other whales, and themselves in captivity.”⁴³

Despite hundreds of years of encounters between seafarers, researchers, and orcas, there has been only a single reliable report of an orca seriously injuring a human being in nature.⁴⁴ Yet as indicated by SeaWorld’s own corporate incident logs revealed in the proceedings regarding its violation of federal workplace safety laws after trainer Dawn Brancheau’s death, the company itself has recorded “600 pages of incident reports documenting dangerous and unanticipated orca behavior with trainers,” consisting of “some 100 occurrences of killer whales biting, hitting, lunging toward, pulling on, pinning, dragging, and aggressively swimming over SeaWorld trainers” regularly for decades.⁴⁵ These logs are also incomplete. As the secretary of labor revealed during these proceedings, SeaWorld failed to document incident after incident, including Brancheau’s death, which prompted the citation.⁴⁶ Most notoriously, Tilikum was involved in the death of a trainer at Sealand of the Pacific in 1991,⁴⁷ a member of the public at SeaWorld in 1999,⁴⁸ and Brancheau at SeaWorld in 2010.⁴⁹ At times, Kayla, also at SeaWorld Orlando, has “displayed some aggressive tendencies towards trainers in a variety of ways, including ... moving her head (mouth open) towards a trainers’ hand, and coming out of a line up towards a trainer with her mouth open.”⁵⁰ Another orca named Keto, who was on loan to a Spanish facility called Loro Parque, rammed and killed his trainer during a training session in 2009.⁵¹

Similarly, the stressors of confinement at SeaWorld frequently cause orcas to exhibit abnormal aggression toward each other, further demonstrating that these conditions induce the types of behavior that pose a hazard to trainers. In nature, aggression between members of a pod or between pods is rare.⁵² “[S]erious aggression among orcas in the wild is relatively low and most injuries, e.g., rake marks, are superficial.”⁵³ Rather, conflict is resolved through dispersion and shifting alliances within groups of orcas (giving each other space),⁵⁴ which they are unable to do in captivity. Since subordinates in captivity “are unable to leave the area to avoid the situation,

stress, psychological, and physical trauma can occur.”⁵⁵ At SeaWorld, orcas have no influence over their social associations because they are limited to the groups, tanks, and facilities to which they are confined by the staff,⁵⁶ leading to stress and aggression, despite the fact that “[t]heir social rules prohibit real violence and they seem to have worked out a way to peacefully manage the partitioning of resources among different groups.”⁵⁷

For example, at SeaWorld, orcas are separated by steel gates prior to training sessions, during shows, or when they become aggressive toward each other.⁵⁸ According to former SeaWorld orca trainers, “It is common for separated whales to bite down on the horizontal metal bars, or to ‘jaw-pop’ through the gates as they display aggression at each other. ... As a consequence, tooth fragments can sometimes be found on the pool bottoms following these displays.”⁵⁹ According to SeaWorld’s own behavioral logs as well as photographs and affidavits, most of the orcas at SeaWorld have sustained broken and worn teeth from biting on the gates. As discussed in greater detail below, similar behavior is also displayed as stereotypies, i.e., abnormal repetitive behavior caused by the stress of inappropriate confinement and inadequate enrichment, often resulting in fractured teeth, chronic pain, and painful dental drilling.

In addition, in an attempt to establish social dominance in this environment, orcas repeatedly charge with open mouths and rake others with their teeth.⁶⁰ According to former SeaWorld trainers, this is aggressive behavior and its resulting injuries occur regularly. One trainer who worked with Tilikum noted that the orca would sometimes have streams of blood running behind him as he moved through the water and have to be held out of shows until his raked and bloody skin healed, after which he would exhibit nervous and agitated types of behavior, such as swimming in circles, making distress vocalizations, and avoiding contact with the other orcas.⁶¹ SeaWorld’s internal profiles from 2010 also note that Katina has “[r]ake’ marks in [her] right eye patch,”⁶² that Kayla similarly has a “white scar through [her] right eye patch,”⁶³ and that “[s]ocially, Nalani has been aggressed on by Taima [who has since died] multiple times.”⁶⁴

A number of incidents involving other orcas have been reported that resulted in injury or death.⁶⁵ Indeed, following the death of the orca Kandu, who fractured her jaw when she exhibited aggression toward the orca Corky and died of fatal hemorrhaging of major arteries in her nasal passages,⁶⁶ staff at SeaWorld San Diego repeated that this was “common behavior” and that “the altercation was not a rare event at all.”⁶⁷ Kandu’s death left Orkid, her calf, orphaned at 11 months old,⁶⁸ and Orkid went on to have her own “long history” of aggressive incidents before the facility discontinued water work with her in 2006.⁶⁹

Similarly, the orca Ikaika, who was returned to SeaWorld San Diego in 2011 after spending years at Marineland in Canada on a breeding loan, “exhibited certain aggressive tendencies towards the female killer whale at the Marineland facility. ... Ikaika showed similar tendencies while at SeaWorld [Orlando] in both 2005 and 2006. In 2006, Ikaika raked a young calf with his teeth and had to be given tranquilizers by the SeaWorld staff.”⁷⁰ SeaWorld’s veterinary records state that Ikaika was “showing some aggression to [Katina’s] calf” and was given diazepam to “try to mellow him”—which had already been given to two other orcas at the facility (Katina and Taku) for the same reason.⁷¹

B. Stereotypic Behavior

The harmful conditions at SeaWorld also cause Tilikum and the other orcas held there to exhibit stereotypic behavior, which is a strong indicator of severe psychological and emotional suffering.

In 2005, a special edition of the journal *Aquatic Mammals* was published featuring the results of a decade-long project by Laurence Couquiaud, a dolphin researcher with a degree in architectural design who has specialized in examining the design of captive facilities and husbandry. In the study, which made recommendations for the design of tanks and enclosures at captive facilities, Couquiaud observed that “some behaviours tend to occur when space is limited; the environment does not provide occupational activity; and when animals are kept alone, deprived of stimulus diversity, or are subject to environmental stress.”⁷² Another study on animal boredom acknowledged that “[s]tereotyped behavior patterns ... tend to emerge

when the animal cannot engage in behavior it is highly motivated to perform, such as searching or hunting for food, seeking social interaction, or just trying to escape.”⁷³ Other research and documentation has shown that orcas’ inability to carry out even the most rudimentary types of behavior that they would engage in while in nature causes them instead to behave in abnormal and repetitive ways,⁷⁴ including biting on gates and the walls of the concrete tanks themselves and spending inordinate amounts of time “surface-resting” and lying motionless at the bottom of the tanks or on shallow ledges referred to as “slide-outs.”

1. Painful Dental Problems Caused by Chewing Metal Gates and Concrete Tanks

“As animals stay longer in their cages, they begin to direct their attention to inadequate substrates. They may lick, suck, or chew the floors and bars of their cages”⁷⁵ “By the time the animal begins to develop a fixation on inadequate substrates, the situation has become severe.”⁷⁶

At SeaWorld parks, orcas are separated by steel gates prior to training sessions, during shows, or when they become aggressive toward each other.⁷⁷ As noted above, according to former orca trainers at SeaWorld, “under-stimulated and bored animals ... ‘chew’ metal bars [that separate the tanks] and mouth concrete pool corners, like the main stage at SWF [SeaWorld of Florida]. As a consequence, tooth fragments can sometimes be found on the pool bottoms following these displays.”⁷⁸

When the orcas’ teeth break, it exposes the pulp, which, if left untreated, will decay and form a cavity and can lead to “inflammation and eventually a focus for systemic infection.”⁷⁹ Since many of the orcas who sustain broken teeth are relatively young and the roots of their teeth have not yet matured, a root canal is not possible.

“Instead, using a variable speed drill, trainers drill holes through the pulp and into the jaw via an endodontic procedure called a modified ‘pulpotomy.’”⁸⁰ The orcas “often refused to submit to the drill by sinking down beneath the surface, shaking their heads violently, or breaking from control and swimming away. The staff knew it was a successful drill when blood started to bubble out from the bore hole.”⁸¹

The open holes are not capped or plugged and “represent a direct route for pathogens to enter the blood stream where they can then be deposited into the tissue of various organs throughout the body, such as the heart or kidney.”⁸²

The trainers are therefore required to flush out the pulp cavity with water or an antiseptic solution two to three times daily to remove debris that can cause “abscess, bacteremia, and sepsis.”⁸³

After SeaWorld was cited by the Occupational Safety and Health Administration for endangering the life and safety of its employees following Tilikum’s killing of a senior trainer, the company’s vice president of veterinary services, Dr. Christopher Dold, admitted in his testimony that the orcas at the company’s facilities “will erode the surface of their teeth, exposing the pulp cavity, and that can be and is a common management concern of ours.”⁸⁴ This can lead to “an abscess or an infection within the pulp cavity of the tooth that’s under pressure,” so the trainers will “drill out the center of the tooth,” which as of late 2010 had been done to approximately 14 of the 20 orcas (or 70 percent of them) at SeaWorld parks at that time.⁸⁵

Indeed, the veterinarian who was responsible for treating Ikaika, on breeding loan from SeaWorld at Marineland of Canada, noted that “[a]t the time of his transfer to Marineland in 2006, Ikaika exhibited ... a chronic dental problem with which he still has difficulties today. Due to the nature of the dental problem, Ikaika’s teeth will always be subject to infection. Ikaika’s problem is with the roots of various teeth in his mouth. These roots are open, allowing bacteria to enter and cause infections. ... The normal course of treatment is to flush his teeth consistently, numerous times daily, and treat him with antibiotics and pain medications.”⁸⁶ According to veterinary records, Ikaika had suffered from at least four dental infections prior to being transferred to Marineland, during which he “would exhibit redness and swelling in the area around the infected tooth, would have less energy and would be less willing to eat.”⁸⁷ Days before his transfer, SeaWorld staff drilled two teeth so badly damaged and infected that they were giving off heat noticeable to the trainers.⁸⁸ The veterinary records also reflected staff observations that “pulp is protruding from the third left mandibular canine” and that there was infected discharge (“purulent exudate”) oozing from the “second left mandibular tooth.”⁸⁹

Similarly, each of the three adult orcas at SeaWorld Orlando has sustained broken and worn teeth from biting on the gates and concrete sides of their tanks. According to SeaWorld's own behavioral profiles and as apparent in visitor photographs: Tilikum has no remaining teeth intact on his lower jaw;⁹⁰ many of Katina's teeth have been broken, including "LL3 and LL4 badly chipped, LL6 broken at the base";⁹¹ and Kayla's teeth have been badly broken and drilled through, including her "[u]pper left #6 tooth cracked, [she is] missing [her] upper left #8," and at least 12 of her "[l]ower teeth [have been] drilled for flushing (right side #1-7, left side #2-6)."⁹²

Like Ikaika's records, which were revealed only in the course of litigation, SeaWorld's veterinary records likely contain additional details on the extent to which these orcas have damaged their teeth out of frustration and the subsequent effects on their health.

This high prevalence of painful broken and worn teeth and exposed pulp in captive orcas stands in stark contrast to those in nature, many of whom "show little or no tooth wear, while those who do tend to specialize in prey with abrasive morphology. Broken teeth in wild orcas are rare."⁹³

2. Surface Resting and Lying on the Tank Floor

As discussed above, wild orcas regularly spend 95 percent of their time submerged and swim almost constantly. "[I]n aquaria ... killer whales (and other whales and dolphins) rest while floating and lying on the bottom of pools."⁹⁴ At SeaWorld, "with little horizontal or vertical space in their enclosures, captive orcas swim only limited distances, with most spending many hours surface resting."⁹⁵ The amount of time that captive orcas commonly spend engaged in these behaviors has never been reported in wild populations.

In nature, resting orcas

usually swim tightly together side by side, forming a resting line. Group diving and surfacing become closely synchronized and regular, with longer dives of 2-5 [minutes'] duration separated by 3 or 4 short, shallow dives.

Rate of forward progression is slow compared to foraging and traveling, and resting groups may stop altogether and rest motionless at the surface for [only] several minutes.⁹⁶

This type of stationary resting at the surface has never been observed to be repeated more than three or four times in succession by the same individual.⁹⁷ In contrast, researchers have reported captive orcas at SeaWorld alone and “completely immobile for about 1 hour or even longer while floating at the surface.”⁹⁸ One visitor reported that Tilikum was observed doing this for nearly three and a half hours at a time.⁹⁹ According to former trainers, Tilikum would surface-rest with wide eyes and an arched posture consistent with preparation to flee as well as swimming in rapid circles, slamming his head into the side of the tank, making loud distress vocalizations, and avoiding contact with other orcas.¹⁰⁰

Similarly, captive orcas have been reported to spend inordinate amounts of time lying motionless at the bottom of the tanks—“[l]ying on the bottom of the pool is characteristic of all adult killer whales currently residing at SeaWorld, San Diego.”¹⁰¹ “Single episodes of rest on the bottom for these killer whales lasted between 3 and 7 min.”¹⁰² This behavior has never been observed in wild populations.

APPENDIX

¹Lori Marino & Toni Frohoff, *Toward a New Paradigm of Non-Captive Research on Cetacean Cognition*, 6(9) PLOS ONE 3 (2011).

²Lori Marino, *A Comparison of Encephalization Between Odontocete Cetaceans and Anthropoid Primates*, 51 BRAIN, BEHAV. & EVOLUTION 230 (1998).

³See Part II.B, *infra*.

⁴Patrick R. Hof et al., *Cortical Complexity in Cetacean Brains*, 287A ANATOMICAL REC. 1142, 1151 (2005); Lori Marino, *Cetacean Brains*, in THE ENCYCLOPEDIA OF NEUROSCIENCE 807-810 (Larry R. Squire ed., 2008); Lori Marino et al., *Neuroanatomy of the Killer Whale (Orcinus orca) from Magnetic Resonance Imaging*, 281A ANATOMICAL REC. 1256, 1262 (2004) [*hereinafter Neuroanatomy of the Killer Whale*].

⁵Camilla Butti et al., *Total Number and Volume of von Economo Neurons in the Cerebral Cortex of Cetaceans*, 515 J. COMP. NEUROLOGY 243, 244 (2009).

⁶*Id.*

⁷*Id.* at 257 (citations omitted).

⁸Marino, *Neuroanatomy of the Killer Whale, supra*.

⁹Terrie M. Williams, *Swimming*, in ENCYCLOPEDIA OF MARINE MAMMALS 1140, 1145 (William F. Perrin et al. eds., 2008) (Orcas swim at an average “casual” speed of 3.6 meters per second (m/sec), or 8.05 miles per hour (mph), and “sprint” at up to 12.5 m/sec, or 27.96 mph.); John K.B. Ford, *Killer Whale: Orcinus orca*, in ENCYCLOPEDIA OF MARINE MAMMALS 654 (William F. Perrin et al. eds., Academic Press 2002) (traveling over distances at speeds of over 20 kilometers per hour (km/h), or 12.43 mph); *id.* (a mean traveling speed of 10.4 km/h, or 6.46 mph).

¹⁰See, e.g., Robin W. Baird, *The Killer Whale: Foraging Specializations and Group Hunting*, in CETACEAN SOCIETIES: FIELD STUDIES OF DOLPHINS AND WHALES 131, 136-37 (Janet Mann et al. eds., U. Chi. Press 2000) (160 km (99.42 miles) in 24 hours) [*hereinafter Foraging Specializations*].

¹¹Ingrid N. Visser, *Propeller Scars on and Known Home Range of Two Orca (Orcinus orca) in New Zealand Waters*, 33 N.Z. J. OF MARINE AND FRESHWATER RES. 635, 638 (1999) (15,600 km (9693 miles) in six years).

¹²Craig O. Matkin et al., *Expanding Perspectives: Investigating Pod Specific Killer Whale Habitat with ARGOS Satellite Telemetry*, Presented at the Alaska Marine Science Symposium, Anchorage, Alaska (Jan. 2012) (orca for whom “regular dives of 200-300 m were recorded and one dive of 400 m was logged”); Robin W. Baird et al., *Factors Influencing the Diving Behaviour of Fish-Eating Killer Whales*, 83 CAN. J. OF ZOOLOGY 257, 262-63 (2005) (a population that uses “primarily near-surface waters” still dives “below 150 m on a regular basis” and up to 264 m).

¹³National Marine Fisheries Service, Northwest Regional Office, *Proposed Conservation Plan*

for *S. Resident Killer Whales (Orcinus orca)* 16 (2005), available at <http://orcasphere.net/pdfs/SRKWpropconspan-Oct05.pdf>.

¹⁴Rob Williams & Dawn P. Noren, *Swimming Speed, Respiration Rate, and Estimated Cost of Transport in Adult Killer Whales*, 25(2) *MARINE MAMMAL SCI.* 257 (2009).

¹⁵Brian Joseph & James Antrim, *Special Considerations for the Maintenance of Marine Mammals in Captivity*, in *WILD MAMMALS IN CAPTIVITY: PRINCIPLES AND TECHNIQUES FOR ZOO MANAGEMENT* 181 (Devra G. Kleiman et al. eds. 2010).

¹⁶*Id.*

¹⁷*Id.* at 183; see also Laurence Couquiaud, *Special Issue: Survey of Cetaceans in Captive Care*, 31(3) *AQUATIC MAMMALS* 279, 327 (2005) (“Enclosures in which cetaceans are housed should be as naturalistic as possible, considering the fundamental needs of the animals before aesthetic considerations.”).

¹⁸Oleg I. Lyamin et al., *Cetacean Sleep: An Unusual Form of Mammalian Sleep*, 32 *NEUROSCIENCE BIOBEHAV. REV.* 1451, 1457–58 (2008); Robert W. Osborne, *A Behavioral Budget of Puget Sound Killer Whales*, in *BEHAV. BIOLOGY OF KILLER WHALES* 211, 231 (Barbara C. Kirkevold & Joan S. Lockard eds. 1986).

¹⁹See ERICH HOYI, *THE PERFORMING ORCA—WHY THE SHOW MUST STOP* 40 (Whale and Dolphin Conservation Society, 1992).

²⁰See generally Kathleen N. Morgan & Chris T. Tromborg, *Sources of Stress in Captivity*, 102 *APPLIED ANIMAL BEHAV. SCI.* 262, 277–78 (2007).

²¹Georgia Mason, *Captivity Effects on Wide-Ranging Carnivores*, 425 *NATURE* 472 (2003).

²²E.g., Luke Rendell & Hal Whitehead, *Culture in Whales and Dolphins*, 24 *BEHAV. & BRAIN SCI.* 309, 314 (2001) (citations omitted); Robin W. Baird & Hal Whitehead, *Social Organization of Mammal Eating Killer Whales: Group Stability and Dispersal Patterns*, 78 *CAN. J. OF ZOOLOGY* 2096 (2000).

²³Rendell & Whitehead, *supra*, at 314 (citations omitted).

²⁴Emma A. Foster et al., *Adaptive Prolonged Postreproductive Life Span in Killer Whales*, 337 *SCI.* 1313 (2012).

²⁵Rendell & Whitehead, *supra*, at 314 (citations omitted).

²⁶Transcript of Proceedings at 651, 736, *Sec’y of Labor v. SeaWorld of Fla.* (OSHRC No. 10-1705). This balance must be difficult to achieve, as Tilikum has sired at least a dozen calves, making him the father or grandfather of more than half the orcas owned by the company.

²⁷See, e.g., Tim Zimmermann, *Do Orcas at Marine Parks Injure One Another?* (Sept. 14, 2010), <http://timzimmermann.com/2010/09/14/do-orcas-at-marine-parks-injure-one-another/>.

²⁸SeaWorld, *Kayla Profile*, <http://www.scribd.com/doc/85235907/seaworld-orca-profile-killer-whale-kayla-2010>.

²⁹DAVID KIRBY, *DEATH AT SEAWORLD* 112 (2012).

³⁰*Id.*

³¹Kelly A. Waples & Nicholas J. Gales, *Evaluating and Minimizing Social Stress in the Care of Captive Bottlenose Dolphins (Tursiops aduncus)*, 21 *ZOO BIOLOGY* 5 (2002).

³²SeaWorld, *Tilikum Profile*, <http://www.scribd.com/doc/85239975/seaworld-orca-profile-killer-whale-tilikum-2010>.

³³Mike Thomas, *Tilikum’s Captivity May Be Problem, but He’s Important for Conservation*,

ORLANDO SENTINEL, Feb. 25, 2010 (quoting marine-mammal biologist Fred Felleman); Marino & Frohoff, *supra*, at 3.

³⁴Volker B. Deecke et al., *Quantifying Complex Patterns of Bioacoustic Variation: Use of a Neural Network to Compare Killer Whale (Orcinus orca) Dialects*, 105 J. ACOUSTICAL SOC'Y AM. 2499, 2499-2500 (1999).

³⁵John K.B. Ford et al., *Killer Whales: The Natural History and Genealogy of Orcinus Orca in British Columbia and Washington State* 21 (2d. ed., U. Wash. Press, 2000)

³⁶*Id.*

³⁷Rendell & Whitehead, *supra*, at 314 (citations omitted).

³⁸Brigitte M. Weiß et al., *Vocal Behavior of Resident Killer Whale Matriline with Newborn Calves: The Role of Family Signatures*, 119(1) J. ACOUST. SOC. AM. 627, 634 (2006).

³⁹Rendell & Whitehead, *supra*, at 314.

⁴⁰VANESSA WILLIAMS, CAPTIVE ORCAS: "DYING TO ENTERTAIN YOU": THE FULL STORY 35 (Whale and Dolphin Conservation Society, 2001) (quoting Hal Whitehead, Speech, *The Value of Oceanaria* (Whales in Captivity: Right or Wrong? Symposium 1990).

⁴¹Tyler Haden, *Cousteau on SeaWorld Tragedy*, THE INDEPENDENT (Feb. 27, 2010). Like social structures and dialects, foraging is also an important component of orca culture, and their methods of finding, capturing, and eating prey as well as the types of prey vary widely. Orcas are the oceans' apex predators and forage on, inter alia, fish, seals, sharks and rays, and other cetaceans. They are also known for their use of a range of often complex and cooperative hunting techniques, including launching out of the water to take prey on dry land, coordinating to create a wave to wash prey off ice floes, and debilitating prey by ramming or striking them with their tail fluke. See generally Rendell & Whitehead, *supra*, at 314-15 (citations omitted). Alternatively, all captive orcas are fed only frozen and then thawed dead fish, which prevents them from engaging in any of the social and cultural aspects of hunting. Williams, *supra*, at 34-35.

⁴²See Marino & Frohoff, *supra*, at 3; see generally JOHN S. JETT & JEFFREY M. VENTRE, KETO AND TILIKUM EXPRESS THE STRESS OF ORCA CAPTIVITY 1 (2011), <http://theorcaproject.files.wordpress.com/2011/01/keto-tilikum-express-stress-of-orca-captivity.pdf>; INGRID N. VISSER, REP. ON THE PHYSICAL & BEHAV. STATUS OF MORGAN, THE WILD-BORN ORCA HELD IN CAPTIVITY, AT LORO PARQUE, TENERIFE, SPAIN, at 2-5 (2012) [hereinafter Morgan Report], <http://www.freemorgan.org/wp-content/uploads/2012/11/Visser-2012-Report-on-the-Physical-Status-of-Morgan-V1.2.pdf>.

⁴³Marino & Frohoff, *supra*, at 3 (citations omitted).

⁴⁴*Keiko Reminds Man of Whale Attack*, LODI NEWS-SENTINEL, Jan. 17, 1996.

⁴⁵E.g., Brief for Respondent Secretary of Labor at 25-28, *SeaWorld of Fla. v. Perez* (D.C. Cir. No. 12-1375).

⁴⁶Transcript of Proceedings at 373-74, 448-57, 467-69, *Sec'y of Labor v. SeaWorld of Fla.* (OSHRC No. 10-1705) ["Tr."].

⁴⁷*Whales Kill Trainer as Spectators Watch*, CHICAGO TRIBUNE, Feb. 22, 1991, at C3.

⁴⁸*Park Is Sued Over Death of Man in Whale Tank*, N.Y. TIMES, Sept. 21, 1999, at F5.

⁴⁹Ed Pilkington, *Whale Killing: They Played as Usual. Then He Drowned Her*, THE GUARDIAN, February 26, 2010.

⁶⁰ *Kayla Profile, supra*.

⁶¹ Tim Zimmermann, *Blood in the Water*, OUTSIDE MAGAZINE (July 15, 2011).

⁶² Ingrid N. Visser, *Prolific Body Scars and Collapsing Dorsal Fins on Killer Whales (Orcinus orca) in N.Z. Waters*, 24 AQUATIC MAMMALS 71, 79 (1998) (“There have been very few reports of conspecific aggression in wild killer whales”).

⁶³ Marino & Frohoff, *supra*, at 3.

⁶⁴ *Id.*

⁶⁵ Couquiaud, *supra*, at 296.

⁶⁶ *Id.* (“These disruptions also can be caused by the fact that some of the animals may have been removed from their original social structure, separated from family members or a social unit, and now have to adjust to a new social environment”).

⁶⁷ See generally Jeff Warren, *Why Whales Are People Too*, READERS’ DIGEST CAN. (July 2012) (quoting Marino), available at <http://www.readersdigest.ca/magazine/true-stories/why-whales-are-people-too?page=0,3>.

⁶⁸ JETT & VENTRE, *supra*.

⁶⁹ *Id.*

⁷⁰ See, e.g., Morgan Report, *supra*, at 4, 12; Tim Zimmermann, *The Killer in the Pool*, OUTSIDE MAGAZINE (July 30, 2010).

⁷¹ Zimmermann, *The Killer in the Pool, supra*.

⁷² SeaWorld, *Katina Profile*, <http://www.scribd.com/doc/85235353/seaworld-orca-profile-killer-whale-katina-2010>.

⁷³ SeaWorld, *Kayla Profile, supra*.

⁷⁴ SeaWorld, *Nalani Profile*, <http://www.scribd.com/doc/85239104/seaworld-orca-profile-killer-whale-nalani-2010>.

⁷⁵ See Zimmermann, *Do Orcas at Marine Parks Injure One Another?*, *supra*.

⁷⁶ *Performing Whale Dies in Collision With Another*, N.Y. TIMES, Aug. 23, 1989.

⁷⁷ Greg Johnson, *Killer Whale Bled to Death After Breaking Jaw in Fight*, L.A. TIMES, Aug. 23, 1989.

⁷⁸ KIRBY, *supra*, at 170–71.

⁷⁹ Tr. at 531, 556–59.

⁸⁰ SeaWorld Parks & Entm’t v. Marineland of Canada, Affidavit of Lanny Cornell (Mar. 28, 2011) ¶ 40.

⁸¹ *Id.* ¶¶ 16–17.

⁸² Couquiaud, *supra* at 297.

⁸³ Françoise Wemelsfelder, *Animal Boredom: Understanding the Tedium of Confined Lives*, in MENTAL HEALTH AND WELL-BEING IN ANIMALS (Franklin D. MacMillan ed. 2005), at 85.

⁸⁴ Ros Clubb & Georgia Mason, *Captivity Effects on Wide-Ranging Carnivores*, 425 NATURE 473 (2003); See generally JETT & VENTRE, *supra*.

⁸⁵ Wemelsfelder, *supra* at 84.

⁸⁶ *Id.* at 85.

⁸⁷ JETT & VENTRE, *supra*.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁸¹KIRBY, *supra*, at 162.

⁸²JETT & VENTRE, *supra*.

⁸³*Id.*; see also Tr. 1730.

⁸⁴Tr. 1730.

⁸⁵*Id.* at 1743.

⁸⁶Affidavit of Lanny Cornell, *supra*, ¶¶ 16-17.

⁸⁷*Id.* ¶ 19.

⁸⁸*Id.* Ex. B.

⁸⁹*Id.*

⁹⁰See Photos of Tilikum's Teeth, attached.

⁹¹See SeaWorld, *Katina Profile, supra*; Photo of Katina's Teeth, attached.

⁹²See SeaWorld, *Kayla Profile, supra*; Photo of Kayla's Teeth, attached.

⁹³NAOMI A. ROSE, HUMANE SOCIETY INTERNATIONAL AND THE HUMANE SOCIETY OF THE UNITED STATES, *KILLER CONTROVERSY: WHY ORCAS SHOULD NO LONGER BE KEPT IN CAPTIVITY 2* (2011) (citations omitted).

⁹⁴Lyamin, *supra*, at 1457.

⁹⁵JETT & VENTRE, *supra*, at 5.

⁹⁶Ford, *supra*, at 654.

⁹⁷See Robert W. Osborne, *A Behavioral Budget of Puget Sound Killer Whales*, in *BEHAVIORAL BIOLOGY OF KILLER WHALES* 211, 231 (Barbara C. Kirkevold & Joan S. Lockard eds. 1986).

⁹⁸Lyamin, *supra*, at 1458.

⁹⁹The Orca Project, *Tilikum's Lonely Life After Dawn*, (Sept. 3, 2010), <http://theorcaproject.wordpress.com/2010/09/03/seeing-is-believing-tilikums-lonely-life-after-dawn/>.

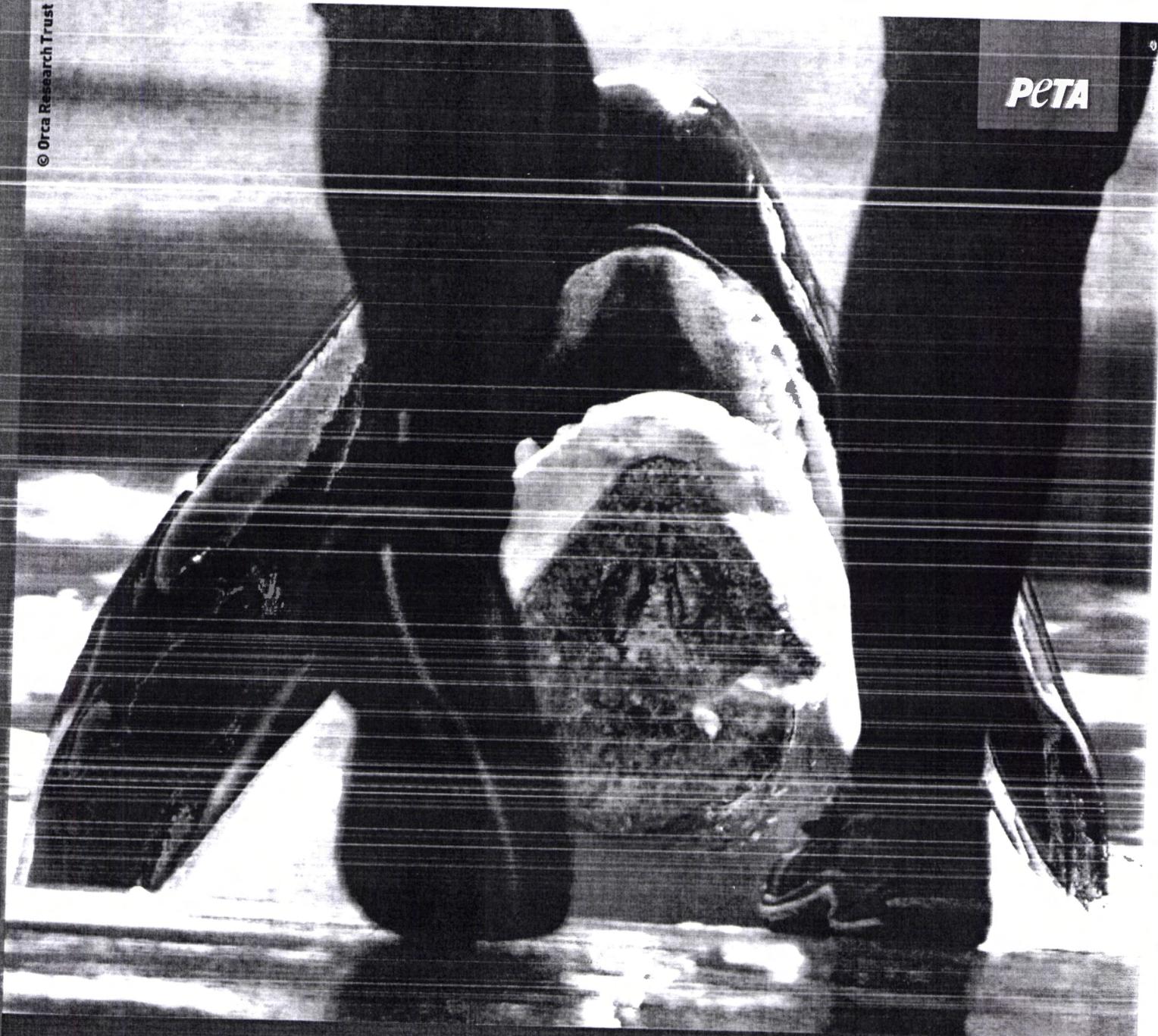
¹⁰⁰Complaint, *Tilikum et al. v. SeaWorld Parks & Ent., Inc. & SeaWorld, LLC*, No. 11 Civ. 2476 (S.D. Cal. 2011), at ¶ 42.

¹⁰¹*Id.* at 1459.

¹⁰²*Id.*

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Sept. 22, 2015

Re: Agenda Item Thursday 14a: No 6-15-0424 (SeaWorld Orca Enclosure Expansion, San Diego)

Chairman Steve Kinsey
California Coastal Commission

Dear Chairman Kinsey and Coastal Commissioners;

The signatories to this letter represent non-profit NGOs, foundations, and advocacy organizations dedicated to environmental conservation and restoration, animal welfare, social justice and coastal protection. We are profoundly concerned about the plight of captive orcas around the world, including those at Sea World's San Diego facilities. We are writing to express our support for the Commission to condition any permit that you approve for Sea World's Blue World project to prohibit the breeding of killer whales and the transfer of any whales to anywhere but a sea pen.

In order to ensure that the orcas actually get some benefit from the expansion of the tanks, it is critical that the expansion is only allowed for the orcas who are currently housed at Sea World rather than a blanket permit that would allow Sea World to breed and warehouse even more orcas, thereby defeating any benefit of the new tank. The capture, keeping and breeding of killer whales in captivity for the purpose of providing entertainment is totally inconsistent with the Commission's mandate under the Coastal Act to maintain, enhance and restore and protect marine resources and to provide special protection to species of special biological significance, which most certainly killer whales are.

This Commission has a long history of concern for and protection of whales and other marine mammals. On the other hand, Sea World has a long history of confining these highly intelligent, social animals in concrete enclosures, utterly devoid of natural features, and handling them in ways that are detrimental to their health, all the while justifying their exploitation under the guise of public education. However, because these orcas are forced to live in such unnatural conditions and are deprived of the ability to engage in normal, species-specific behaviors, the audiences for whom they perform walk away with no real education about true orca behavior. We believe the Commission must take a hard look at Sea World's proposal and understand it for what it really is. If the Commission does this it can come to only one conclusion, that in the 21st Century we now understand why this practice must end.

This proposal does not improve or enlarge the "habitat" for SeaWorld orcas because a concrete tank, no matter what the size, cannot be considered to be "habitat". The new tank is a viewing tank, connected to the existing Shamu Stadium complex through a small, narrow channel that is gated at either end. . Sea World will retain most of the existing holding tanks and train the whales to transit this channel, into the larger tank for viewing by the public. This means that the new tank will be accessible to the whales only at management's discretion; in short , it will be available to some of the whales only some of the time. Regardless of how often the whales are herded through the channel or how large the tanks are, the proposed tanks will still be orders of magnitude smaller than an orca's natural home range. . Moreover, if the purpose of the SeaWorld expansion is to breed or otherwise acquire additional orcas, it will negate any minimal benefit that might be served by providing a larger viewing tank.

A growing number of marine mammal experts recognize that orcas suffer unconscionably in captivity, and the practice of display for human entertainment should be phased out. That currently most of SeaWorld's orcas were bred in captivity does not mean they suffer any less by being deprived of a natural habitat and the complex social structure to which they are

physiologically and psychologically adapted. Orcas are large, highly intelligent mammals with a complex and very strong family structure and ties in the wild. That social bond, so important to the lives of orca, is non-existent in the environment provided in captivity.

Furthermore, orcas live shortened lives in captivity and suffer stress and physiological damage. Male dorsal fins collapse (which occurs rarely in the wild), but captive orcas also break and wear their teeth by chewing on the concrete tank walls and metal gates, requiring drilling and intensive dental care that still may result in infection, are highly medicated and fed gallons of gelatin daily to keep them hydrated (since frozen fish lose water when thawed), may be administered anti-depressants to help deal with multiple behaviors associated with depression anxiety and possibly psychosis, just to name some of the concerns. Additionally, they exhibit abnormal levels of aggression in captivity not observed in the wild. As an indication of the stress they are under and their underlying resistance to mitigating treatment, orcas in captivity have killed four people. There are no historical records of orcas killing human beings in the wild.

Perpetuating the captive display of orcas for profit drives the continued need to capture more whales from the wild, as new genetic stock is required regularly to prevent inbreeding. Indeed, Russia has taken up the practice of capturing wild orcas for display in that country and China, capturing 10 since 2012. Under the circumstances it is difficult for the United States to denounce this practice.

The Commission has the ability to set an example for the rest of the world. It can state clearly that it is time to stop the unethical practice of using the ocean's greatest predator for entertainment purposes. While not prohibiting Sea World from continuing to display the orcas currently in their possession, prohibiting the breeding and transfer of these whales will mean that eventually the exhibition of captive orcas will be phased out. If you decide to approve and not deny, we urge you to condition your approval to prohibit the captive breeding artificial insemination of orcas in captivity, prohibit the sale or offer for sale, trade or transfer for any reason other than transport to a sea pen any orca intended for performance or entertainment purposes. This will continue the Commission's proud tradition of showing concern for the treatment and conservation of marine mammals.

Sincerely,

Animal Legal Defense Fund; Carney Anne Nassar, Legislative Counsel
Ocean's Future Society: Jean Michael Cousteau
California League of Conservation Voters: Jena Price, Government Affairs Manger
Sierra Club, California; Kathryn Phillips
Jane Goodall Institute: Jane Goodall, Founder
Center for Biological Diversity: Jean Su
In Defense of Animals: Toni Frohoff, Elephant and Cetacean Scientist
Action for Animals: Eric Mills, Coordinator
Environmental Center of San Diego, Pam Heatherington
Whale and Dolphin Conservation: Courtney Vail

Sea Shepherd Conservation Society: Ann E. Prezyna, General Counsel
Western Alliance for Nature: Lawrence Wan, Board Chairman
Earth Island: Mark Palmer, Associate Director, International marine Mammal
SONAR: Elizabeth Oriel
Endangered Habitats League: Dan Silver
Black Surfers Collective: Jeff Williams
Humane Society of U.S.: Nicole Paquette, Vice President, Wildlife Protection
Whaleman Foundation: Jeffrey Pantukhoff
Coastal Environmental Rights Foundation; Sara S. Kent
Shark Stewards: David McGurie, Director
Smith River Alliance- Grant D. Werschull, Executive Director
Biodiversity First: Linda Seeley
Tolowa Dunes Stewards: Sandra Jerabek
Organization of Regional Coastal Advocates: Patricia Matejcek, Chair
Friends of the Earth: Damon Moglen
Surfrider Foundation, San Mateo Chapter: Edmundo Larena, Chair
Los Cerritos Wetlands Land Trust: Elizabeth Lambe
Grassroots Coalition: Jeanette Vosburg, Outreach Coordinator
Environmental Protection Information Center (EPIC): Natalynne DeLapp
Sea Shepherd Legal: Catherine Pruett, Executive Director
Wildlands Conservancy: Dan York
League for Coastside Protection: Michael Ferreira
ECOSLO: Nancy Graves
Faith Action for Animals: Rabbi Jonathan Klein
West Marin Environmental Action Committee: Amy Trainer
Origami Whales Project: Peggy Oki
S. California Watershed Alliance: Conner Everts

Scientist Statement Supporting Conditions for the SeaWorld Blue World Project Permit

Sept. 15, 2015

To: The California Coastal Commission

We, the undersigned members of the marine mammal scientific community, wish to express our support for conditioning any permit issued for the construction of Sea World's Blue World Project, to bring an end to the current breeding program and prohibit any acquisition or disposition (i.e., entry to or exit from the facility) of captive killer whales (*Orcinus orca*) for breeding, performance or entertainment purposes.

The Commission's duty is to ensure that marine resources are maintained, enhanced, and where feasible, restored. We believe that killer whales are marine resources, protected under the Coastal Act and that they are inherently unsuited to captivity, due to their intelligence, sociality, acoustic needs, longevity, ranging habits, and size. Captive display does not enhance their survival as a species and, in the past, has actually played a significant role in the current endangered status of one population in the northeastern Pacific, the "southern resident" killer whales. This population is listed under the US Endangered Species Act and essentially had an entire generation of young animals removed during the 1960s and 1970s when the population was targeted by live capture operators for sale to public display facilities such as SeaWorld. Many of the current whales on display in SeaWorld parks are descendants of these captured whales.

The continued practice of displaying this species in captivity in the United States and elsewhere has apparently encouraged a resumption of killer whale captures in Russia, where approximately 10 young whales have been taken for sale to China and Russia since 2012. In order to stop these almost certainly unsustainable captures – in short, to restore this marine resource – killer whale captive display must end worldwide. The California Coastal Commission, with its long record of progressive environmental decisions, should lead the way.

When killer whales were first displayed for the public in the early 1960s, the world knew little about their ecology and behavior. Studies on population dynamics and behavioral ecology of wild killer whales did not begin until a decade later and meaningful data on their social structure were not widely published until 1990. Based on what we now know about this species, we can say that it does not adapt well to captivity.

Given the dimensions of the planned new enclosure, the Blue World Project is an improvement, albeit a limited improvement, in their captive conditions. However, it is still far smaller than any natural home range for killer whales and since it is a "display tank" its construction is primarily designed to enhance the public's viewing experience. As such, the tank will only be available to some of the orca, some of the time, and in no way constitutes enhanced "habitat" for all of the whales.

We support any improvement in captive husbandry conditions, but we also support phasing out the practice of holding killer whales in captivity within the state of California. We therefore urge

the Commission to condition any permit for this project to prohibit captive breeding, artificial insemination, and transfer of whales and their genetic material. We agree that most of the killer whales in California are not candidates for release to the wild, but they can be retired from rigidly scheduled performances.

The science on the nature of killer whales and their compromised welfare in captivity – and common sense – has long since provided evidence that this species is inherently unsuited to confinement. Blue World will still be a concrete tank. We believe that while this increase in space may improve the welfare of the 11 killer whales at SeaWorld San Diego, these permit conditions will allow the orderly phasing out of exhibiting this species, an essential outcome to enhance and restore this marine resource.

Signatures

Jane Goodall; PhD, DBE, Jane Goodall Institute

Jean-Michael Cousteau

Lindy Wielgart; Ph.D., Department Biology, Dalhousie University, Halifax, Nova Scotia

Chris Parsons; PhD, FMBA, FRSB, FRGS, Assoc. Professor Environmental Science
George Mason University, Fairfax

Mark Orams; Professor, Health and Environmental Sciences, AUT University, New Zealand

Guiseppa Notarbartolodi Sciara; Ph.D., Tethy Research Institute, Milano, Italy

Leslie A. Cormick; Ph.D., Chair Department of Environmental Science Department, Alaska
Pacific University

Roger L. Reep; Professor, College of Veterinary Medicine, University of Florida

Karsetn Brensin, Ph.D.; Meeresbiologe & Verhaltensforscher

Deborah A. Giles, Ph.D.; University of California Davis (orca biologist)

Diana Reiss, Ph.D.; Professor, Hunter College, City University of New York (dolphin cognition
expert)

Gerson Cohen, Ph.D.; Great Whale Conservancy

Samuel Hung, Ph.D.; Chariman, Hong Kong Dolphin Conservation Society

Erich Hoyt, WDC; Whale and Dolphin Conservation, United Kingdom (orca biologist)

Toni Frohoff, Ph.D., TerraMar Research, California (dolphin biologist)

Elizabeth Oriel, MSc, SONAR

Dr. Paul Spong Helena Symonds, Pacific Orca Society/Orca Lab, Alert Bay, B.C. Canada

Maddalena Bearzi, Ph.D; Ocean Conservation Society, President, Marina del Rey, CA

From: Sara Wan

Date: 28 September 2015 at 16:42

Subject: Info on SeaWorld

To: Mary Luevano

Here is some additional information on SeaWorld's application

SEAWORLD FACT CHECK:

SeaWorld claims that approximately 97% of all *known-age* orcas in free-ranging populations die before they reach age 50. By this simple trick of only considering *known-age* orcas, they effectively drop a significant number of individuals out of this calculation – the whales who were first seen as adults based on size or presence of calf (so at least 14-15 years of age) when the study in the northeastern Pacific (Washington state and British Columbia) began in 1973, several of whom are *still alive* (and are thus at least 66-67 years old).

The AP article cited by SeaWorld in its response and Robeck et al. (2015) (a recent paper written by SeaWorld staff and an employee of the Minneapolis Zoo) both calculated average lifespans from annual survivorship rates (ASR) – the AP reporter calculated 46 years and Robeck et al. 47.7 years. Using ASR to calculate average lifespan is an inaccurate method and should never be used, as it is extremely sensitive to minor changes in ASR (a small percentage change in ASR can add or subtract many years from projected lifespans). In addition, it is only accurate when ASR is the same across age classes, which is not the case with orcas (as with most mammals, orcas have a U-shaped survival curve, where very young and very old animals have lower survivorship than “prime-of-life” adults). DeMaster and Drevenak (1988) cautioned against using this method for calculating lifespans for these reasons. Nevertheless, both the AP reporter and Robeck et al. chose to use this method and then Robeck et al. inexplicably cited DeMaster and Drevenak (1988) to explain their decision.

Using the ASR values derived by the AP reporter and Robeck et al. to calculate average lifespan led to essentially nonsensical average lifespans for captive whales (46-48 years). The oldest captive-born orca ever, Orkid, is about to turn 27 (the next oldest, Kayla, is two months younger than Orkid)¹. There are now 25 living captive-born orcas in SeaWorld's "collection" – about a dozen more have died since the first successful birth in 1985, most much younger than 20. It should be clear even to non-mathematicians that an average lifespan of almost 50 cannot be accurate for a category of whale whose oldest member, living or dead, has yet to reach 30.

SeaWorld's claim that the survival rates for free-ranging and captive orcas are the same is based on a comparison with the northeastern Pacific resident whales, in Washington state and British Columbia. These populations are the best-studied of all free-ranging orca populations and are the basis for most of what we know about this species' life history traits (Ford 2009). Both of these populations have been struggling in the past decades, starting in the 1960s and 1970s, when SeaWorld and others removed an entire generation of whales for display, but then continuing into the 90s and 2000s when food shortages and pollution became major threats. The Washington state population (the southern residents) is listed as

endangered under the US Endangered Species Act²; the British Columbian population (the northern residents) is listed as threatened under the Canadian Species at Risk Act³. Therefore, SeaWorld is basically claiming that its captive orcas are doing only as well as free-ranging orca populations that are at risk of extinction and are struggling with manifold threats. In short, living in captivity appears to be as stressful and dangerous for orcas as living in degraded natural habitat after being depleted by captures a generation ago.

The "studies" SeaWorld references are in fact newspaper stories. Media articles and quotes are not peer-reviewed science. The latest peer-reviewed science, including Robeck et al. (2015), shows that at best captive orcas survive only as well as endangered and threatened orcas and at worst do not survive as well to age "milestones," in this case sexual maturity and the end of reproduction in females (known in humans as menopause) (Jett and Ventre 2015). In the free-ranging populations in the northeastern Pacific, even in the face of many threats, up to 80% of the whales reach sexual maturity (about 14-15 years of age) and up to 45% reach menopause (about 35-40 years of age). In captivity to date, only 45% have made it to sexual maturity and only 7% have reached menopause.

SeaWorld states that "As concluded in some of the most recent peer-reviewed studies, the leading scientific experts find that for the Resident killer whale ecotype in this area, the average life expectancy for males is 19 years and for females is 30 years. For Residents off the Alaskan coast, observations indicate that the maximum longevity for males appears to be into their 30s and for females appears to be into their 50s." This statement is incorrect. The average life expectancy for males of the resident killer whales in the northeastern Pacific is 30 years and for females is 50 (Ford 2009). The values SeaWorld presents are for these whales during a decade of elevated mortality due to catastrophic salmon crashes along the Pacific coast of North America (Olesiuk et al. 2005). Again, SeaWorld is basically claiming that its captive orcas are doing only as well as free-ranging whales facing famine! As for the values SeaWorld presents for the residents off Alaska, it is unclear where it got these numbers. Alaskan whales have even higher survivorship rates than the residents off British Columbia during good salmon years (Matkin et al. 2014).

References:

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Robeck, T. R., Willis, K., Scarpuzzi, M. R. and O'Brien, J. K. 2015. [Comparison of life-history parameters between free-ranging and captive killer whale \(*Orcinus orca*\) populations for application toward species management](#). *Journal of Mammalogy*
DOI:10.1093/jmammal/gyv113.

1 <http://www.orcahome.de/orcastat.htm>

2 <http://www.nmfs.noaa.gov/pr/species/mammals/whales/killer-whale.html>

3 http://www.sararegistry.gc.ca/species/speciesDetails_e.cfm?sid=698

SEAWORLD SAYS:

“why has over 90% of your female orcas died before the age of 25? They are supposed to live well into their 80’s?”

Most killer whales don't live to 80. In fact, approximately 97 % of all known age killer whales die before they reach age 50. The [Annual Survival Rates for studied wild killer whales and those born at SeaWorld](#) are the same. Our oldest whale, Corky, is almost 50 and we hope she lives to 80 and beyond.

Where did you get your independent research about how long killer whales live?

[Click here](#) for the *Wall Street Journal* article we mention and [here](#) for the Associated Press (AP) story.

Additionally, [watch our video](#) on how long killer whale live and [read our advertorial](#) on the topic.

“how long do orcas live in the wild?”

The issue of killer whale lifespan is one that is consistently misconstrued and overly

simplified.

A small percentage of the overall population of killer whales, the killer whales of the Pacific Northwest, has been the subject of scientific study since the early 1970s. As concluded in some of the most recent peer-reviewed studies, the leading scientific experts find that for the Resident killer whale ecotype in this area, the average life expectancy for males is 19 years and for females is 30 years. For Residents off the Alaskan coast, observations indicate that the maximum longevity for males appears to be into their 30s and for females appears to be into their 50s. Studies continue, and as additional years of observation are recorded and other populations and ecotypes of killer whales are scrutinized by the scientific community, our understanding of killer whale longevity is expected to become more refined.

SeaWorld has several killer whales in their 30s and one that is close to 50 — right in line with what is seen in the wild. In fact, a July 2014 Associated Press (AP) report analyzing 50 years of data from the federal Marine Mammal Inventory Report found that killer whales born at our parks “had an average life expectancy of 46 years.”

Scientists have confirmed that Annual Survival Rate (an estimate of the percentage of whales in a population expected to survive each year) comparisons are more scientifically accurate than comparing life expectancies between wild and captive whales. Recent research tells us that there is no significant difference between the annual survival rates of our whales and the annual survival rates of wild populations.

SEAWORLD FACT CHECK:

SeaWorld’s response begins by saying that J2 is unlikely to be 100 or more. J2 (“Granny”) may be less than 100 years old, but she is almost certainly no younger than 80 years old.

SeaWorld accurately explains how researchers determined that Granny was in fact a much older adult when the study in the northeastern Pacific began (in 1973). While researchers did indeed make a series of assumptions, SeaWorld offers no rationale for why they are “unlikely” assumptions. In fact, based on the decades of research in the northeastern Pacific (see, e.g., Ford 2009), many of these assumptions are *likely*, especially that “Ruffles” (J1) was her son (adult sons travel very closely only with mothers; if their mothers die, they may travel with sisters or aunts, but the bond is much looser – Ruffles traveled closely with Granny) and that Granny was post-reproductive (given that she was never seen with a new calf and that Ruffles was a full-grown adult male when first seen).

SeaWorld’s final claim – that “[r]ecent studies of this same wild population has [sic] demonstrated that only about 3 percent of animals live beyond 50” – is incorrect. SeaWorld makes this erroneous claim in several of its AskSeaWorld responses. This claim arises from the recently published paper by Robeck et al. (2015), where the authors conducted a number of analyses that excluded all estimated-aged orcas from the northeastern Pacific populations

(that is, the authors analyzed data only from known-aged animals, born in 1972 or after – all whales that were juveniles or older at the start of the study were excluded from the analysis, because their ages were not *known*). Conclusions about older animals, when all older animals are not actually included in analyses, are clearly invalid.

References:

Ford, J.K.B. 2009. Killer whale. pp. 650-657. *In*: W.F. Perrin, B. Wursig, and J.K. Thewissen (eds.) *Encyclopedia of Marine Mammals* (2nd edition), Academic Press: New York, NY. 1316 pp.

Robeck, T. R., Willis, K., Scarpuzzi, M. R. and O'Brien, J. K. 2015. [Comparison of life-history parameters between free-ranging and captive killer whale \(*Orcinus orca*\) populations for application toward species management](#). *Journal of Mammalogy* DOI:10.1093/jmammal/gyv113.

SEAWORLD SAYS:

While J2 is an old whale, it is unlikely she is 100 or more. That estimate is based on a whole series of assumptions: When the study of Southern Resident killer whales began in 1973, researchers already had photos of both J1 “Ruffles” and J2 “Granny,” which were taken in 1972 when both whales were already full grown. Killer whales reach full size around the age of 20, so researchers guessed that 1951 was the birth year for J1. Since these two whales associated with one another, researchers further assumed that Ruffles might be Granny’s offspring. They then assumed that since Granny was never seen with a new calf during the study that she was post-reproductive and perhaps Ruffles was her last calf. Female killer whales generally stop reproducing around 40, so if Granny had Ruffles at that age scientists extrapolated that her birth year would be about 1911.

Recent studies of this same wild population has demonstrated that only about 3 percent of animals live beyond 50.

SEAWORLD FACT CHECK:

SeaWorld claims that its “studies on killer whales showcase SeaWorld’s larger commitment to animal welfare¹,” yet none of the company’s publications deal specifically with animal welfare (husbandry, breeding, and so on are not synonymous with “welfare”). Research on orca welfare would address the physical and mental state of the animals in the context of the “Five Domains” (Mellor and Reid 1994) and therefore would include investigations into the animals’ physical and psychological states and take into account issues such as environmental enrichment (or lack thereof), ability (or inability) to make choices, and aggressive interactions (Mellor 2015).

Notably, SeaWorld has not made its orca publications readily available for the public to download (with the exception of articles published in “open access” journals). When a zoology student asked SeaWorld for details about its research publications, the company replied, “Our research, in general, is not available for people outside the zoological society to read and review. Although we do an extensive amount of research there is little we can directly point you to [sic]2.” The company directs people to Google Scholar or a college library for its publications, when in fact very few of them are available through these sources.

SeaWorld claims that easy access to its “collection” of animals has resulted in research that helps wild counterparts3. SeaWorld’s website lists its orca-specific publications; until July 2014, the list included duplicate listings of the same papers, a book review and erroneously-cited publications4. SeaWorld claims this bibliography represented research essential to protecting free-ranging orca populations. Criticism of this bibliography (Schiffman 2014) resulted in SeaWorld removing it and posting a revised version soon after.

The revised list now shows that SeaWorld began publishing peer-reviewed papers on orcas in 1977 and since then its employees have produced only 51 publications5 (i.e., 1.3 publications per year over the 38-year period and with more than half of those published before 2000).

Of these 51, seven were not peer-reviewed (a critical aspect for classification as a scientific publication). Three deal directly with the capture of free-ranging orcas (a practice SeaWorld has pledged to discontinue6). Eight are only relevant to the keeping of captive orcas (such as artificial insemination or the demographics of captive whales). Another paper uses data collected from captive orcas, but is purely a statistical model and of no relevance to orcas (free-ranging or captive). Thus there are 32 published, peer-reviewed scientific papers related to free-ranging orcas (i.e., less than one per year). This comparatively small output of scientific publications on orcas is not consistent with SeaWorld’s claim that its research staff “contribute meaningful, scientific insights” to the research community.

In addition, the relevance to free-ranging orca conservation of several of these 32 papers is questionable. For example, two papers investigate orca platelets (platelets are found in mammalian blood), one of which compares them to human platelets. Another discusses basal metabolism of adult male orcas. SeaWorld has several adult male orcas in its “collection,” yet this study examined only one (Tilikum, who is arguably unfit due to low activity levels – see entry under TILIKUM). Therefore, the results of this study are likely anomalous, meaning they would have limited applicability to free-ranging whales.

References:

Mellor, D.J. 2015. [Positive animal welfare standards and reference standards for welfare assessment](#). *New Zealand Veterinary Journal* 63: 17-23.

Mellor, D.J. and Reid, C.S.W. 1994. Concepts of animal well-being and predicting the impact of procedures on experimental animals. pp. 3-18. *In*: R. Baker, G. Jenkin, and D.J. Mellor (eds.) *Improving the Well-being of Animals in the Research Environment*. Australian and New Zealand Council for the Care of Animals in Research and Teaching, Glen Osmond: South Australia.

Schiffman, D. 2014. [SeaWorld exaggerated its research record](#). *Slate*, June 17.

1 <http://seaworldcares.com/research/killer-whales>

2 <https://www.thedodo.com/community/SamLipman/seaworld-science-strange-in-th-491661897.html>

3 <http://seaworldcares.com/research/research-helps-wild-whales/>

4 <https://web.archive.org/web/20140726065356/http://seaworld.com/en/truth/global-impact/research/publications/>

5 SeaWorld is inconsistent when noting how many papers it has published, as on this section of its website – <http://seaworldcares.com/research/research-helps-wild-whales/> – it states: “SeaWorld scientists have authored or **co-authored hundreds of published papers**. Of these, **50 contain information specific to killer whales**.”

6 <http://ask.seaworldcares.com/?topic=collection>

SEAWORLD SAYS:

Yes. Support for research was established as a priority for SeaWorld by our founders five decades ago. SeaWorld's animal health professionals contribute meaningful, scientific insights gained in many cases through the care of animals in our parks. We also partner with universities and research organizations, providing access to our animals and habitats for scientists conducting studies on a variety of subjects. We also provide direct support, both material and financial, to field researchers. This support is offered directly by SeaWorld, through grants from the SeaWorld & Busch Gardens Conservation Fund, and by research foundations associated with and supported by SeaWorld, including the Hubbs-SeaWorld Research Institute. Research is a key component of SeaWorld's larger commitment to conservation and wildlife preservation.

Sea World's Blue World Project

There is no federal preemption

The MMPA deals only with the take of marine mammals. NMFS does not issue permits for the care of animals in captivity or the distribution or sale of marine mammal "parts" and therefore there is no federal pre-emption.

1994 amendments removed the jurisdiction of NMFS to issue permits for the care, maintenance and oversight of marine mammals in captivity and therefore there is no federal pre-emption to prevent the Commission from dealing with these issues.

According to a SeaWorld, statement to Congress, Nov. 13, 2007:

"The 1994 Amendments unequivocally established that NMFS has no role in the care, maintenance and general oversight of marine mammals once they leave the wild and enter into the United States."

Under Section 216.37 : "As is clear under the 1994 amendments to the MMPA and as NMFS publicly conceded in 2001, see 66 Fed. Reg at 3521 1, NMFS does not have the authority to specify the methods of care of marine mammals and marine mammal parts held for public display purposes. Accordingly, SeaWorld objects to any attempt to regulate the transfer, use, development, distribution or sale of gametes and cell lines not being imported or taken from the wild."

Testimony of Eric Schwaab, Assistant Administrator of NMFS to subcommittee on Natural Resources, House of Representatives. April 27, 2010

“ Once a public display facility meets the criteria and has legally obtained and is maintaining a marine mammal at the facility, NMFS has not authority under the MMPA To provide oversight over the holding, breeding and care of the animal”

NOAA General Counsel letter to the S. Carolina Department of Natural Resources

“Since the possession or transport of a marine mammal after the animal has been captured and taken into captivity is not related to the taking of a marine mammal, and an State law or regulation related to the possession of a marine mammal for public display is not clearly a State law or regulation "relating to the taking of any species.. of marine mammal" which would be preempted under MPA section 109(a), **there is no provision of the MMPA that expressly preempts such a state law.**”

If both SeaWorld and NMFS have stated that NMFS does not any have the authority to regulate the transfer, use, development, distribution or sale of gametes and cell lines except for the initial take or importation, and that there is no issue of federal pre-emption when it comes to animals in captivity one must assume there is no federal preemption.

SeaWorld claims that the AWA preempts the CCC from setting standards

The AWA specifically contemplates additional state protections of animals

(See 7 U.S.C. § 2143(a)(8) [The AWA “shall not prohibit any state ([or subdivision]) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1)”].)

(See 7 U.S.C. § 2145(b) [authorizing the implementing USDA “to cooperate with the officials of the various States or political subdivisions thereof in carrying out the purposes of this Act and of any State, local, or municipal legislation on the same subject”]

Federally approved CCMP Specifically authorizes the CCC to regulate all marine resources

The express terms of the Coastal Zone Management Act, written and certified by NOAA and which incorporates the Coastal Act into the CCMP, specifically authorizes the CCC to regulate coastal and marine resources which requires that marine resources shall be maintained, enhanced and where feasible, restored and that special protection shall be given to species of special biological significance, both as species and as individuals and without regard to wild or captive status since there is nothing that expressly differentiates them.

State Law

California DFW does not regulate marine mammals so the Commission is free to do so and has.

According to state Law, "the Coastal Commission shall not establish or impose any controls with respect thereto that **duplicate or exceed regulatory controls** established by these agencies (CDFW and Fish & Game Commission". CDWF regulates the importation, transportation, breeding, possession and use of animals classified by CDFW as "restricted" However, animals of the family Delphinidae are not listed as restricted by CDFW which means the Commission is free to do so and has dealt with marine mammals in the past. For instance, in the numerous cases dealing with the harbor seals in La Jolla, the commission set aside a sanctuary in the ocean, allowed for the erection of a rope to keep people off part of the beach and closed the beach during breeding season.

Coastal Act Section 30230 gives the Coastal Commission Jurisdiction

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

Orcas do not belong in captivity

- SeaWorld routinely separates orca calves from their mothers even though orcas have life-long family ties in the wild
- Virtually all male orcas at SeaWorld have drooped over dorsal fins
- Orcas die in captivity before reaching their species average age
- Orcas are taught tricks by food deprivation
- Dead fish fed to orcas have been frozen and lose their water content so orcas must be fed gallons of gelatin daily
- Orcas are medicated with anti-depressants, antibiotics and antacids to maintain their precarious health in captivity
- Captive orcas break their teeth on the sides of the concrete tanks and metal gates which results in the need to remove the pulp which must be done while orcas are awake
- Orcas have never been known to attack a person in the wild but to date they have killed 4 people, 2 at SeaWorld. The aggression can be tied back to the stress of captivity
- SeaWorld has been cited for violations of workplace safety

The New Tank Will Not Result In More Room For The Orcas

The new tank is designed with a narrow channel connecting it to the retained existing pools. Orcas will obviously only have access to the larger tank some of the time. In addition, the new tank will be used to breed more orcas which will result in less space for the orcas.

*"The expanded pool will give killer whales more room to swim. However, SeaWorld CEO **Jim Atchison** tells **Local 6** the larger tank will also provide SeaWorld with even **more capacity to breed and house additional killer whales**, although he said that is not the primary purpose of the project."*

SeaWorld has repeatedly stated that they will use this tank for breeding purposes!
Which could result in less room for the orcas.

REQUESTED CONDITIONS

ALDF asks that the Commission approve SeaWorld's 'Blue World' captive orca exhibit expansion **only** under the condition that SeaWorld:

- 1- Hold or display only the following whales currently existing in the San Diego park: Corky, Kasatka, Ulises, Orkid, Keet, Shouka, Nakai, Ikaika, Kalia, Makani, and Amaya.
- 2- Is prohibited from the captive breeding of orcas, either through mating or artificial insemination, including the collection of gametes



Animal Welfare Institute

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September 23, 2015

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

Via email: SeaWorldOrcaFacility@coastal.ca.gov

Re: CDP Application No. 6-15-0422 (SeaWorld Orca Enclosure Expansion)

Dear Commissioners:

On behalf of the Animal Welfare Institute (AWI) and its members and constituents, I am writing to you regarding the permit application by SeaWorld San Diego for the Blue World Project (Blue World), which would expand the theme park's orca enclosures. Blue World would also construct new restroom facilities at Mission Bay, San Diego. AWI submits these comments as a supplement to those filed by AWI's Dr. Naomi Rose on July 27, 2015 (Attachment A).

FURTHER ENVIRONMENTAL ANALYSIS, INCLUDING AN ALTERNATIVES ANALYSIS, IS REQUIRED FOR THIS PROJECT

AWI is aware that the Guidelines for Implementation of the California Environmental Quality Act (CEQA) provide exemptions for Certified State Regulatory Programs, including that of the California Coastal Commission. Cal. Code Regs., tit. 14, § 15251, subd. (f).¹ The Commission must comply with its own certified regulatory program, which the Secretary of Natural Resources has deemed the equivalent of CEQA review. Section 13096 of the Commission's administrative regulations requires the Commission's 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 both the Coastal Act and CEQA.² AWI thus urges the Commission to do its due diligence with regard to its environmental analysis of this project,³ including a new EIR for the expansion of SeaWorld via Blue World, as there will be

¹ "The program of the California Coastal Commission involving the preparation, approval, and certification of local coastal programs as provided in Sections 30500 through 30522 of the Public Resources Code." Cal. Code Regs., tit. 14, § 15251, subd. (f).

² "All decisions of the commission relating to permit applications shall be accompanied by written conclusions about the consistency of the application with Public Resources Code section 30604 and Public Resources Code section 21000 and following, and findings of fact and reasoning supporting the decision." 14 CCR § 13096.

³ The laws and rules governing the CEQA process are contained in the CEQA statute (Public Resources Code Section 21000 and following), the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 and following), published court decisions interpreting CEQA, and locally adopted CEQA procedures.

new environmental effects and increased severity of existing environmental impacts that were not addressed in the original EIR or subsequent updates. Alternatively, AWI seeks to have any new environmental analysis added to the existing EIR, and to then have the lead agency recirculate that document for public comment, given the significant environmental impacts, on which the public has a right to be heard.

THE COMMISSION SHOULD CONSIDER ALTERNATIVES TO THIS PROJECT

CEQA requires public agencies to assess the environmental impacts of their actions and to modify such actions *if less destructive alternatives are feasible*. 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, is consistent with any applicable requirements of CEQA. In turn, 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.⁴

AWI believes the Commission is required to “review the proposed project with an Initial Study... to determine whether the EIR would adequately describe:

- (A) The general environmental setting of the project,
- (B) The significant environmental impacts of the project, and
- (C) Alternatives and mitigation measures related to each significant effect.”

14 CCR 15153(b)(1).

The most obvious alternative, in AWI’s mind, is for the Commission to consider delaying approval of the project permit for several years – even a decade, if needed – until the drought has ended. It would be completely illogical for the Commission to approve this nonessential project, which will use vast amounts of freshwater for construction alone, during the middle of a severe drought with no end in sight.

Another option might involve designing the tank so the underwater viewing window is shorter (with more of the tank below the bottom of the window) and not angled outward (to lessen the risk of a catastrophic outcome in the event of an earthquake).

As Dr. Rose details in her letter, science is demonstrating that orcas are unsuited to life in captivity. AWI and fellow animal welfare organizations have, for years, been advocating for the retirement of captive

⁴ The SeaWorld Master Plan Update (2001) contemplated the following alternatives: No Project Alternative, More Regulated Alternative, Enhanced Public Access Alternative, No Hotel and Marina Alternative, Underground Parking Garage Alternative, No Parking Structure or Hotel Over 30 Feet High Alternative, Less Visually Intrusive Alternative, and a Combination Alternative. However, these alternatives are not directly applicable to the proposed Blue World Project.

cetaceans to marine sanctuaries. While this movement was once just a mere hypothetical, experts are in the early stages of strategizing to make a cold water sanctuary for orcas a reality.⁵ Thus, we believe the Commission should consider, as a serious alternative to the construction of this multi-million dollar hole in the ground, the option that these killer whales should instead be retired to a newly constructed sea pen sanctuary.

Another alternative the Commission might consider includes locating Blue World away from the existing Shamu Stadium, to avoid the stress from noise, vibrations, dirt and debris the whales will be subjected to over the course of 18 months or however long it takes to complete the construction. Thus, Blue World wouldn't necessarily be attached to Shamu Stadium at all, but might be completely separate and require transport of the whales between the enclosures via slings and trucks. This alternative therefore clearly has pluses and minuses, but might overall be better than the proposed alternative. It cannot be discounted without a more detailed analysis.

AWI formulated these alternatives (other than the sea pen/sanctuary idea) without much deliberation, so clearly there are other reasonable possibilities. The Commission is obligated to consider at least one or two alternatives before deciding on this permit.

RELIANCE ON A MASTER EIR THAT DOES NOT CONTEMPLATE THIS PROJECT IS INAPPROPRIATE

Enacted in 1970, CEQA imposes a statewide policy of environmental protection. CEQA's basic purpose includes: informing government decision makers and the public about the potential, significant environmental effects of proposed activities; identifying ways that environmental damage can be avoided or significantly reduced; and preventing significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible. California Code of Regulations § 15002(a). The Commission, in recognition of these obligations (*see, e.g.*, 14 CCR § 13052), requires an applicant to submit any and all relevant environmental analyses as part of any permit application. Section IV, question 8 (on page 8) of the Commission's permit application form requires an applicant to submit "a copy of any draft or final negative declaration, environmental impact report (EIR), or environmental impact statement (EIS) **prepared for the project.**" (Emphasis added.) In an apparent response to this requirement, SeaWorld attached to its permit application environmental analyses prepared several years in the past, *not for this particular project.*⁶

⁵ See Cheryl Rossi, *Could Vancouver be home to the first sea sanctuary for cetaceans? Marine scientists envision a place for sea mammals to go if they are released from marine parks and unable to survive in the wild.* VANCOUVER OBSERVER (Aug. 19, 2015), <http://www.vancouverobserver.com/news/could-vancouver-be-home-first-sea-sanctuary-cetaceans>. As this article mentions, Dr. Rose and Dr. Lori Marino are co-hosting a workshop on sea pen sanctuaries at the Society for Marine Mammalogy's biennial conference in San Francisco in December, and we invite the CCC to attend. More details are available at: <https://www.marinemammalscience.org/conference/workshops/#seapen>.

⁶ See page 11 of SeaWorld's permit application (Appendix B, Local Agency Review Form), wherein with regard to CEQA status, SeaWorld has bypassed the options for a categorical exemption, negative declaration, or environmental impact report, instead checking the "Other" box and stating there is "no subsequent document."

The 1999 Master EIR (based on the 1985 SeaWorld Master Plan) and SeaWorld Master Plan Update (2001) clearly did not contemplate the Blue World Project:

2. Tier 2 identifies eight conceptual development sites that are candidates for future redevelopment, renovation or park expansion. Each site retains the potential to have structures exceeding 30 feet in height up to a maximum height of 160 feet. Although this report analyzes the potential visual impact of Tier 2 development, ***no specific project is proposed for the immediate future.***

3. Special Projects are long-term conceptual development proposals that have been specifically identified. The Special Projects include a 90-foot tall, 650 room hotel, a 115 slip expansion of the existing SeaWorld Marina, and a 4-level, 45-foot high parking garage.

See SeaWorld Master Plan Update (2001), Executive Summary at S-2 (emphasis added). While AWI recognizes that the SeaWorld Master Plan Update (2001) is supposed to be “good” for a period of twenty years, as the Update acknowledges, “additional environmental review may be required as incremental development occurs for site-specific projects over time. Additional mitigation measures with a higher degree of specificity could be required.” SeaWorld Master Plan Update (2001) at 6.

Use of an EIR from an earlier project is governed by 14 CCR 15153, which states, in part:

The Lead Agency may employ a single EIR to describe more than one project, if such projects are essentially the same in terms of environmental impact. Further, the Lead Agency may use an earlier EIR prepared in connection with an earlier project to apply to a later project, if the circumstances of the projects are essentially the same.

14 CCR 15153(a).

However, where the environmental impacts are beyond those anticipated in the Master EIR, further environmental analyses are needed.

A project will be considered “within the scope” of the Master EIR if it is described within that document and will:

1. Have no additional significant effect on the environment that was not identified in the Master EIR; and
2. Require no new or additional mitigation measures or alternatives (Section 21157.1(c)).

See also Attachment to Appendix B, stating “All environmental impacts of the SeaWorld Master Plan were identified and analyzed in Environmental Impact Report LDR No. 99-0618; SCH No. 1984030708 certified by the City of San Diego City Council on July 10, 2001, by Resolution No. R-295138 (“SeaWorld EIR”).”

Governor's Office of Planning and Research, Focusing on Master EIRs, CEQA Technical Advice Series, Nov. 1997 (Third Edition) at 7, available at http://opr.ca.gov/s_technicaladvisories.php (hereinafter "Focusing on Master EIRs") (Attachment B). This guidance document is useful for determining what is or is not appropriate in the context of development under a Master EIR:

Projects that were not identified in the Master EIR are subject to the usual CEQ process... and are ineligible for the limited environmental review available under the MEIR... Such projects may require the preparation of a Negative Declaration, a mitigated Negative Declaration, or an EIR, depending upon the circumstances.

Focusing on Master EIRs at 8.

CEQA Guidelines Section 15176(d) provides that when an MEIR is certified for a general plan... subsequent projects will be considered to be adequately described for later use of the MEIR when the land use designations and permissible densities and intensities of the project site are identified in the MEIR and the general or specific plan.

Focusing on Master EIRs at 5.

For the first five years after certification, a Master EIR may be utilized for subsequent projects described in it without having to reevaluate its adequacy (Section 21157.6). During this period, the agency's review of subsequent projects is limited to whether any new impacts will occur and whether the proposal was identified in the Master EIR.

If an application for a subsequent project is filed more than five years from certification of the Master EIR, or if during the five years another project has been approved which was not described in and potentially affects the adequacy of the Master EIR, then the agency must, prior to applying the Master EIR to the subsequent project, review the adequacy of the Master EIR and either:

1. Make written findings that "no substantial changes have occurred with respect to the circumstances under which the [Master EIR] was certified or that no new information, which was not known and could not have been known at the time that the [Master EIR] was certified has become available." In the recent *Laurel Heights* decision, the California Supreme Court noted that the CEQA Guidelines "generally define 'new information' as information which shows that the project will have new or more severe 'significant effects' on the environment not disclosed in the prior EIR." (*Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal. 4th 1112, citing Guidelines Section 15162(a)(3)), The findings should be supported by substantial evidence in the record.

2. Certify “a subsequent or supplemental EIR which has been either incorporated into the previously certified [Master EIR], or references any deletions, additions, or other modifications to the previously certified [Master EIR].” A subsequent or supplemental EIR would be required when the provisions of Section 21166 apply.

Focusing on Master EIRs at 6.

Due to new significant environmental effects and increased severity of existing impacts, as detailed below, AWI believes it is inappropriate for SeaWorld to rely on its prior EIR for this major project.

NEW SIGNIFICANT ENVIRONMENTAL EFFECTS

While SeaWorld has submitted traffic monitoring reports, an overview of its storm water capture and treatment system, and a geotechnical study, AWI does not believe it has done enough. The 2001 Update states:

Adoption of the proposed project could potentially contribute to direct environmental impacts associated with land use, neighborhood character/aesthetics, light, glare and shading, transportation and circulation, water quality, biological resources, noise, geology/soils, air quality, energy and water conservation. This project could potentially contribute to cumulative impacts associated with land use, neighborhood character/aesthetics (visual quality), and transportation and circulation.

SeaWorld Master Plan Update (2001) at 2. The application does not, however, provide any analysis of areas such as public safety and economic and tourism impacts.

Public Safety

The CCC must evaluate the risks to public safety inherent to this project due to the fact that this project will be located in an earthquake zone and a major earthquake poses a risk to this facility, its visitors, and its whales, as laid out in the July 27, 2015 letter of Dr. Naomi Rose (Attachment A).

Economic and Tourism Impacts

It is no secret that SeaWorld has been suffering from a major image problem in light of the 2010 death of an experienced trainer due to a killer whale attack, and the fallout from the documentary *Blackfish* and books *Death at SeaWorld* and *Beneath the Surface*. See Attachment A. The media has extensively covered SeaWorld’s financial troubles. Given the drop in SeaWorld’s stock value over the past year, the writing is on the wall. SeaWorld is the leader of a dying industry. It is the Commission’s burden (perhaps together with the City of San Diego, as discussed below) to assess the prudence of allowing this sort of expansion under present

economic circumstances.

INCREASED SIGNIFICANT SEVERITY OF EXISTING IMPACTS

While impacts to water resources and energy conservation were analyzed in the SeaWorld Master Plan Update (2001), they have not been analyzed in light of the proposed development, and under the circumstances of drought and climate change, such analysis is required.

Freshwater Resources

SeaWorld's EIR acknowledges that its "thematic emphasis of marine animal entertainment, education, research, and conservation entails the use of large amounts of both fresh and salt water... the daily operation of SeaWorld involves large quantities of potable water. Current uses of potable water include irrigation, cooling water, production process evaporation and production inclusion, sanitary wastewater discharges including restrooms, kitchens, and cafeterias, and miscellaneous consumption and use." EIR at 4.13.1. While the EIR states "implementation of any Tier 2 project would not result in the use of excessive amounts of water," (EIR at 4.13-4), this Blue World project clearly was not contemplated at the time.

Thus, perhaps the most glaring deficiency in the existing application is the lack of any environmental analysis of freshwater consumption given that California is experiencing one of its worst droughts on record and has been under a state of emergency since January 17, 2014.⁷

On April 1, 2015, Governor Brown issued the fourth in a series of executive orders on actions necessary to address California's severe drought conditions.

On May 5, 2015, the State Water Resources Control Board (State Water Board) adopted an emergency regulation to address specific provisions of the April 1 Executive Order, including the mandatory 25 percent statewide reduction in potable urban water use between June 2015 and February 2016.⁸

In a time when California citizens and business are required to comply with emergency drought laws and water regulations, this project will use significant amounts of freshwater for construction alone, let alone future operations of this expanded habitat (recognizing that the tank will, of course, be filled with salt water).

The Commission is thus required to analyze the significant environmental impacts not addressed in the original EIR and SeaWorld Master Plan Update (2001), including the impacts of this project on the state's current freshwater resources.

⁷ See Executive Order B-29-15,

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/040115_executive_order.pdf.

⁸ See California Water Boards Fact Sheet Emergency Conservation Regulation Implementing 25% Conservation Statewide (updated July 7, 2015),

http://www.waterboards.ca.gov/water_issues/programs/conservation_portal/docs/factsheet/implementing_25percent.pdf.

Greenhouse Gas Emissions

Since the previous EIR was certified, new information of substantial importance demonstrates that the project would generate increased greenhouse gas emissions. In order to pull in, filter, treat, and release the amount of water that would go through the aquarium, additional pumps and machinery all run on SeaWorld's power sources, noted in the EIR as being electricity and natural gas. Greater capacity will mean an increased amount of energy consumed, which will in turn increase greenhouse gas emissions. Given that a greenhouse gas analysis has never, to AWI's knowledge, been conducted for SeaWorld, these impacts must be considered, particularly in light of climate change and the following legal and legislative activity.

In *Center for Biological Diversity v. Department of Fish & Wildlife*, Supreme Court No. S217763, the California Supreme Court is considering the issue of greenhouse gas emissions and how to create a threshold for measuring them. In *Cleveland National Forest Foundation v. San Diego Assn. of Governments*, Supreme Court No. S223603, the Court will decide whether lead agencies must determine a project's consistency with the governor's executive order concerning greenhouse gases. Meanwhile, the California legislature is currently considering SB 32, which would amend AB 32 by requiring greenhouse gas emissions to fall 80 percent below 1990's levels by 2050. The significant and unavoidable impacts that would accompany greenhouse gas emissions, given a restrictive threshold, means expensive mitigation that may not even be technologically feasible at present time.

INVOLVEMENT OF CITY OF SAN DIEGO

The SeaWorld Master Plan Update (2001) mentions that future proposals for site-specific projects would require varying levels of approval by both the City of San Diego *and* the Commission. It is unclear to AWI whether or not the City of San Diego has been involved in this project, but we assume that it has not. Based on the Master EIR as well as Commission regulations (e.g., 14 CCR § 13052), it seems advisable to involve the City in this process, particularly since it was the lead agency on the prior CEQA documentation.

CONCLUSION

Given the need for further environmental analysis and consideration of alternatives by the Commission, and the likely need for consultation with the City of San Diego, it would be simply illogical for the Commission to support any further expansion of this industry in California by even considering this permit at this time. Consideration is premature and certainly granting the permit outright at this time is counter-indicated.

California Coastal Commission
September 23, 2015

Sincerely,

A handwritten signature in black ink, appearing to read "Georgia Hancock". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Georgia Hancock
General Counsel

CC: Ken Alex, Director, Governor's Office of Planning and Research
City of San Diego Development Services Department
Matt Rodriguez, Secretary for Environmental Protection, California Environmental Protection Agency
Maureen Stapleton, General Manager, San Diego County Water Authority
Mark Wardlaw, Director, San Diego County Planning & Development Services
San Diego Regional Water Quality Control Board

Attachment A



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003
awionline.org phone: (202) 337-2332 fax: (202) 446-2131

July 27, 2015

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

Re: CDP Application No. 6-15-0422 (SeaWorld Orca Enclosure Expansion)

Dear Commissioners:

On behalf of our members and constituents, the Animal Welfare Institute (AWI) urges you to deny the permit application by SeaWorld San Diego for the Blue World Project (Blue World), which would expand the theme park's orca enclosures.

While we recognize that Blue World will be essentially as large as the existing Shamu Stadium complex, doubling the space for the 11 orcas living in SeaWorld San Diego, the incremental improvement in the orcas' welfare that will result from this additional space does not justify the tremendous waste of resources this new construction represents nor the risks to animals and humans that this project poses in the event of an earthquake. We also note that during the years of construction, the orcas will be exposed to noise, vibrations, and to some level of dust and debris, all of which can have detrimental impacts on their welfare. The noise and vibrations in particular will be unavoidable (and especially problematic for these acoustically-oriented animals), as Blue World will be constructed directly adjacent to the existing facility and indeed will require the demolition of a significant portion of the existing enclosure complex, forcing these whales to exist in even more limited space for the entire project construction period.

In addition, we suspect that the commitment of resources to this project, including \$100million, is part of a longer-term campaign by SeaWorld Entertainment to ensure the future display of orcas, a species completely unsuited to confinement. If the company builds this enclosure, its board of directors will no doubt conclude that the company *must* continue to display orcas to pay off the debt it will incur from this construction – the company is “doubling down” on a business model that is outmoded and inhumane. This is relevant for the Commission to consider, as the California legislature has been addressing a bill (the Orca Welfare and Safety Act) that would prohibit the public display of orcas. If this bill should pass, construction of Blue World would become even more wasteful of resources.

Captive orcas do not need larger tanks; they need the ocean. Please see the appendix to this letter for a discussion of the numerous welfare concerns facing captive orcas. If SeaWorld builds Blue World, it will have all the more incentive to refuse to listen to common sense and science and to display orcas into the distant future. The latest science reveals that, at best, the survivorship of SeaWorld's orcas is only as good as wild populations struggling with habitat degradation and depletion (Robeck *et al.* 2015). At worst, captive orcas simply do not live as long as wild whales (Jett and Ventre 2015).

In addition, the new F pool will not be freely accessible to the whales; one of SeaWorld's primary purposes in constructing Blue World, according to its application, is to "enhance" the whales' care, yet it is clear from the construction plans that F pool will be accessible only through a narrow channel (between the new E and F pools), which will apparently be gated at either end (see plan 7130). F pool will only be available to the orcas at management's discretion. This is yet another reason why the welfare of the animals will improve only slightly and not enough to justify this waste of resources.

Having reviewed some of the documentation related to the permit application, AWI has the following concerns about the proposed project and believes that in combination, these arguments form a sufficient basis for the Commission to deny this permit application:

1. Earthquake impacts – From the geotechnical study by Christian Wheeler Engineering (CWE), the construction site carries the risk of a significant seismic event causing liquefaction of the substrate on which Blue World will be built. CWE proposes mitigation that should address this risk and reduce the probability of severe damage to the enclosure during an earthquake to acceptable levels. However, given the large acrylic window being proposed (two-stories tall and slanted outward at approximately 30° from the vertical - see plan 7131), the outcome of severe damage could well be breakage that releases not only a large volume of water but the whales themselves into the underwater viewing gallery.¹

This catastrophic outcome is unlikely with the other existing enclosures with acrylic viewing windows. The largest windows currently are in A pool and are less than one-story high and are 0° from the vertical. In addition, much of this tank's water volume is below the level of the windows. The current E pool (which will be demolished for this project) has an underwater viewing window, but it is also only one-story tall and 0° from the vertical, which would lessen the stresses to which it is subjected both from water pressure and seismic activity.

Decision-makers must determine acceptable risk of any proposed action. When risk of an outcome (in this case, severe damage to F pool and its large acrylic window from an earthquake) is low and potential impact is low (as in A or E pools, where the worst outcome is a crack that merely causes leakage or a breaking open that is unlikely to cause the whales to flow out of the tank), then the action is acceptable. When risk is high and impact is high, then the action is not acceptable. When risk is high but impact is low, the action is probably acceptable. But when risk is low and potential impact is high – indeed, in this case, potentially catastrophic for people viewing the whales and the whales themselves – then decision-makers must carefully consider whether the action is acceptable.

During the administrative law hearings in which SeaWorld Orlando challenged the citation it received from the Occupational Safety and Health Administration (OSHA) regarding the death of orca trainer Dawn Brancheau in Florida, OSHA's expert witness, Dr. David Duffus, argued that while the odds of an orca seriously attacking a trainer were low due to SeaWorld's safety protocols, they were not zero. And when an orca seriously attacks a trainer, the outcome is highly likely to be "catastrophic" – the trainer suffering permanent disability or death, both of which have occurred as a result of attacks by SeaWorld whales.²

¹ During an earthquake, even one that generates significant tsunamis, cetaceans in the wild are generally unaffected. They "ride out" the event in deep water.

² From transcript of Secretary of Labor vs. SeaWorld, OSHRC Docket No. 10-1705

Clearly this argument (among others) resonated with the judge. He ruled against SeaWorld and upheld the OSHA citation, due to the unacceptable risk posed by SeaWorld's then-safety protocols (Parsons 2012). This ruling was upheld on appeal. A similar situation exists here. For the orcas at SeaWorld San Diego, while an earthquake causing the acrylic window in the proposed F pool to break open may be a low probability due to the proposed engineering mitigations, the probability is not zero. And the outcome would be catastrophic for the whales and anyone viewing them at the time.

2. Water – The Blue World Project is a waste of all resources, but especially of water. California is experiencing an historic drought and this land-based construction project, which will require significant materials and several years, will consume vital water.

If the project were essential to the region's economy or welfare, then such an investment of a scarce resource may, on balance, be acceptable. However, Blue World is not essential to the region or even to SeaWorld. It is also not essential to the whales, according to SeaWorld's own claims. It is an attempt by the company to address its critics; it will not improve the orcas' welfare by any substantive degree – a larger box is still a box and it will not be freely accessible to the animals – and it will not change how SeaWorld interacts with them or its customer base.

3. The Commission's remit – The Commission's mandate is to “protect, conserve, restore, and enhance” marine resources within its jurisdiction. The killer whales at SeaWorld San Diego certainly qualify as “marine resources” within the state of California's coastal zone. To fully protect them, arguably the state should not allow their display at all (see appendix to this letter). Given that the whales were displayed before the creation of the Commission, the Blue World proposal gives the Commission an opportunity to address a situation that arguably would not have been allowed had SeaWorld not attempted to display orcas until after the Coastal Act had passed.

SeaWorld submitted a legal memo to the Commission arguing that the Commission has no jurisdiction to address any aspect of care and maintenance of the orcas at SeaWorld San Diego. This memo is incorrect. The Marine Mammal Protection Act (MMPA), which SeaWorld claims supersedes any state authority over marine mammals such as its orcas, was amended in 1994 – by lobbyists primarily representing SeaWorld and the Alliance of Marine Mammal Parks and Aquariums – to remove all substantive jurisdiction of the MMPA over *captive* marine mammals. The authority to regulate care and maintenance conditions in captivity was left solely to the Animal Welfare Act.

SeaWorld cannot have its cake and eat it too. Its argument that “regulatory control over the health, welfare and safety of marine mammals is the exclusive domain of the federal government” is in fact not true for captive marine mammals, due to the actions of SeaWorld itself. Since the 1994 amendments, the MMPA now holds that the only activities related to public display that remain the jurisdiction of the MMPA are “take and importation” – and once a marine mammal is located within a public display facility, it is (according to the established policy of the Department of Commerce's National Marine Fisheries Service (NMFS), the federal agency responsible for implementing that MMPA) no longer subject to “take” as defined by the MMPA (“to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill”). Prior to 1994, the NMFS had clear permitting authority over the conditions under which marine

mammals were held in captivity and had a memorandum of agreement with the Department of Agriculture's Animal and Plant Health Inspection Service (APHIS). This authority was removed by the 1994 amendments and the memorandum of agreement was voided.

Unlike the MMPA, the Animal Welfare Act allows states to regulate the care and maintenance conditions of captive marine mammals, as long as the state's requirements are stricter than its *minimum* standards. Again, SeaWorld cannot have it both ways – it lobbied successfully to remove the authority of the statute that *does* supersede state authority and relegate sole authority to the statute that *does not* supersede state authority beyond establishing minimum standards. In fact, the state of California can establish more stringent requirements for the care and maintenance of captive marine mammals within its borders than the APHIS standards, up to and including prohibiting the display of specific species. Certainly the Commission has the jurisdiction to determine whether the construction of Blue World will “protect, conserve, restore, [or] enhance” the lives of the orcas at SeaWorld.

AWI strongly believes that Blue World will *not* in any substantive way protect or enhance the lives of the orcas at SeaWorld. Indeed, if the Blue World Project is permitted, then the odds increase substantially that the orcas at SeaWorld will continue to be bred and displayed into the distant future, due to the massive commitment of resources, including \$100million that SeaWorld, already deeply in debt, will need to borrow. As outlined in the appendix to this letter, the science continues to build that orcas are unsuited to confinement in concrete tanks and do not thrive in captivity. We urge the Commission to deny this permit, as increasing the likelihood that orca captivity will endure into the far future is inconsistent with this science.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Naomi Rose', written in a cursive style.

Naomi A. Rose, Ph.D.
Marine Mammal Scientist

Attachment: Killer Controversy, AWI white paper

References:

Jett, J. and J. Ventre. 2015. Captive killer whale (*Orcinus orca*) survival. *Marine Mammal Science* DOI: 10.1111/mms.12225.

Parsons, E.C.M. 2012. Killer whale killers. *Tourism in the Marine Environment* 8: 153–160.

Robeck, T.R., K. Willis, M.R. Scarpuzzi, and J.K. O'Brien . 2015. Comparisons of life-history parameters between free-ranging and captive killer whale (*Orcinus orca*) populations for application toward species management. *Journal of Mammalogy* DOI:10.1093/jmammal/gyv113.

Killer Controversy

Why orcas should no longer be kept in captivity



©Naomi Rose

Prepared by
Naomi A. Rose, Ph.D.
March 2014



Animal Welfare
Institute

www.awionline.org

The citation for this report should be as follows:

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Killer Controversy

Why orcas should no longer be kept in captivity

Introduction

Since 1964, when a killer whale or orca (*Orcinus orca*) was first put on public display,¹ the image of this black-and-white marine icon has been rehabilitated from fearsome killer to cuddly sea panda. Once shot at by fishermen as a dangerous pest, the orca is now the star performer in theme park shows. But both these images are one-dimensional, a disservice to a species that may be second only to human beings when it comes to behavioral, linguistic, and ecological diversity and complexity. Orcas are intelligent and family-oriented. They are long-lived and self-aware. They are socially complex, with cultural traditions. They are the largest animal, and by far the largest predator, held in captivity.

Evidence supports the position that orcas are ill-served by public exhibition. The early benefit of demonstrating to society that they are not mindless killers is uncontested,² but is no longer served by continued display. It is not a matter of opinion that orcas do not adjust to captivity; it is a matter of fact. After 50 years of exhibiting orcas for human amusement, while at the same time studying them in the wild, we have learned enough about them in both settings to realize that orcas do not belong in captivity.

The Evidence

Longevity/survival rates/mortality

In 1995, Small and DeMaster published a peer-reviewed paper on the survivorship rates of several captive marine mammal species.³ This paper showed that, through the end of 1992 (the last year for which a complete set of annual data was available) orcas had significantly lower annual survival rates in captivity than in the wild. Their annual mortality rate (the inverse of survivorship) was more than two and a half times higher in captivity than in the wild. The data source for captive animals was the U.S. Marine Mammal Inventory Report, maintained by the National Marine Fisheries Service, an agency within the U.S. Department of Commerce. The data are provided to the agency by marine mammal public display facilities (henceforth called oceanaria); therefore, the database was if anything biased in favor of display.

The wild whales to which the captive whales were compared were the well-studied northeastern Pacific populations (off the coasts of Washington State and British Columbia), whose life history statistics had first been described in a peer-reviewed paper in 1990⁴ and later confirmed in a 2005 technical publication.⁵ While other wild populations might show different life history profiles due to varying habitat quality, it is clear from this population that under objectively good environmental conditions,⁶ orcas are capable of life history trajectories similar to human beings. Both sexes reach sexual maturity at approximately 14, females give birth approximately every 5 years and go through menopause at approximately 40-45 years of age,

males live an estimated maximum of 60-70 years, and females live an estimated maximum of 80-90 years. The mean life expectancy for males is approximately 31 years; for females approximately 46 years.¹¹

However, among captive whales, only two females, currently living, have passed the age of 40.¹² This is after almost five decades of maintaining the species in captivity and out of over 200 individuals ever held for display.¹³ Only four females are currently in their mid- to late 30s,¹⁴ and of females who have died, only one or two were in their 30s at the time of their deaths (as exact ages at capture were not known, the exact ages of wild-caught captive whales cannot be determined). To date no captive males have lived longer than 40 years (the oldest, currently living, is in his mid-30s),¹⁵ and less than a handful have reached 30.¹⁶ The vast majority of captive orcas of either sex die before their early 20s, many still in their early teens.¹⁷

Thus to date the maximum lifespan of captive orcas has been about the same as the mean life expectancy of wild orcas. As a corollary, very few captive orcas who have died achieved the mean life expectancy of wild orcas.

The 1995 Small and DeMaster paper presented the strongest evidence to that time that orcas suffered significant negative impacts from being held in captivity, leading to lower survivorship. The nature of these impacts was not determined or discussed in this paper, but their existence could be inferred from the data. Captivity appeared to be a sub-optimal “habitat” for this species.

These findings, despite being emphasized by advocacy organizations, did not have a significant impact on the general public’s support for orca public display, nor did it start any real debate within the scientific community. The argument was made that captive-born orcas (whose sample size was too small through 1992 for analysis) would show better survivorship than wild-caught animals.¹⁸ It was also argued that survivorship would improve as husbandry methods improved.¹⁹

To address these arguments, survivorship was reanalyzed, using the same methodology and primarily the same data

SeaWorld says:

In 2007, SeaWorld,⁷ which holds more captive orcas than any other company, responded to a set of questions sent by KGTV of San Diego⁸ and stated the following:

“We have often said that 30 years is as good an estimate of average killer whale lifespan as we currently have. Clearly animals can exceed that age, as evidenced by one of ours, Corky. She is at least 40 and perhaps as old as 42. Peter F. Olesiuk, Graeme M. Ellis and John Ford, three of the world’s most respected marine mammal scientists and individuals who have studied longevity in wild whales for years, recently wrote in the proceedings of the 16th Biennial Conference on the Biology of Marine Mammals that female killer whales in their study group had a mean life expectancy of 31 years and males just 19 years”.

In 2011, Fred Jacobs, the Vice President of Communications at SeaWorld, gave a similar response to a blogger:⁹

“As far as [this scientific research], we are familiar with it... [One of the researchers] himself acknowledges the variability of wild life expectancy in this species: ‘During the period of growth, mean life expectancy of females was 46 years (31 for males)...’ Mean life expectancy of his study group, the Northern Resident Group in British Columbia, declined to 30 years for females and 19 for males.”

In both cases, SeaWorld was referring to studies by Canadian researchers Peter Olesiuk, Graeme Ellis, and John Ford and American researcher Ken Balcomb¹⁰ and was presenting their results out of context. The Pacific Northwest orcas experienced a period of unrestrained growth during the 1970s, 1980s, and early 1990s. During this time, their life history parameters were as presented in this report. The population then experienced a decline in survivorship from 1996 until

source as the Small and DeMaster paper and data compiled through the end of 2010.²³ This new analysis determined that captive orca survivorship overall has grown worse in the past decade and a half.²⁴ For animals who have entered captivity since 1993 (and thus have experienced only husbandry that has presumably improved since the Small and DeMaster study), survivorship has not changed.²⁵ In addition, captive-born animals, although they have survived better than wild-caught animals through 2010, have not survived better than captive orcas overall did through 1992.²⁶ Therefore the predicted improvement in survivorship has not in fact materialized, despite the increase in the proportion of captive-born animals making up the sample and despite supposedly continued improvement in husbandry techniques.

The most parsimonious explanation for this failure to show improved survivorship, despite the effort by oceanaria to advance husbandry techniques in the past 50 years, is that orcas are *inherently* unsuited to confinement. No improvements or advances in training, nutrition, veterinary care, husbandry, or transport can “fix” this poor survivorship.

The infant mortality rate in captivity (“infant” defined here as an animal six months of age or younger, including near- to full-term pregnancies where the calf does not survive birth [stillbirths]) is approximately 50%.²⁷ Infant mortality rate in the wild is actually unknown, as newborn calves are usually not seen until they are approximately six months of age and calves who die earlier than this will not be observed, but it may be similar.²⁸ Given the intense veterinary oversight during pregnancy and birth, it is notable that the captive infant mortality rate is so high.

Kalina was the original “Baby Shamu,” born at SeaWorld²⁹ in September 1985 – the first successful captive birth for orcas anywhere in the world. She was born in the Florida park and died there in October 2010, apparently of an acute infection within hours of exhibiting a poor appetite and “discomfort”.³⁰ Her age-at-death sets the current upper limit for captive-born orca longevity – 25 years. Kalina also spent time in SeaWorld’s Texas and California locations and produced four calves (by an age when, had she been a

2001,²⁰ which coincided with a series of poor Chinook salmon runs.²¹

These whales’ life history parameters shifted after 1996 and the mean life expectancy of the population fell to 30 years for females and 19 years for males.

SeaWorld ignores the fact that the second set of life expectancies was calculated when the orca population was in decline. It also ignores that the population began to increase again post-2001.²²

SeaWorld uses natural variability in survivorship across habitats (leading to variability in life history parameters) to imply that science does not know how long orcas live. However, habitat quality affects survivorship without affecting the intrinsic longevity of a species. Before the modern era, humans had life expectancies far below those of humans today because they did not have adequate protection from predators or the elements, food supplies were of varying quality and reliability, medical knowledge was limited or non-existent and so on. Nevertheless, before technology raised human life expectancies by reducing infant mortality, people were just as capable of living 100 years or more if circumstances were favorable.

The studies by Olesiuk, Ford, and colleagues showed that on average orcas can expect to live from 30 (male) to 50 years (female) when circumstances are favorable. If they live shorter lives elsewhere, then that is a reflection on habitat quality or other extrinsic factors, not on the species’ intrinsic longevity. SeaWorld attempts to use life history variability to support the claim that its orcas are living natural lifespans, but in fact it unintentionally supports the argument that concrete enclosures are sub-optimal for orcas, the equivalent of marginal, shifting, or degraded habitat.

SeaWorld’s KGTV response also claimed that “The simple fact is this:

typical female in the wild, she might have produced two or three). She was the fourth orca to die at a SeaWorld park within four months. The others were Taima (captive-born, aged 21), who died in Florida in June 2010 while giving birth; Taima's calf, who was stillborn; and Sumar (captive-born, aged 12), who died in California in September 2010 of a twisted intestinal tract.³³

SeaWorld has experienced nearly one orca death per year since its breeding program began – 26 orcas in 29 years, evenly spaced over that time, all but three of whom were younger than 25 years of age when they died and eight of whom were 12 or younger.³⁴ Given the fact that the animals have access to 24/7 veterinary care and “restaurant-quality” food, this is a poor mortality record, particularly when considering the ages of the animals at death.

When a marine animal dies at an oceanarium, spokespeople will often make statements that death is a natural phenomenon and is to be expected and accepted.³⁵ Yet at the same time they claim that captivity provides advantages (e.g., veterinary care, reliable food source, no predators or parasites) not available to the species in the wild.³⁶ Therefore, according to oceanarium rhetoric, conditions in captivity are *the same* as in the wild when an animal dies but *better* at all other times. This inconsistent reasoning has unfortunately been accepted for years by the general public, the media, and even the scientific and regulatory communities.

Age distribution

Of more than 130 wild-caught orcas ever held for public display, only 20 survive in oceanaria around the world.³⁷ Nine of these³⁸ are older than the vast majority of captive orcas who have died and, given that they represent less than 10% of the wild-caught animals, should be considered outside the norm in terms of captive longevity.³⁹ The remaining 34 living captive orcas are captive-born and therefore 25 or younger (after the death of Kalina, the oldest living captive-born orca was Orkid, who is now 25 years of age).⁴⁰ Indeed, 18 of the surviving captive-born orcas are younger than 13 years of age.⁴¹

There have been over 200 orcas held in captivity, wild-caught and captive-born.⁴² Given the number of males and females, natural life expectancies, and the number of years since the first orca entered captivity, a third or more of these animals could reasonably be expected to still be alive today.⁴³ Yet only approximately 20% of them are.

In the Pacific Northwest populations, about 46% of the whales are juveniles,⁴⁴ whereas in captivity, about 56% are juveniles.⁴⁵ In nature, an age distribution skewed toward younger age

No one knows how long...killer whales live because no one has ever followed a group from birth to death.”³¹ Fred Jacobs states, “You should recognize that until every member of a group of animals is studied from birth to death, estimates of longevity in this species are just that, estimates.”³² However, as any insurance actuary could explain, the calculation of life expectancy does not require following all members of a population from birth to death. Life expectancy is a probability function and only requires a sufficient sampling of life history data to calculate. More than 30 years of data following the individual lives of a population of approximately 300 whales is sufficient. The mathematical modeling these researchers used is well-established and not controversial within the scientific community.

SeaWorld continues to imply that there is significant ongoing debate among scientists about orca life history, when in fact there is not.

classes is often seen in populations that have been in decline, where adult mortality has been abnormally high due to natural disasters, disease, hunting or other threats.⁵² Such populations see relative increases in younger age classes during subsequent population growth.⁵³

The captive orca population, however, has remained relatively stable since the 1970s (about 30-50 whales), suggesting that both the birth rate and adult death rate have remained abnormally high since the successful breeding program began in 1985. The former is likely the result of oceanaria breeding their female orcas at younger ages and at shorter intervals than in the wild.⁵⁴ Ironically this may be contributing to the latter. Females (of any mammal species) who become pregnant too young or too often can experience physical harm that shortens their lives.⁵⁵ In species with long juvenile dependency periods, forcing females to become pregnant too young can also lead to higher levels of infant mortality, as such mothers may not have the essential parenting skills or maturity to successfully rear a calf.

Causes of death

The most common causes of death in captive orcas, wild-caught or captive-born, are pneumonia, septicemia, and other types of infection.⁵⁶ That many infections turn lethal in captive orcas highlights the fact that wildlife often does not manifest clinical signs of illness until it is too late for treatment.⁵⁷ This raises the logical question of whether veterinary care provides a significant advantage to captive wildlife. Clearly it helps some animals, but others die before treatment can be started or take effect.

A contributing factor to infection-caused mortality in captive orcas may be immunosuppression. Pathogens or injuries that the immune systems of wild orcas would successfully combat or manage may be fatal to captive orcas, due to chronic stress, psychological depression, and even boredom. All of these can cause immune system dysfunction or other health problems in many species, including cetaceans.⁵⁸

SeaWorld says:

SeaWorld characterizes its enclosures, husbandry, training practices, veterinary care, and conservation, research and education programs at its three theme parks as “world class” and “unparalleled.”⁴⁶ Many of its educational materials are also readily available on the Internet.⁴⁷ However, in several instances the information presented is unclear or confusing.

Longevity

In a recent *Killer Whales Teacher’s Guide*,⁴⁸ SeaWorld stated that the typical lifespan of orcas is “probably” 25 to 35 years, and in the current *Killer Whales Animal InfoBook*⁴⁹ SeaWorld claims that: “No one knows for sure how long killer whales live.” This is followed by an observation that scientists have found that orcas in the North Atlantic “*may* live at least 35 years” (emphasis added). A little later, however, the *InfoBook* notes that scientists in the northeastern Pacific “*believe* that if a killer whale survives the first six months [of life], a female’s life expectancy is 50 years and a male’s is 30 years” (emphasis added).

SeaWorld attempts to maintain a degree of ambiguity about the longevity of orcas by providing its audience with conflicting and confusing information and by using terms such as “*may*” or “*believe*” when discussing scientific data. This effort to cast doubt on the best available science regarding orca longevity is counter to the education standards SeaWorld has adopted.⁵⁰

Collapsed dorsal fins

All captive male orcas have collapsed dorsal fins as adults,⁵¹ most completely folded over the back. Because of their visibility, these fins tend to draw attention and questions from the public. SeaWorld attempts to

Dental health

The high rate of lethal infection may also be a function of poor dental health. Captive orcas routinely show damaged dentition, primarily broken and worn teeth with the pulp exposed. This is in contrast to wild orcas: many show little or no tooth wear, while those who do tend to specialize in prey with abrasive morphology.⁶¹ Broken teeth in wild orcas are rare.

In captivity, the abrasion and breakage comes not from prey, but from gnawing on concrete walls or steel gates that separate the various sections of an enclosure complex⁶² (there are usually at least two enclosures – a primary and a medical – and in larger complexes there can be as many as seven enclosures, all separated by metal gates), often in shows of aggression to animals in neighboring enclosures or due to boredom.⁶³ Photographs on the Internet of captive orcas in the open-mouth position, typical of individuals soliciting fish, substantiate this, showing many broken or worn teeth.⁶⁴ Tooth breakage invariably leaves the pulp exposed.

In captive orcas, food plugs in the exposed cavity can serve as direct routes for infection to enter the body.⁶⁵ According to former trainers, when a tooth breaks, a variable speed drill is used to drill holes directly through the pulp,⁶⁶ in a modified pulpotomy.⁶⁷ Judging from behavioral reactions, this is uncomfortable for the whale.⁶⁸ Once the drilling is complete, the tooth is not sealed or capped and therefore “trainers must irrigate (flush) the bored out [tooth] two-three times each day, for the rest of the orca’s life, to prevent abscess, bacteremia, and sepsis.”⁶⁹

Poor dental health is a known cause of many veterinary/medical conditions, including heart disease and pneumonia.⁷⁰ In the case of captive orcas, these open holes “represent a direct route for pathogens to enter the blood stream where they can then be deposited into the tissue of various organs throughout the body, such as the heart or kidney.”⁷¹ Yet there is a paucity of oceanarium-published literature on the connection between captive orca dental condition and overall health/mortality,⁷² although it seems increasingly likely that poor dental health is involved in – or may even be the direct cause of – many of the lethal infections observed in captive orcas.

characterize the fully collapsed dorsal fins of its male orcas as a normal phenomenon; however, in the wild, only 1-5% of male orcas in some populations (and none in others) have fully collapsed dorsal fins.⁵⁹

In the *Killer Whales Animal InfoBook*, SeaWorld states that no one knows why dorsal fins “bend,” but that some possible causes are “genetics, injuries, or because the fins can be taller than many humans without any hard bones or muscles for support.” If, as this statement suggests, gravity alone might cause a fin to collapse in nature, logic dictates that this would be a common rather than a rare phenomenon in wild whales.

In the *Killer Whales Teacher’s Guide*, SeaWorld described the use of photographs of dorsal fins to identify individual whales. The text was alongside a picture of an orca with a fully collapsed dorsal fin, and from the picture it was difficult to determine whether the whale was captive or wild. The caption read: “Some killer whales have irregular-shaped dorsal fins, sometimes leaning to one side.” On the next page, there was an activity that asked students to match up 10 pairs of sketches of orca dorsal fins that were taken five years apart. In both sets, there was a collapsed fin, representing 10% of each sample, a frequency 2-10 times higher than is found in nature.

These SeaWorld statements and graphics leave the impression that collapsed fins are common when in fact erect fins – to heights of 1.8m in adult males – are the norm in nature.⁶⁰

It is telling that oceanaria that display orcas, claiming to be experts on orca health and veterinary care, performing necropsies on all animals who die, have not published more widely in the zoo or veterinary literature on the issues related to captive orca dental health.⁷⁵ This failure in veterinary transparency is counter to their public position that they promote education, conservation, and good science.⁷⁶

Aberrant behavior

The only recorded fatal attack by one orca on another occurred in captivity.⁷⁷ Incompatibility among captive orcas is frequent, with certain individuals bullied by others, resulting in lacerations and other wounds, and eventually needing separation from dominant individuals.⁷⁸ In the wild, aggression has been only rarely observed; where it was, serious injuries did not result.⁷⁹

Although there are records of orca remains found in the stomachs of orcas,⁸⁰ these were more likely to have been scavenged than the result of active predation or cannibalism.⁸¹ The potential costs to one group of orcas targeting another would likely outweigh the benefits of successful predation.⁸² In short, aggressive encounters between orcas in the wild are unlikely to escalate to dangerous levels.

The obvious physical difference between the two “habitats” is that a subordinate animal cannot escape and has no choice regarding his or her companions in captivity. In the wild, a subordinate animal can flee in three dimensions from an aggressor and can actively avoid animals with whom he or she is incompatible.⁸³ The obvious social difference is that captive orca groups are wholly artificial, made up of unrelated animals who do not necessarily get along. Paradoxically for such a social animal, it might be better for a captive orca to be solitary, and interact only with long-term, compatible human caretakers, than to be in a group of other whales who are hostile or behave aggressively.

Injurious aggression is not the only aberrant behavior observed in captive orcas. Captive females have been known to reject or act aggressively toward their newborns⁸⁴ or

SeaWorld says:

The Occupational Safety and Health Administration issued a citation to SeaWorld on 23 August 2010 in the death of trainer Dawn Brancheau for a “willful” violation of safety regulations (“willful” is defined as an act committed with plain indifference to or intentional disregard for employee safety and health).⁷³ In a subsequent statement, SeaWorld said that its trainers are “among the most skilled, trained and committed zoological professionals in the world today. The fact that there have been so few incidents over more than 2 million separate interactions with killer whales is evidence not just of SeaWorld’s commitment to safety, but to the success of that training and the skill and professionalism of our staff”.⁷⁴

However, the proportion of *interactions* that result in incidents is not the proper statistic to use. An analogy would be if a particular factory machine can be used thousands of times before a part fails and seriously injures or kills a factory worker. If a significant number of these machines are in use and some proportion of them have this deficiency, the question then becomes how many of them will eventually fail, not how many times these affected machines can be used before they fail. If only a very small proportion of the machines have this deficiency (say, less than 2% out of the total number of machines in use), this might be a tolerable risk for the industry in question. How great a risk is tolerable to society depends on how important the product produced is and how great the cost would be of replacing or redesigning the machine. However, the risk begins to look prohibitive if the proportion of deficient machines is sufficiently high. If the failure rate reaches a level where the public, the government, and even the manufacturer conclude that it is too high, then the machines would be recalled.

simply fail to effectively care for or nurse them.⁸⁶ While this type of mother-calf dysfunction may also occur in the wild, only a small number of “orphaned” calves have been observed there⁸⁷ and maternal inattention or aggression is rarely observed.⁸⁸

The aberrant behavior seen in captive orcas is suggestive of abnormal social and psychological development of animals raised in or born into artificial social groups and “habitats.” This conclusion is further supported by the history of aggressive interactions between orcas and people in captivity.

Human injuries and deaths

Throughout recorded history, there have been no reliable reports of wild orcas killing a human being.⁸⁹ In contrast, four people have been killed by captive orcas. Three orcas drowned a part-time trainer in 1991.⁹⁰ One of these three was involved in the death of a member of the public eight years later⁹¹ and this same whale killed his long-time trainer 11 years later.⁹² A fourth whale killed his trainer only nine weeks earlier.⁹³

There have been very few reports of serious injuries inflicted by wild orcas on humans; one surfer required stitches in his leg in 1972.⁹⁴ The few other reported incidents were minor and resulted in little or no injury.⁹⁵ In contrast, there have been dozens of significant incidents between people and captive orcas, including serious injuries requiring hospitalization, throughout the 50 years this species has been on public display.⁹⁶

The contrast is clear – in the wild, despite centuries of encounters between seafarers (including modern researchers) and orcas, there have been no human deaths and very few serious injuries recorded. Yet in only 50 years of placing orcas in artificial proximity to people, there have been dozens of serious injuries involving dozens of different animals and four deaths involving four different animals. Captivity not only leads to early death for the animals – it puts people at significant risk of injury and death as well.

Conclusion

We maintain that the only logical conclusion, after considering the preceding evidence, is that orcas do not belong in captivity. They do not thrive: they are physically harmed, living shorter lives, and they are psychologically harmed, injuring each other and humans in a way rarely or never observed in the wild.

As noted earlier, there have been over 200 orcas held in captivity since 1964. Fifty-four of them are currently living. Of these 200+ animals, at least two dozen ($\geq 10\%$) are known to have been involved in serious incidents that threatened the lives or safety of people interacting with them (trainers and others).⁸⁵ It is possible this number is even larger (oceanaria do not publicize incidents that occur outside of public view). Four whales – roughly 2% – have killed their trainers. Therefore the “failure rate” for captive orcas is in the double digits and the fatality rate is 2%. Together these rates might lead to a recall if these animals were machines.

Given that the product here is entertainment-based performances, this level of risk – to the orcas and their trainers – is not justified. Educational opportunities provided by various media and advanced technology can replace live orca exhibits.

Considering orca natural history, it is unsurprising that orcas do not thrive in captivity. They are kin-bonded creatures, with a long dependency period on the mother and life-long family ties to her, their siblings and more distant relations.¹⁰⁰ When in captivity, they are kept in artificial social groups with no resemblance to those in nature. They are cooperative predators, whose home ranges are hundreds if not thousands of square kilometers in size and who can and often do swim 100 kilometers in a day.¹⁰¹ When in captivity, they are made to exist inside a comparatively small concrete enclosure, less than one ten-thousandth of one percent normal habitat size.¹⁰² Captivity cannot adequately provide for such large, social, wide-ranging predators.¹⁰³

A captive orca bears little resemblance to a wild one and the evidence is mounting that these animals, raised within or born into profoundly abnormal circumstances, are themselves abnormal. However, for almost 50 years oceanaria holding orcas have been telling the public that captive orcas thrive and indeed that they might even be better off in human care than facing the challenges of a wild existence.¹⁰⁴ The facts show otherwise.

Ending the public display of orcas

In early 2014, there are 54 orcas in captivity world-wide, held in 13 facilities in eight countries. Captive breeding occurs in only some of these facilities, most notably the SeaWorld parks in the United States, Kamogawa Sea World in Japan, and Marineland Antibes in France. The vast majority of births occur at SeaWorld parks. These circumstances support the contention that ending the public display of orcas is manageable and would have only minor economic impacts, primarily affecting only a small number of public display facilities.

Captive breeding of this species should end, as it serves no conservation purpose.¹⁰⁵ Live trade in orcas should also end.¹⁰⁶ The population of captive orcas can be eliminated through attrition, with the animals currently alive evaluated for continued display, retirement to sea pens, or rehabilitation and possible release to the wild if appropriate.

SeaWorld says:

On 24 February 2010, Tilikum, an approximately 30-year-old male orca held at SeaWorld Florida, brutally killed his long-time trainer, Dawn Brancheau. On 3 March 2010, The Humane Society of the United States (HSUS) sent a letter to the Blackstone Group, the corporate parent of SeaWorld, requesting a meeting and offering to discuss a proposal for his future. The proposal was not to release Tilikum into the wild, but to retire him to a sea pen. The HSUS noted that he could be on public view,⁹⁷ for a fee, so the company would not suffer an economic loss.

SeaWorld refused this proposal and housed Tilikum primarily in the back tank of the Florida complex for the next 13 months, not using him in the show. Trainers did not approach close enough to touch him during this time. As of early 2014, he is once again used in the show, but he is still not touched by his trainers.⁹⁸

In its proposal to Blackstone, The HSUS noted its experience with the Keiko Project,⁹⁹ which the organization had managed during the final 20 months of Keiko's life. In a reply dated 16 March 2010, SeaWorld's president, Jim Atchison, stated the following:

"I am familiar with your role in the tragic release experiment involving Keiko...It illustrates the cruelty of attempting to return a long-captive marine mammal to the wild..."

"HSUS proceeded with an experiment that...cost an innocent animal his life..."

"The release of Keiko was a disgraceful act. It was executed in a way that was, by any standard, irresponsible and reckless. To cite the Keiko experiment as anything other than a waste of valuable resources and a failure with tragic consequences for this animal is to rewrite history."

The 13 affected oceanaria would thus have a number of years (possibly 30 or more in some cases)¹¹⁰ to transition their exhibits from orca performances to another medium. To protect trainers during the transition period, all in-water work with these animals should end.

We emphasize that we are not proposing blanket closure of oceanaria. We are proposing a phasing out of orca exhibition, taking as long as three decades, giving oceanaria sufficient time to repurpose their orca enclosures. We believe this is eminently reasonable and will minimize the financial impacts of ending this practice.



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What next?

As a society, we are paying more attention to the well-being and psychology of captive animals, and it is logical that we should look at the record for captive orcas. The purpose of this report is to set out the evidence that orcas do not belong in captivity. It is not justified to continue their display for entertainment or even for education, especially when that education is biased toward information that supports a corporate narrative¹¹¹ rather than good science.

As long as the public buys tickets to see orcas perform, oceanaria are unlikely to voluntarily close orca exhibits. Therefore it is up to the public, as well as the media, the regulatory agencies, and the scientific community, to consider and weigh the evidence and make the only logical deduction. Orcas are too large, too intelligent, and too behaviorally and socially complex to adequately provide for

“You write in triumphant terms about an animal that was never accepted by wild whales, suffered serious injuries, and died prematurely and unnecessarily. Keiko should have lived out his life in the company of other members of his species in an accredited and professionally operated zoological institution. That would have been the humane thing to do.”

SeaWorld’s claim that Keiko died “prematurely” at the age of 26 years is inconsistent with the company’s own history. Twenty-five of the past 26 SeaWorld orca deaths were of animals younger than this, most by many years. The five orcas who died most recently, in 2010 and 2012, were all younger than Keiko was when he died.

In fact, Keiko lived for five years in Scandinavian waters. Tracked by satellite, he swam between Iceland and Norway in summer 2002, crossing the north Atlantic over the course of three weeks. He arrived in Norway in good health.¹⁰⁷ He interacted over the course of three summers with wild whales, although it is true he was never fully accepted by them. He was never seriously injured, although he suffered scrapes on his head when he encountered ice during his second-to-last winter in Norway. These scrapes were fully healed within weeks.¹⁰⁸

SeaWorld’s strong condemnation of the Keiko Project as a failed experiment is disingenuous, given that the company’s initial efforts in the 1960s to maintain orcas in captivity could also be viewed as experimental.¹⁰⁹ SeaWorld rewrites history whenever it refuses to acknowledge the failures in those early days, which cost many animals their lives.

Finally, it should be noted that SeaWorld was always in a position to do the self-described “humane thing” for Keiko. It could have acquired him at any time during his tenure in Mexico City, where he was on display for 11 years, especially once he was

in concrete enclosures. No more orcas should have to die prematurely; no more trainers should be put at risk. It is time to accept that we have been wrong in our assumptions. The orcas deserve no less.

big enough for his owners to begin considering options for his future as he outgrew his tank. Alternatively, it could have offered assistance in improving Keiko's situation in the small, over-warm tank in which he was held, where his only companions were bottlenose dolphins. Neither happened; SeaWorld left him there.

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John Kielty of The Orca Project (<http://www.theorcaproject.com>) reviewed the Marine Mammal Inventory database for relevant data on captive orcas for the annual survivorship rate (ASR) analysis. He created a comprehensive Excel spreadsheet and researched other sources to identify missing data from the database (see <http://theorcaproject.files.wordpress.com/2011/03/mmir-deficiency-evaluation-killer-whales2.pdf>). From this database, Katheryn Patterson, a graduate student at George Mason University, computed the 2011 ASRs. The Animal Welfare Institute is extremely grateful to them both for their work.

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All URLs were accessed on 27 March 2014.

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- ¹ MacDonald, D. 1965. The saga of Moby Doll. *Reader's Digest* 86: 34; Bigg, M. A. and Wolman, A.A. 1975. Live capture killer whale (*Orcinus orca*) fishery, British Columbia and Washington, 1962-73. *Journal of the Fisheries Research Board of Canada* 32: 1213-1221.
- ² See, for example, Ford, J.K.B., Ellis, G.M., and Balcomb, K.C. 1994. *Killer Whales: The Natural History and Genealogy of Orcinus orca in British Columbia and Washington State*. UBC Press, Vancouver, 102 pp.
- ³ Small, R.J. and DeMaster, D.P. 1995. Survival of five species of captive marine mammals. *Marine Mammal Science* 11: 209-226.
- ⁴ Olesiuk, P.F., Bigg, M.A., and Ellis, G.M. 1990. Life history and population dynamics of resident killer whales (*Orcinus orca*) in the coastal waters of British Columbia and Washington State. *Report of the International Whaling Commission*. Special Issue 12: 29-243.
- ⁵ Olesiuk, P.F., Ellis, G.M., and Ford, J.K.B. 2005. Life history and population dynamics of northern resident killer whales (*Orcinus orca*) in British Columbia. Canadian Science Advisory Secretariat Research Document 2005/045, 75 pp., available at http://www.dfo-mpo.gc.ca/csas-sccs/publications/resdocs-docrech/2005/2005_045-eng.htm.
- ⁶ The "Pacific Northwest" marine ecosystem of the U.S. and Canada is rich in biological resources (e.g., Hoyt, E. 1984. *Orca: The Whale Called Killer*. Camden House, Ontario, 287 pp.), although increasing human-caused habitat degradation is a growing threat to its productivity (e.g., Petition to list the southern resident killer whale (*Orcinus orca*) as an endangered species under the US Endangered Species Act, May 1, 2001, available at http://www.biologicaldiversity.org/species/mammals/Puget_Sound_killer_whale/pdfs/petition.pdf).
- ⁷ Prior to 2009, SeaWorld's corporate name was SeaWorld, Inc. In 2009, the company was sold and became known as SeaWorld Parks & Entertainment, Inc. In this report, it is referred to as SeaWorld and the individual parks are referred to as SeaWorld California, Texas, and Florida. See also endnote #29.
- ⁸ <http://www.scribd.com/doc/202272049/2007-KGTV-Investigative-Report-on-SeaWorld-Killer-Whale-Display>.
- ⁹ <http://theorcaproject.wordpress.com/2010/09/09/what-its-like-to-be-banned-from-seaworlds-facebook-page/>.
- ¹⁰ Ford, J.K.B., Ellis, G.M., Olesiuk, P.F., and Balcomb, K. 2005. Linking prey and population dynamics: Did food limitation cause recent declines of 'resident' killer whales? Abstract submitted to the 16th Biennial Conference on the Biology of Marine Mammals, San Diego, California, 12-16 December 2005, p. 94; Olesiuk *et al.* 2005 *op. cit.*
- ¹¹ Olesiuk *et al.* 1990 *op. cit.*; Olesiuk *et al.* 2005 *op. cit.*
- ¹² Corky, at SeaWorld California and Lolita, at the Miami Seaquarium; both are over 45 years of age.
- ¹³ Dozens of contemporaries from captures in the 1960s and early 1970s could potentially still be alive and of similar age as these two females, but most died within a few years of capture – see <http://www.orcahome.de/deaddied.htm>.
- ¹⁴ Katina, Kasatka, Kiska, and Freya – the first two are at SeaWorld parks, Kiska is in Marineland Ontario, and Freya is at Marineland Antibes in France.
- ¹⁵ Ulises, at SeaWorld California.
- ¹⁶ <http://www.orcahome.de/orcastat.htm>; Marine Mammal Inventory Report, maintained by the U.S. National Marine Fisheries Service. Tilikum, a male at SeaWorld Florida, is currently over 30 years of age.
- ¹⁷ *Ibid.*
- ¹⁸ Small and DeMaster *op. cit.*
- ¹⁹ See, for example, McBain, J.F. 1999. Cetaceans in captivity: A discussion of welfare. *Journal of the American Veterinary Medical Association* 214: 1170-1174; Small and DeMaster *op. cit.*
- ²⁰ Olesiuk *et al.* 2005 *op. cit.*
- ²¹ Ford *et al.* 2005 *op. cit.*
- ²² *Ibid.*
- ²³ This report; Jett, J.S. and Ventre, J.M. 2011. Keto and Tilikum Express the Stress of Orca Captivity. Report submitted to The Orca Project, St. Pete Beach, Florida, 21 pp., available at <http://theorcaproject.wordpress.com/2011/01/20/keto-tilikum-express-stress-of-orca-captivity/>.
- ²⁴ In 1995, the calculated annual survival rate (ASR) for captive orcas overall (wild-caught and captive-born, males and females, calves and non-calves) was 0.937. Looking only at non-calves (defined in the 1995 analysis as animals who survived beyond the first year of life), the ASR was 0.938, which was statistically lower than the non-calf ASR of 0.976 for wild orcas. (A 0.938 ASR equates to a 6.2% annual mortality rate, which was roughly 2.5 times higher than the annual mortality rate of non-calves in the Pacific Northwest populations.) In 2011, the ASR for captive

orcas overall was 0.916 – this equates to an 8.4% annual mortality rate. Looking only at non-calves, the 2011 ASR was slightly higher – 0.927 vs. 0.916 – but still lower than in 1995. These values do not include stillbirths, miscarriages, deaths of fetuses in the womb when the mother dies, escaped animals, released animals, or animals with unknown acquisition or death dates.

²⁵ The 2011 ASR for all orcas who have entered captivity since 1 January 1993 (this includes by birth, rescue, stranding, and capture) was 0.935.

²⁶ The 2011 ASR for all captive-born orcas (this category did not have a large enough sample size for analysis in 1995) was 0.937. This is the same value as overall survivorship through 1992, although it is higher than the overall ASR through 2010 (0.916). Wild-caught orcas have shown the lowest survivorship in captivity through 2010, with an ASR of 0.909 – an annual mortality rate of 9.1%. This category is now skewed toward much older animals.

²⁷ The 2011 ASR for captive-born calves (defined as six months of age or younger, including stillbirths) is 0.498, or a 50.2% mortality rate. This value excludes known miscarriages. Because some stillbirths may go unreported, this figure is probably an underestimate. See also Rose, N.A., Parsons, E.C.M., and Farinato, R. 2009. *The Case Against Marine Mammals in Captivity*. The Humane Society of the United States and the World Society for the Protection of Animals, Washington, D.C., 76 pp., available at http://www.humanesociety.org/assets/pdfs/marine_mammals/case_against_marine_captivity.pdf.

²⁸ Olesiuk *et al.* 2005 *op. cit.*

²⁹ SeaWorld holds more than half of all the world's captive orcas (it currently owns 29 orcas, including six held by other parks) and was one of the first oceanaria to display this species, beginning in 1965. Its iconic orca is "Shamu," a stage name used by several whales during performances. See also endnote #7.

³⁰ Jett and Ventre *op. cit.*; <http://www.cnn.com/2010/US/10/05/florida.whale.death/index.html>.

³¹ <http://www.scribd.com/doc/202272049/2007-KGTV-Investigative-Report-on-SeaWorld-Killer-Whale-Display>.

³² <http://theorcaproject.wordpress.com/2010/09/09/what-its-like-to-be-banned-from-seaworlds-facebook-page/>.

³³ http://articles.orlandosentinel.com/2010-06-06/travel/os-sea-world-killer-whale-dies-20100606_1_killer-whale-killer-whale-jolts-trainer (Taima and calf); <http://www.10news.com/news/25600548/detail.html> (Sumar).

³⁴ <http://www.orcahome.de/orcastat.htm>; N. Rose, unpublished data.

³⁵ See, for example, <http://www.practicalfishkeeping.co.uk/content.php?sid=3745>, quote by Allan Zeman, chairman of Ocean Park, Hong Kong: "[Death is] quite normal...people die and babies are born every day"; see also Hutchins, M. 2006. Death at the zoo: The media, science, and reality. *Zoo Biology* 25: 101-115.

³⁶ See, for example, <http://www.ammpa.org/faqs.html#1>; Andrews, B. 1995. The Sea World view: Why Corky can't go home. *BBC Wildlife* 13: 34.

³⁷ <http://www.orcahome.de/orcastat.htm>; one of these is Morgan, a young whale rescued in June 2010 after being found alone and emaciated in the Wadden Sea and was transferred to Loro Parque in the Canary Islands in late 2011, after being held temporarily at the Harderwijk Dolfinarium in the Netherlands. Eight were captured from the Sea of Okhotsk in Russia in 2012 (one) and 2013 (seven). Two of these are now believed to be in China.

³⁸ These nine are, in descending order of age, Corky (F), Lolita (F), Katina (F), Kasatka (F), Kiska (F), Ulises (M), Freya (F), Tilikum (M), and Bingo (M). As of the date of publication of this report, the oldest, Corky and Lolita, are approximately 48 years of age; Bingo, the youngest, is approximately 32 years old.

³⁹ For a description of statistical distributions of data such as age, see Morgan, G.A., Leech, N.L., Gloeckner, G.W., and Barrett, K.C. 2004. *SPSS for Introductory Statistics: Use and Interpretation, 2nd Edition*. Lawrence Erlbaum Associates, Inc., Mahwah, N.J., 224 pp.

⁴⁰ <http://www.orcahome.de/orcastat.htm>.

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ The sex ratio of the captive population has been roughly 50:50, although there have been slightly more females than males in the group (<http://www.orcahome.de/orcastat.htm>). Had the earliest captives been juveniles when taken (this is the general rule when targeting individuals during a capture, as younger animals adapt better than older ones) and had they survived, none would be older than 50 or 55 years of age. As 46 is the mean life expectancy for female orcas in the wild – which is roughly 20 years short of the maximum estimated lifespan for male orcas – it is conservative to estimate that about a third or more of these 200+ whales would still be alive today if survivorship in captivity was the same as in the wild and certainly if it was *better* than in the wild. That is, at least half of the females – the mean is not the median, but it is a good approximation – and some additional number of males would still be alive. This is a very conservative estimate, as in fact more than half of the females

should still be living, as they would be far younger than 46.

⁴⁴ Olesiuk *et al.* 2005 *op. cit.*

⁴⁵ <http://www.orcahome.de/orcastat.htm>.

⁴⁶ Scardina, J. 2010. SeaWorld Parks and Entertainment testimony on marine mammals in captivity: What constitutes meaningful education, for an oversight hearing before the House Natural Resources Committee Subcommittee on Insular Affairs, Oceans, and Wildlife, 27 April, available at

<http://naturalresources.house.gov/UploadedFiles/ScardinaTestimony04.27.10.pdf>.

⁴⁷ <http://www.seaworld.org/>.

⁴⁸ This teacher's guide is no longer available on the Internet.

⁴⁹ <http://seaworld.org/en/animal-info/animal-infobooks/killer-whale/>.

⁵⁰ AMMPA educational standards, 1994 (FR 59, <http://www.gpo.gov/fdsys/pkg/FR-1994-10-06/html/94-24787.htm>).

⁵¹ N. Rose, personal observation; National Marine Fisheries Service. 2005. Proposed Conservation Plan for Southern Resident Killer Whales (*Orcinus orca*). National Marine Fisheries Service, Northwest Region, Seattle, Washington, 183 pp.

⁵² Ricklefs, R. 2008. *The Economy of Nature, 6th Edition*. W.H. Freeman & Company, New York City, 700 pp.

⁵³ *Ibid.*

⁵⁴ In the wild, as noted earlier, first birth occurs at approximately 14 years of age in females. This age may be biased upward, given the potentially high number of first-born calves who die before researchers can observe them (Duffield, D.A., Odell, D.K., McBain, J.F., and Andrews, B. 1995. Killer whale (*Orcinus orca*) reproduction at Sea World. *Zoo Biology* 14: 417-430). Nevertheless, it remains likely that first conception/birth occurs several years later in wild orcas than in captive ones, as captive-born females have given birth for the first time at the age of 8 (e.g., Kalina, Taima, Kohana), meaning conception took place as young as 6. The interbirth interval in the wild is approximately five years; in captivity it is as short as two or three.

⁵⁵ See, for example, Kirkpatrick, J.F. and Turner, A. 2007. Immunocontraception and increased longevity in equids. *Zoo Biology* 26: 237-244.

⁵⁶ Marine Mammal Inventory Report; Greenwood, A.G. and Taylor, D.C. 1985. Captive killer whales in Europe. *Aquatic Mammals* 1: 10-12.

⁵⁷ McBain, J.F. 2001. Cetacean medicine. In: *CRC Handbook of Marine Mammal Medicine, 2nd edition* (L.A. Dierauf and F.M.D. Gulland, eds). CRC Press, New York, pp. 895-907; Hutchins *op. cit.*

⁵⁸ Romero, L.M. and Butler, L.K. 2007. Endocrinology of stress. *International Journal of Comparative Psychology* 20: 89-95; Waples, K.A. and Gales, N.J. 2002. Evaluating and minimising social stress in the care of captive bottlenose dolphins (*Tursiops aduncus*). *Zoo Biology* 21: 5-26; Maes, M. 2000. Evidence for an immune response in major depression: A review and hypothesis. *Progress in Neuro-Psychopharmacology and Biological Psychiatry* 19: 11-38; O'Hanlon, J. F. 1981. Boredom: Practical consequences and a theory. *Acta Psychologica* 49: 53-82; Sommers, J. and Vodanovich, S. J. 2000. Boredom proneness: Its relationship to psychological and physical health symptoms. *Journal of Clinical Psychology* 56: 149-155; Jett and Ventre *op. cit.*

⁵⁹ See, for example, Ford *et al.* 1994 *op. cit.*

⁶⁰ Ford, J.K.B. 2009. Killer whales. In: *Encyclopedia of Marine Mammals* (W.F. Perrin, B. Wursig, and J.G.M. Thewissen, eds.). Academic Press, New York, pp. 669-676; National Marine Fisheries Service *op. cit.*

⁶¹ Ford, J.K.B., Ellis, G.M., Matkin, C.O., Wetklo, M.H., Barrett-Lennard, L.G., and Withler, R.E. 2011. Shark predation and tooth wear in a population of northeastern Pacific killer whales. *Aquatic Biology* 11: 213-224; see also Guerrero-Ruiz, M., Pérez-Cortés M., H., Salinas Z., M., and Urbán R., J. 2000. First mass stranding of killer whales (*Orcinus orca*) in the Gulf of Mexico, California. *Aquatic Mammals* 32: 265-272.

⁶² Jett and Ventre *op. cit.*; Graham, M.S. and Dow, P.R. 1990. Dental care for a captive killer whale (*Orcinus orca*). *Zoo Biology* 9: 325-330.

⁶³ Jett and Ventre *op. cit.*

⁶⁴ <http://www.orcahome.de/orcastat.htm> - click on each animal's name to see individual photo galleries.

⁶⁵ Jett and Ventre *op. cit.*; Graham and Dow *op. cit.*

⁶⁶ Jett and Ventre *op. cit.*; Graham and Dow *op. cit.* argued that invasive care (such as drilling) was not necessary for worn teeth, but the animal evaluated in their paper had worn rather than broken teeth. The latter's adequate care may require different methods.

- ⁶⁷ Pulpotomy: Surgical removal of a portion of the dental pulp, usually of the coronal portion. In: *The American Heritage Medical Dictionary*, 2007. Houghton Mifflin Company, Boston.
- ⁶⁸ Jett and Ventre *op. cit.*
- ⁶⁹ *Ibid.*, p. 2.
- ⁷⁰ Li, X., Kolltveit, K.M., Tronstad, L., and Olsen, I. 2000. Systemic diseases caused by oral infection. *Clinical Microbiology Reviews* 13: 547-558.
- ⁷¹ Jett and Ventre *op. cit.*, p. 3.
- ⁷² Loch, C., Grando, L.J., Kieser, J.A., and Simões-Lopes, P.C. 2011. Dental pathology in dolphins (Cetacea: Delphinidae) from the southern coast of Brazil. *Diseases of Aquatic Organisms* 94: 225-234; Glatt, S.E., Francl, K.E., and Scheels, J.L. 2008. A survey of current dental problems and treatments of zoo animals. *International Zoo Yearbook* 42: 206-213.
- ⁷³ https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=18207.
- ⁷⁴ See <http://www.cnn.com/2010/US/08/23/seaworld.fine/index.htm> – the original statement from SeaWorld has been removed from its website, as its archive only holds material from the previous six months.
- ⁷⁵ Glatt *et al. op. cit.*
- ⁷⁶ AMMPA educational standards *op. cit.*; <http://www.ammpa.org/>.
- ⁷⁷ <http://www.nytimes.com/1989/08/23/us/performing-whale-dies-in-collision-with-another.html>.
- ⁷⁸ Jett and Ventre *op. cit.*; Williams, V. 2001. *Captive Orcas: Dying to Entertain You*. Report submitted to WDCC, Whale and Dolphin Conservation Society, Chippenham, U.K., 100 pp., available at http://www.wdcs.org/submissions_bin/orcareport.pdf.
- ⁷⁹ N. Rose, personal observation.
- ⁸⁰ Shevchenko, V.I. 1975. Nature of correlations between killer whales and other cetaceans. *Morskiye Mlekopitayuschchiye* 1975: 173-175.
- ⁸¹ Visser, I.N. 1998. Prolific body scars and collapsing dorsal fins on killer whales (*Orcinus orca*) in New Zealand waters. *Aquatic Mammals* 24: 71-82.
- ⁸² Two groups of orcas would essentially be evenly matched. The attacker(s) could be seriously injured if the target animal(s) mounted a defense or could expend considerably more energy than would be recouped if the target animal(s) chose to flee.
- ⁸³ Waples and Gales *op. cit.*
- ⁸⁴ Halyn, born in 2005, was raised by hand at SeaWorld Texas after her mother Kayla failed to nurse her and died aged 2.5 years, see http://en.wikipedia.org/wiki/List_of_captive_orcas#Kayla; both Adán, born at Loro Parque in October 2010 and alive as of early 2014, and Vicky, born in August 2012 and dead in 10 months, were rejected by their mother Kohana and were raised by hand, see <http://digitaljournal.com/article/352404>; Sumar was separated from his mother Taima when less than four months of age, after she “attacked” him, see <http://www.10news.com/news/24913472/detail.html>.
- ⁸⁵ <http://www.orcahome.de/incidents.htm>.
- ⁸⁶ The best example of this was Corky, who became pregnant seven times. One of the calves was stillborn and two were miscarried, while of those born alive, none lived longer than 48 days. She seemed unable or unwilling to care for them properly, see http://en.wikipedia.org/wiki/List_of_captive_orcas#Corky.
- ⁸⁷ These three were Springer (A73) and Luna (L98) of the northeastern Pacific populations and Morgan (see endnote #37).
- ⁸⁸ N. Rose, personal observation.
- ⁸⁹ Hoyt *op. cit.*
- ⁹⁰ <http://www.pbs.org/wgbh/pages/frontline/shows/whales/debate/trainers.html>.
- ⁹¹ <http://www.nytimes.com/1999/09/21/science/park-is-sued-over-death-of-man-in-whale-tank.html>.
- ⁹² http://www.huffingtonpost.com/2010/02/24/seaworld-trainer-dead-kill_n_475408.html.
- ⁹³ <http://www.outsideonline.com/outdoor-adventure/nature/Blood-in-the-Water-Keto.html>.
- ⁹⁴ http://news.google.com/newspapers/p/lodi_news?id=ArczAAAIBAJ&sjid=YTIHAAAIBAJ&pg=3500,784012&dq=killer+whale+attack&hl=en.
- ⁹⁵ http://seattletimes.nwsource.com/html/localnews/2002444869_webwhale18.html.
- ⁹⁶ See, for example, incidents described in di Matteo, E. 1996. Mayhem in Marineland. *NOW Magazine* 16: 18-19/27; Reed, D.C. 1981. *Notes from an Underwater Zoo*. Dial Press, New York, p. 250; Riciuti, E.R. 1973. *Killer of the Sea*. Walker and Company, New York, pp. 232-233; see also <http://www.nytimes.com/1988/04/04/us/at-sea->

<http://www.signonsandiego.com/news/2006/nov/30/killer-whale-bites-trainer-takes-him-tank-bottom/>. There have been dozens of other incidents.

⁹⁷ Indeed, there is no other legal option, as the Marine Mammal Protection Act does not allow for long-term captive holding of marine mammals in the U.S. except for the purpose of public display or scientific research.

⁹⁸ See, for example, <http://www.dailymail.co.uk/news/article-1371403/Tilikum-SeaWorld-puts-dangerous-whale-killed-trainer-show.html>.

⁹⁹ Keiko was the orca who starred in the 1993 Warner Brothers movie "Free Willy."

¹⁰⁰ Ford *op. cit.*

¹⁰¹ *Ibid.*

¹⁰² Rose *et al. op. cit.*

¹⁰³ See also Clubb, R. and Mason, G. 2003. Captivity effects on wide-ranging carnivores. *Nature* 425: 473-474.

¹⁰⁴ See, for example, McBain 1999 *op. cit.*

¹⁰⁵ Oceanaria claim that their captive breeding programs are conservation programs, but orcas as a species are not endangered or threatened; where they face threats the problem is not lack of reproductive success but habitat degradation affecting survival; and no captive-born animals are destined for release to the wild. These elements do not meet any common definition of conservation breeding (e.g., Mallinson, J.C. 1995. Conservation breeding programmes: An important ingredient for species survival. *Biodiversity and Conservation* 4: 617-635; International Union for the Conservation of Nature (IUCN) Policy Statement: "Reintroduction to the wild should be the ultimate objective of all captive breeding programmes," IUCN Caring for the Earth, October 1991, p. 7).

¹⁰⁶ Transport of live cetaceans is highly stressful (see Small, R.J. and DeMaster, D.P. 1995. Acclimation to captivity: A quantitative estimate based on survival of bottlenose dolphins and California sea lions. *Marine Mammal Science* 11: 510-519). It can contribute to captive mortality. In addition, two recent captures of young orcas from the wild – in Japan in 1997 (five animals) and Russia in 2003 (two animals) (Fisher, S.J. and Reeves, R.R. 2005. The global trade in live cetaceans: Implications for conservation. *Journal of International Wildlife Law and Policy* 8: 315- 340) – resulted in all of the animals dying, the majority within months and the rest within a decade – see <http://www.orcahome.de/orcadead.htm>. The current status of eight young orcas captured in Russia, in 2012 and 2013 (see <http://russianorca.com/index.php?lang=en>), is essentially unknown, although at least six are believed to be still alive.

¹⁰⁷ Simon, M., Hanson, M.B., Murrey, L., Tougaard, J., and Ugarte, F. 2009. From captivity to the wild and back: An attempt to release Keiko the killer whale. *Marine Mammal Science* 25: 693-705.

¹⁰⁸ Brower, K. 2005. *Freeing Keiko: The Journey of a Killer Whale from Free Willy to the Wild*. Gotham Books, New York, 320 pp.

¹⁰⁹ Couquiaud, L. 2005. A survey of the environments of cetaceans in human care: Introduction. *Aquatic Mammals* 31: 283-287 – "Husbandry and medical care were learned empirically over the years by trainers and veterinarians," p. 283.

¹¹⁰ Several captive orcas are less than three years of age at the time of this report's publication.

¹¹¹ Davis, S.G. 1997. *Spectacular Nature: Corporate Culture and the Sea World Experience*. University of California Press, Los Angeles, 313 pp.

Attachment B

Pete Wilson, Governor

FOCUSING ON MASTER EIRs

CEQA Technical Advice Series



Governor's Office of Planning and Research

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The **CEQA Technical Advice Series** is intended to offer CEQA practitioners, particularly at the local level, concise information about some aspect of the California Environmental Quality Act. This series of occasional papers is part of OPR's public education and training program for planners, developers, and others.

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Introduction



Assembly Bill 1888 of the 1993 legislative session (Chapter 1130, Stats. 1993) added a new word to the CEQA lexicon: "Master EIR." A Master EIR is intended to provide a detailed environmental review of plans and programs upon which the approval of subsequent related development proposals can be based. A Master EIR must, to the greatest extent feasible, evaluate the cumulative impacts, growth inducing impacts, and irreversible significant effects on the environment of specific, subsequent projects. Pursuant to AB 1888, the review of subsequent projects which have been described in the Master EIR can be limited to the extent that the Master EIR has already reviewed project impacts and set forth mitigation measures (Public Resources Code Section 21156).

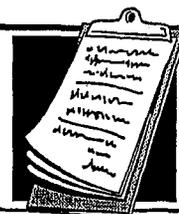
The following advisory paper examines the

basic requirements for preparing and using a Master EIR at the local government level, including the provisions for "Focused EIRs." This advisory reflects the CEQA Guidelines; it is not intended to amend or replace the regulations represented by the Guidelines. All code citations refer to the Public Resources Code unless otherwise noted.

This edition of Focusing on Master EIRs reflects statutes enacted by and the CEQA Guidelines effective at the end of the 1997 Legislative year.

The Guidelines now have an extensive discussion of Master EIRs, beginning at Section 15175. As always, users should refer to the most recent Public Resources Code to ensure that they are aware of any subsequent amendments. This advisory is not intended to take the place of advice by legal counsel.

The Master EIR: Another Option



The Master EIR procedure is an alternative to preparing a project EIR, staged EIR or program EIR, or tiering environmental documents for subsequent projects upon earlier EIRs. Although there are similarities between the Master EIR and these other procedures, the Master EIR requirements stand alone.

At its discretion, a Lead Agency may prepare a Master EIR for any one of the following projects:

- “(1) A general plan, element, general plan amendment, or specific plan.
- “(2) A project that consists of smaller individual projects which will be carried out in phases.
- “(3) A rule or regulation which will be implemented by subsequent projects.
- “(4) Projects which will be carried out or approved pursuant to a development agreement.
- “(5) Public or private projects which will be carried out or approved pursuant to, or in furtherance of, a redevelopment plan.
- “(6) A state highway project or mass transit project which will be subject to multiple stages of review or approval.”
- “(7) A regional transportation plan or congestion management plan.
- “(8) A plan proposed by a local agency for the reuse of a federal military base or reservation that has been closed or that is proposed for closure.”
(Section 21157)

The above list should be viewed as classes of project for which a Master EIR may be prepared. For example, a “general plan” may include a community plan, a “project that consists of smaller individual projects” may include a capital improvement plan or drainage control project, and a “rule or regulation” may include a zoning ordinance or hillside development standards. For the sake of simplicity, throughout this advisory the categories of projects described above will be referred to simply as “plans” or “plans and programs.”

Contents of a Master EIR

Section 21157 specifies the minimum contents of a Master EIR (See Appendix II for an outline). In addition to the items otherwise required of all EIRs pursuant to Section 21100, a Master EIR must include the following additional information:

1. **A description of each anticipated subsequent project that is to be considered within the scope of the Master EIR, including information with regard to the kind, size, intensity, and location of the subsequent projects.** The accuracy and completeness of these descriptions is crucial to the use of the Master EIR for streamlining subsequent project approvals. The descriptions must include, but are not limited to, all of the following:
 - A. **The specific type of project anticipated to be undertaken.** Describe its basic character—i.e., single-family residential subdivision, mixed residential and retail development, commercial power center, warehouse and distribution center, rail transit facility, sewage collections system, road extension, etc.—as well as its necessary entitlements such as a rezoning, subdivision, or precise development plan.
 - B. **The maximum and minimum intensity of any anticipated subsequent project.** For a residential project, this should include the type (i.e., single family, multi-family, mixed use, etc.) and number of dwellings per acre. A commercial project's intensity might be characterized as square feet of area or floor area ratio. With regard to a public works facility, its anticipated capacity and service area can describe its intensity.

Local agencies may be able to increase their ability to rely upon a Master EIR for streamlining subsequent approvals by specifying intensity levels with respect to particular environmental impacts. The Master EIR would effectively establish an envelope of analysis for each such impact. Projects exceeding the envelope would require additional analysis—those within the envelope might not.

- C. **The anticipated location and alternative locations for any subsequent development projects.** Describe the location and land area (i.e., acreage, square feet) of the subsequent project. Discuss feasible alternative locations that would meet the same public objectives as the subsequent project. For linear facilities such as roads or rail transit, discuss alternative alignments and terminals. This may be done by making reference to general or community plans where applicable.
- D. **A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects.** Describe how the jurisdiction will ensure that sufficient infrastructure will be available to serve the project, including financing mechanisms if appropriate. For public works projects, describe the mechanism or process of allocating capital funds as well as the availability of funding. Alternatively, the MEIR may explain why particular planning considerations make it impractical to identify any such program or scheduling at the time the MEIR is prepared (CEQA Guidelines Section 15176(b)(4)).

CEQA Guidelines Section 15176(d) provides that when an MEIR is certified for a general plan, general plan element, general plan amendment, or specific plan, subsequent projects will be considered to be adequately described for later use of the MEIR when the land use designations and permissible densities and intensities of the project site are identified in the MEIR and the general plan or specific plan. Obviously, this would apply only to projects that are consistent with the plan, element, or amendment for which the MEIR was certified.

2. **A description of the potential impacts of anticipated projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the Master EIR.** The Lead Agency is not required to speculate about potential impacts of anticipated projects. It should specify those descriptions which are intended to generally identify and discuss potential impacts for which full information is not available in the Master EIR being prepared. Because full information is not available, inclusion of such descriptions within the Master EIR does not preclude the Focused EIR from being required to discuss the

potential impacts in greater detail and adding discussion of other impacts which had not been identified in the Master EIR. In other words, the scope of a Focused EIR is not limited to the potential impacts described in the Master EIR.

Procedural Requirements

Notice requirements, comment periods, and other procedural requirements for EIRs also apply to a Master EIR. Beyond that, the Lead Agency should specify in the document and in related notices that the document being prepared, circulated, and considered is a Master EIR.

While the procedures are identical, the greater level of detail which distinguishes a Master EIR from other subsequent review provisions such as a program EIR requires the Lead Agency to pay particular attention to maintaining strict consistency between the contents of the Master EIR and the plan or person which is the subject of the Master EIR. There is less assurance that the Master EIR can be used for later projects where such consistency is lacking.

Here are two strategies for achieving consistency. They are by no means the only ones.

- **Concurrent Action:** Run the period for review and comment on the draft Master EIR concurrently with hearings on the draft plan. Close both the taking of public comment and testimony on the plan, and the review period for the draft at the same time. Incorporate any changes made to the draft plan into the Master EIR and vice versa. Reconvene to act on both the final plan and the Master EIR. Certify the final Master EIR and adopt the plan at the same meeting.
- **Sequential Action:** Wait to begin circulating the draft Master EIR until public testimony has been completed on the draft plan or program. Close the taking of public testimony on the plan. Circulate the draft Master EIR for comment. At the end of the comment period and prior to certification of the final Master EIR, reconvene to revise the draft plan or program to conform to changes made in the draft Master EIR. Limit revisions to those necessary to achieve conformity. Certify the final Master EIR and adopt the plan or program at the same meeting.

Fee

Given the required level of detail, in most cases a Master EIR can be expected to be more expensive to

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prepare than a program or staged EIR. To help counter the cost of a Master EIR, AB 1888 augments CEQA's fee authority by specifically enabling a Lead Agency to develop and implement a Master EIR fee program (Section 21157, subdivision (c)). A city or county could, for example, establish a fee program whereunder participating developers would have their projects specifically identified in a Master EIR. The city or county would receive contributions toward completing a Master EIR; developers would benefit from streamlined environmental review for their projects.

Reevaluation

For the first five years after certification, a Master EIR may be utilized for subsequent projects described in it without having to reevaluate its adequacy (Section 21157.6). During this period, the agency's review of subsequent projects is limited to whether any new impacts will occur and whether the proposal was identified in the Master EIR.

If an application for a subsequent project is filed more than five years from certification of the Master EIR, or if during the five years another project has been approved which was not described in and potentially affects the adequacy of the Master EIR, then the agency must, prior to applying the Master EIR to the subsequent project, review the adequacy of the Master EIR and either:

1. Make written findings that "no substantial changes have occurred with respect to the circumstances under which the [Master EIR] was certified or that

no new information, which was not known and could not have been known at the time that the [Master EIR] was certified has become available." In the recent *Laurel Heights* decision, the California Supreme Court noted that the CEQA Guidelines "generally define 'new information' as information which shows that the project will have new or more severe 'significant effects' on the environment not disclosed in the prior EIR." (*Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, citing Guidelines Section 15162(a)(3)) The findings should be supported by substantial evidence in the record.

2. Certify "a subsequent or supplemental EIR which has been either incorporated into the previously certified [Master EIR], or references any deletions, additions, or other modifications to the previously certified [Master EIR]." A subsequent or supplemental EIR would be required when the provisions of Section 21166 apply.

To maximize the benefits of a Master EIR, the lead agency could establish a program for keeping track of projects which are approved within the area for which the MEIR was certified (i.e., the potential impacts of those projects, whether they are within the scope of the MEIR, and whether a focused EIR, negative declaration, or other environmental document is prepared) and monitoring changes in the plan or program or other factors that would trigger the need for a subsequent or supplemental EIR. One way to do this is to prepare an annual report on the status of the plan or program.

Use With Subsequent Projects



Once a Master EIR has been certified, a subsequent project may avoid the need for a further EIR or Negative Declaration when the Lead Agency finds that the project was described in the Master EIR as being within its scope (Section 21157.1, Guidelines Section 15177). The Lead Agency for the subsequent project must have been either the Lead Agency for the Master EIR or a Responsible Agency identified in the Master EIR.

Initial Study

When a later development proposal is received, the Lead Agency must prepare an initial study to analyze both of the following:

1. Whether that proposal may cause any additional significant effect on the environment not examined in the Master EIR; and
2. Whether the proposal is within the scope of the Master EIR.

A project will be considered "within the scope" of the Master EIR if it is described within that document and will:

1. Have no additional significant effect on the environment that was not identified in the Master EIR; and
2. Require no new or additional mitigation measures or alternatives. (Section 21157.1(c))

When the Lead Agency for the proposal is able to make a written finding, based on the initial study, that the subsequent project is within the scope of the project covered by the Master EIR (i.e., the plan or program), no further EIR or Negative Declaration is required. Pursuant to Section 15177 of the CEQA Guidelines, "[w]hether a subsequent project is within the scope of the Master EIR is a question of fact to be determined by the lead agency." This finding must be supported by substantial evidence in the record.

Prior to carrying out the subsequent project on the basis of the Master EIR, the Lead Agency must:

1. Adopt the above finding;
2. Incorporate all feasible mitigation measures or feasible alternatives appropriate to the project, as set forth in the Master EIR; and
3. Provide public notice pursuant to Section 21092 (Guidelines Section 15087) that it intends to use the Master EIR for the project.

When the project is approved, the Lead Agency must file a Notice of Determination. The agency is not required to make findings under Guidelines Section 15091.

Subsequent Projects Outside the Scope of the MEIR

When a Lead Agency cannot find that the project is within the scope of the MEIR, it must prepare either a mitigated Negative Declaration or an EIR for the subsequent project. Whether the "fair argument" standard or the "substantial evidence" standard applies in this situation is uncertain. The provisions for preparation of a later EIR indicate that an EIR or Focused EIR is required if the subsequent project "may have a significant effect on the environment" (Section 21157.5(b)). This language is identical to the statutory language which is the basis for court decisions establishing the "fair argument" standard (see Sections 21080 and 21151). That standard provides that an EIR must be prepared whenever it can be fairly argued on the basis of substantial evidence that a significant adverse effect may result, even when other evidence exists to the contrary. A Negative Declaration is prepared when no substantial evidence exists, including situations when potentially significant effects identified in the initial study can be avoided or mitigated by revisions in the project.

However, in the 1993 *Laurel Heights* decision, the California Supreme Court indicated that the fair argument standard derived from both the statutory language and policies underlying Section 21151, and for this reason, applies "only to the decision whether to prepare an original EIR or a negative declaration." (*Laurel Heights Improvement Association v. Regents of the*

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University of California, supra) Applied here, this may mean that fair argument does not apply once a Master EIR has been prepared if the Master EIR can be construed as the "original EIR" for a subsequent project. In other words, if the project is within the scope of the Master EIR.

At the same time, Section 21157.5 neither references nor closely resembles Section 21166 which establishes the criteria for determining whether to prepare a subsequent or supplemental EIR. Determinations pursuant to Section 21166 are subject to the "substantial evidence" standard; meaning that the decision of the lead agency not to prepare an EIR will be upheld when it is supported by substantial evidence, regardless of the existence of a fair argument to the contrary. The language of the statute does not clearly establish that the substantial evidence test applies to Section 21157.5.

Given this statutory uncertainty, OPR recommends that agencies adopt the cautious practice of applying the fair argument standard to the determination of whether a Negative Declaration or EIR, including a mitigated Negative Declaration or a Focused EIR, is required for a subsequent project, which is not within the scope of the Master EIR.

Projects Identified in the Master EIR

The CEQA Guidelines and the statute itself create two broad categories for the subsequent projects which are not within the scope of the Master EIR. The first category consists of projects which are outside the scope, but which nonetheless were identified in the MEIR and whose cumulative impacts, growth-inducing impacts and irreversible significant effects were adequately analyzed in the MEIR. These projects may be addressed by preparing either a mitigated Negative Declaration or a Focused EIR, depending upon whether their possible impacts can be fully mitigated or not.

Guidelines Section 15178(b) requires that a mitigated Negative Declaration be prepared for any proposed subsequent project if both the following occur:

1. The initial study identifies potentially new or additional significant environmental effects that were not analyzed in the Master EIR, and
2. Feasible mitigation measures or alternatives will be incorporated into the subsequent project before the

mitigated Negative Declaration is released for public review, in order to avoid or mitigate potential effects to a level of insignificance.

Notice requirements, comment periods, and other procedures for preparation and review of a mitigated Negative Declaration prepared under Section 15178 are the same as for any other Negative Declaration. However, the findings made by the Lead Agency upon adoption of the mitigated Negative Declaration should specifically integrate items (1) and (2) above.

Guidelines Section 15178(c) also requires that if there is substantial evidence in light of the whole record that the subsequent project may have a significant effect on the environment, and a mitigated Negative Declaration cannot be prepared, the Lead Agency must prepare a Focused EIR. The requirements for Focused EIRs are discussed in detail in the next chapter.

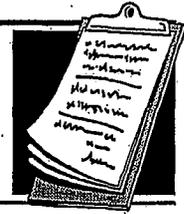
Projects Not Identified in the Master EIR

Projects that were not identified in the Master EIR are subject to the usual CEQA process (as described under CEQA Guidelines Sections 15080–15096) and are ineligible for the limited environmental review available under the MEIR (see CEQA Guidelines Section 15178(e)). Such projects may require the preparation of a Negative Declaration, a mitigated Negative Declaration, or an EIR, depending upon the circumstances. To the extent feasible, the lead agency should tier the analysis of such projects upon the Master EIR.

The lead agency should keep track of all such projects and whether their approval may affect the adequacy of the Master EIR. As discussed earlier, the use of a Master EIR for projects that are identified therein may be called into question if the approval of a project that was not identified in the MEIR might affect its adequacy (CEQA Guidelines Section 15179).

In order to keep its Master EIR viable, when an EIR is prepared for a project that was not identified in the Master EIR, the lead agency should undertake to incorporate that EIR into the Master EIR whenever feasible. Neither CEQA nor the CEQA Guidelines delineate the procedure for doing this. One approach might be to use the project EIR as the basis for a subsequent EIR to be prepared for the next project that will be considered under the Master EIR.

About Focused EIRs



Prior to the enactment of AB 1888, the term "Focused EIR" was neither defined in CEQA nor in the CEQA Guidelines. Nonetheless, it has been commonly used to describe subsequent EIRs, or EIRs prepared subsequent to a program EIR where analysis was narrowed to those effects resulting from the subsequent project. Now, Section 21158 explicitly defines a Focused EIR as "an environmental impact report on a subsequent project identified in a master environmental impact report." Although program EIRs and other procedures for *focusing* EIRs (and environmental analysis) continue in full force, their product may no longer properly be termed a "Focused EIR."

Finding

A Focused EIR is used when, after preparation of an initial study for a subsequent project under the Master EIR, the Lead Agency specifically finds that the Master EIR's analyses of cumulative impacts, growth inducing impacts, and irreversible significant effects are adequate for the subsequent project. The finding and supporting evidence should be included in the Focused EIR (see Appendix 1). Absent this finding, a standard EIR would be required.

Limit on Analysis

A Focused EIR must incorporate by reference the Master EIR. Pursuant to CEQA Guidelines Section 15178(c), the analysis contained in a Focused EIR is limited to the following:

1. The subsequent project's "additional significant environmental effects" (i.e., those project-specific effects on the environment which were not addressed as significant in the Master EIR).
2. Any new or additional mitigation measures or alternatives that were not identified and analyzed by the Master EIR.
3. Any significant effects on the environment where substantial new or additional information shows that the adverse environmental effect may be more significant than was described in the Master EIR.

The substantial new or additional information shows that mitigation measures or alternatives identified in the Master EIR, which were previously determined to be infeasible, are feasible and will avoid or reduce the significant effects on the environment of the subsequent project to a level of insignificance.

A Focused EIR need not examine those significant environmental effects which the lead agency, prior to releasing the draft Focused EIR for review, finds, on the basis of the initial study, related documents, and commitments from the project proponent, were either:

1. Examined at a sufficient level of detail in the Master EIR to enable those significant effects to be mitigated or avoided by specific revisions to the project, the imposition of conditions of approval, or by other means in connection with the approval of the subsequent project.
2. Mitigated or avoided as a result of mitigation measures identified in the Master EIR which the lead agency will require as part of the approval of the subsequent project. Mitigation or avoidance is the responsibility of and within the jurisdiction of another public agency and is, or can and should be, undertaken by that agency.

The draft Focused EIR must include these relevant findings of exception when it is released for review.

Note that effects for which MEIR findings were previously made pursuant to CEQA Guidelines Section 15091(a)(3) are not included in the above exception. Findings under paragraph (3) relate to those significant effects identified in the Master EIR for which mitigation measures or alternatives were found to be infeasible due to specific economic, social, or other considerations. The conspicuous absence of any reference to paragraph (3) seems to indicate that these significant unavoidable effects must be addressed in the Focused EIR. OPR recommends that unmitigated effects be examined in the context of the limitations on analysis described above.

Focused EIRs for Specified Projects

Section 21158.5 and CEQA Guidelines Section 15179.5 authorizes a streamlined review process for selected projects through use of Focused EIRs. Where a project consists of a multi-family residential development of not more than 100 dwelling units, or a residential and commercial or retail mixed-use development of not more than 100,000 square feet in area which complies with all the following, a Focused EIR shall be prepared, notwithstanding that the project was not identified in a Master EIR. In order to qualify to use this provision, a Lead Agency must make the following findings regarding the project:

1. The project is consistent with a general plan, specific plan, community plan, or zoning ordinance for which an EIR was prepared within five years of the certification of the Focused EIR.”
2. The project is not within the scope of the Master EIR, a Negative Declaration or mitigated Negative Declaration cannot be prepared, and neither Guidelines Sections 15162 nor 15163 require a subsequent EIR.
3. The parcel on which the project is to be developed meets one or more of the following conditions:
 - A. It is surrounded by immediately contiguous urban development.
 - B. It has been previously developed with urban

uses.

- C. It is within one-half mile of an existing rail transit station.

The scope of a Focused EIR prepared under Section 21158.5 is limited to the following:

1. A discussion of potentially significant environmental effects specific to the project.
2. A discussion of significant effects which substantial new information shows will be more significant than described in the previous EIR.

Although the above bears passing resemblance to the seldom-used process for streamlining review of later projects under a general plan, specific plan, or zoning EIR pursuant to Section 21083.3, the two operate independently. Section 21083.3 provides that the application of CEQA to any project that is consistent with zoning, a community plan, or general plan for which an EIR was certified is limited to “those effects on the environment which are peculiar to the parcel or to the project and which were not addressed as significant effects in the prior environmental impact report, or which substantial new information shows will be more significant than described in the prior environmental impact report.” Application of Section 21158.5 and Guidelines Section 15179.5 are qualified as noted above.

Master EIR Updates



The five year presumption of adequacy afforded a Master EIR can be periodically renewed as provided in Guidelines Section 15179. This renewal may take either of two forms: (1) a finding that no substantial changes have occurred with respect to the circumstances under which the Master EIR was certified or that no new information has become available since certification of the Master EIR; or (2) preparation and certification of a subsequent or supplemental EIR that is incorporated into the previously certified MEIR or references any deletions, additions or other modifications to the MEIR. The findings under the first option should hew closely to CEQA Guidelines Section 15162 which describes the situations un-

der which a subsequent or supplemental EIR need not be prepared.

If, during the five year period (and, presumably, during renewed periods), projects are approved which were not identified in the certified Master EIR and which may affect the adequacy of the Master EIR relative to subsequent projects, then the Lead Agency must review the adequacy of the Master EIR and make the findings described above before it can apply the Master EIR to subsequent projects.

The resulting updated Master EIR can then be applied to the review of subsequent projects that are described as being within its scope.

Practical Considerations



When deciding whether to prepare a Master EIR, the Lead Agency should compare the advantages and disadvantages of a Master EIR to those of other CEQA options such as tiering or a program EIR. A project suitable for a Master EIR project would have the following characteristics:

1. The plan or program for which the Master EIR is prepared will be stable for the next few years, i.e., no substantial changes are expected to occur in the plan or program which will not have been identified and discussed in the Master EIR.
2. Subsequent actions under the plan or program are well-known at the time the Master EIR is prepared and can be comprehensively described pursuant to Guidelines Section 15176(b).
3. The significant environmental effects of subsequent actions are sufficiently known at the time of preparing the Master EIR that they may be fully described and analyzed in that document, and measures recommended to minimize or avoid them.
4. The timetable for undertaking the project and subsequent related actions is 5 years or less, and provision is made for regular review of the Master EIR's adequacy in light of subsequent projects not described in the Master EIR.

Infrastructure or capital facilities plans, small-scale specific plans, planned unit development rezoning projects, and transit line extensions are among the projects which may be prime for Master EIRs. Section 21157(a)(1) also specifically authorizes the use of a Master EIR for a general plan. A general plan Master EIR makes practical sense where the city is largely built out, has mechanisms in place which enable it to demonstrate that later projects are "within the scope" of the Master EIR, and otherwise anticipates little activity that would result in plan amendments.

On the other hand, Master EIRs may offer no advantages when the project is adoption of a county general plan or a large-scale specific plan. In those situations, a program EIR may be preferable. The fact that specific subsequent projects will generally arise from

private applications yet to be submitted means that the county preparing the Master EIR may not know the details of subsequent projects, particularly plan amendments, at the time the document is prepared.

Once the Lead Agency has made the decision to prepare a Master EIR, it may also take the following extra steps over what would normally be involved with an EIR:

1. Take care that the Master EIR precisely matches the plan or program being approved. This means analyzing in the Master EIR all last minute changes made to the plan or program before its final approval.
2. List the known subsequent development projects which the Master EIR has analyzed and which are to be within its scope. This list may be included in the Master EIR's project description or in an appendix. (As discussed earlier, a list is not required where a general plan or specific plan identifies land uses and the intensity and density of allowable development.)
3. Establish administrative criteria which describe when a subsequent project will be outside the scope of the Master EIR. The criteria may include thresholds which define the scope of the Master EIR's analyses of cumulative impacts, growth inducing impacts, and irreversible significant effects. For example, what future traffic levels of service were analyzed, what level of sewer service, what level of development intensity?

If the community has adopted thresholds of significance as part of their local CEQA Guidelines or process, they should take care to integrate the criteria related to the Master EIR into these thresholds. If the community has not adopted thresholds, they may want to consider adopting the Master EIR criteria as such.

4. Regularly review or monitor the specific assumptions made during preparation of the Master EIR (i.e., traffic levels of service, air quality standards, etc.) for changes. This is intended to inform the Lead Agency of changes which may require preparation of a subsequent or supplemental EIR to up-

date the Master EIR pursuant to Section 21157.6 and Guidelines Section 15179. For example, a change in the regional air quality standards may necessitate a reassessment of the air quality discus-

sion in the Master EIR. Keeping track of changing circumstances and making corrections will help ensure that the Master EIR will remain viable during its five year term and beyond.

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Appendix 1

Findings Requirements



The following table identifies the CEQA findings requirements for actions relating to Master EIRs. Suggested language is included for findings which are peculiar to actions under the Master EIR statute. Readers should feel free to adapt these brief suggestions to their own situations. No language is suggested for common findings requirements such as CEQA Guidelines Section 15091.

As always, findings must be based upon substantial evidence in the record and be sufficient to bridge the gap between the evidence available and the conclusions reached. All statutory references are to the CEQA Guidelines, unless otherwise noted.

Certifying a Master EIR

- Section 15091 findings. (In writing these, pay particular attention to paragraphs (1) and (2) of subdivision (a) and how they would apply to subsequent projects. If possible, findings under paragraph (1) of subdivision (a) should identify the mitigation measures to be applied to future projects.)
- Section 15093 findings.

Findings When a Subsequent Project is Adequately Addressed in the MEIR

- Section 15177 finding: Based upon the initial study, the subsequent project is within the scope of the project covered by the MEIR. Specifically, the proposed project will have no additional significant effect, as defined by subdivision (b) of Section 21158 of the Public Resources Code, on the environment that was not identified in the Master EIR and requires no new or additional mitigation measures or alternatives in order to avoid or mitigate a significant environmental effect.
- Section 15093 findings.
- No Section 15091 findings are required.

Adopting a Mitigated Negative Declaration for a Subsequent Project

- Section 15178(b) findings:
 1. The initial study has identified potentially new or additional significant environmental effects that were not analyzed in the Master EIR, but

feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent project before the Negative Declaration is released for public review in order to avoid or mitigate the identified effects to a point where clearly no significant effects would occur.

2. There is no substantial evidence before the agency that the subsequent project, as revised, may have a significant effect on the environment.
3. The analyses of cumulative impacts, growth inducing impacts, and irreversible significant effects on the environment contained in the Master EIR are adequate for this subsequent project.

Certifying a Focused EIR for a Subsequent Project

- Section 15178 findings:
 1. The subsequent project is identified in the Master EIR, but is not "within the scope" of the MEIR.
 2. The analyses of cumulative impacts, growth inducing impacts, and irreversible significant effects on the environment contained in the Master EIR are adequate for this subsequent project.
- Section 15178(c) findings to avoid examining specific significant effects previously examined in the Master EIR:
 1. The effect is mitigated or avoided pursuant to paragraph (1) of subdivision (a) of Section 15091 (a finding made for the Master EIR) as a result of mitigation measures identified in the Master EIR which will be required as part of approval of the subsequent project.
 2. The effect is examined in sufficient detail in the Master EIR to enable those significant effects to be mitigated or avoided by specific revisions to the project, the imposition of conditions, or by other means in connection with approval of the subsequent project.
 3. The effect is not the responsibility of the Lead Agency, pursuant to paragraph (2) of subdivision (a) of Section 15091 (a finding made for the Master EIR).
- Section 15091 findings.

Focusing on Master EIRs

- Section 15093 findings.

Certifying an EIR for a Subsequent Project

- Section 15091 findings.
- Section 15093 findings.

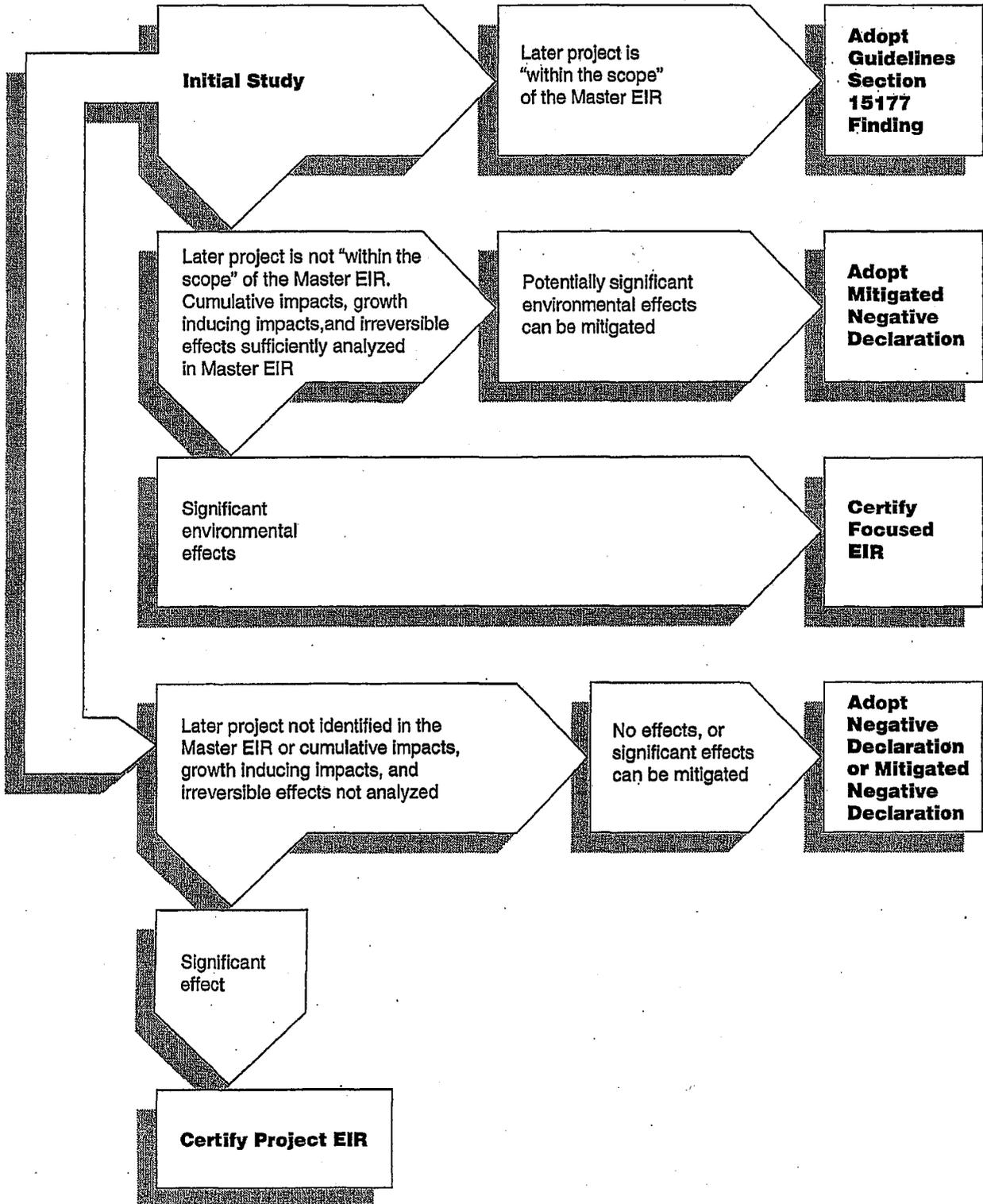
Extending the Time of Adequacy of a Master EIR

- Section 15179 findings (one or more must be made):
 1. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.

2. No new information that was not known and could not have been known at the time the Master EIR was certified has become available.
3. A certified subsequent or supplemental EIR has either been incorporated into the previously certified Master EIR, or references any deletions, additions, or other modifications to the previously certified Master EIR.

Appendix 2

Review of Subsequent Projects Under a Master EIR (Brief Outline)



Appendix 3

Master EIR Contents



This brief outline illustrates the basic contents of a Master EIR. Those requirements common to all EIRs are listed in plain type. The requirements peculiar to Master EIRs are in *italic* type.

TABLE OF CONTENTS

SUMMARY

PROJECT DESCRIPTION

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Potential Effects of Subsequent Projects for Which Sufficient Information is Lacking for Full Assessment

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EFFECTS NOT FOUND TO BE SIGNIFICANT

ORGANIZATIONS AND PERSONS CONSULTED



August 27, 2015

Re: Sea World's Blue World proposal

Dear California Coastal Commissioners,

RECEIVED

AUG 28 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Save Everyone's Access (SEA) recommends Coastal Commissioners DENY the SeaWorld Coastal Development Permit Application No. 6-15-0424 re a proposed Blue World: Orca Habitat Expansion project.

We urge the Coastal Commission to deny Sea World's application for its Blue World project due to unacceptable levels of toxic chemicals known to be present in the soils and subsurface water in the project's footprint.

Sea World's application fails to meet the requirements of the California Coastal Act, CEQA and the Felando Act. It also violates federal NEPA, Clean Water Act, Marine Mammal Protection Act, and the Endangered Species Act. These violations will result in significant environmental impacts on public and wildlife health and safety.

The proposal's project is situated on and adjacent to the Class I Mission Bay military industrial toxic waste dump, which has toxic Methane and Hydrogen Sulfide gas contamination from end to end.¹ SeaWorld's proposed site has higher concentrations of deadly explosive Hydrogen Sulfide gas - by orders of magnitude - than the mapped toxic landfill.

SeaWorld is already so highly developed, paved, and visited, it is extremely difficult to safely monitor the area for gas and toxin formations, or plumes that may be migrating toward the project in the future.

Coastal Commission project denial is appropriate to this unprecedentedly vast and deep underground structure in a gas zone that poses grave risk to the public exposed to vapor intrusion.

The Project's CEQA issues include land use, water quality, geology, and air quality. Project site Mission Bay Park area coastal zone traffic is rated LOS F in the summer, so any major new park leasehold attraction also demands a CEQA traffic impacts EIR study.

¹ Mission Bay Landfill map in Appendix

A. Extensive proposed structures

The new project structures require CEQA study and Coastal Act review:

The Applicant mischaracterizes the project. “Expanded” is used to describe a \$95M, deep subsurface, ground water table-intrusive, multi-story tall public viewing gallery structure not mentioned in the Master Plan. In addition, the project would attach to a new, much larger, heavier, stories-deeper, dual-tank aquarium – all where none existed before – and all proposed for a parcel with much higher Hydrogen Sulfide gas levels than the toxic waste dump/Mission Bay Landfill.

California Health and Safety Code (H&S) §25202.5 (2)(c) requires a “minimum buffer zone” between the Mission Bay Landfill toxic waste facility and any new structures.

Neither the Applicant nor the City of San Diego has complied with H&S §25220 et seq. (building moratorium within 2000 feet of a hazardous waste site) re an applicant's legal duty to notify the Department of Toxic Substances Control (DTSC). DTSC in turn requires a hearing, or issues a statement of “no known hazard”. Applicant has studies showing toxins in the area of the project and the history of the Mission Bay toxic landfill is well known and very well documented.

B. Project Gas Generation

The project site has a high gas generation rate. The project would excavate much deeper and wider than any project in the history of Mission Bay's South Shores.

Several years ago, the nearby South Shores Park and Ramada Hotel Resort projects were both wisely canceled by the City of San Diego due to subsurface gas and toxic contamination.

The SeaWorld parcel pockets of deadly Hydrogen Sulfide gas (H₂S) are much higher than H₂S gas found throughout the adjacent toxic dump of the Mission Bay Landfill. H₂S exposure is fatal to humans at 100 ppm. Despite discovery of two subterranean SeaWorld Methane and Hydrogen gas (H₂S) plumes at concentrations of 1,000 ppm² and 1,820 ppm respectively³, the Applicant and Lead Agent City would ignore this danger by eliminating environmental testing and review for huge underground co-located public and wildlife viewing structures. In 1988, H₂S air release at the adjacent parcel resulted in a worker fatality⁴.

² Fluor Daniel GTI 6/9/97 pg 6

³ IT Corporation Figure 4 map in App.

⁴ San Diego Union Tribune 10/9/88 “New Tests Slated for Gas that Hit 8 Workers”

C. Proposed Dewatering

The project proposes extensive and likely ongoing dewatering.

Apparently, the Applicant proposes project dewatering discharge to Mission Bay from its treatment plants to be untested and unpermitted for known site contaminants.

Further, the project excavation will extend below the ground water level (and sea level) requiring constant dewatering during construction. This groundwater will be seeping out of the contaminated soils endemic at the site and discharged directly into Mission Bay. Again, RWQCB permits are required for this discharge.

D. Area Toxic History

We urge Commissioners to reject this project outright. In the alternative, and at the very least, the Commissioners should order a full CEQA project review, allowing for a major project public and public agency comments under Notice of Preparation (NOP) scoping work.

The Environmental Protection Agency scored the dump 61.61, worse than Love Canal, even without assigning any value to groundwater leachate.⁵ Historic aerial photos show that SeaWorld's west South Shores locale received toxic waste in the 1940's because aerospace firms were avoiding the Army Air Corps' Pikes Field in east South Shores of Mission Bay. This evidence of toxic waste explains why so many toxins are detected in test wells in the South Shores area.

The proposed project would disturb a large area, penetrate the cap covering the toxins, mixing toxic soil with groundwater and dumping polluted groundwater and silt into Mission Bay. These actions ensure toxic releases and may create plume movement of toxins and hazardous gases, whose transit through the public attraction is facilitated by SeaWorld's extensive underground infrastructure network.

E. Project Area Methane and Hydrogen Sulfide

The SeaWorld leasehold is a contaminated Methane and Hydrogen Sulfide gas-producing zone.

Gases can form as a result of:

- organic materials like wetlands or sewage in dredged fill
- toxic aerospace surface dumping and barrel trenches in South Shores
- toxic contamination dispersal due to an intentional South Shores area-wide flooding episode
- gas and toxic plume immigration along buried infrastructure (gases following

⁵ Environmental Protection Agency Summary Scoresheet in App.

pipes and underground infrastructure created by the project)

With these many sources, the project site forms gas. This fact, coupled with City of San Diego Solid Waste Local Enforcement Agency (LEA) refusal to order any site remediation or gas control measures, increases public exposure risk.

Large underground projects like Blue World are particularly subject to subsurface gas release during excavations. Post-construction brings the hazard of gas vapor intrusion along piping infrastructure, or as a result of seismic activity that causes chimneys or cracks in soil cap, fissures in structure walls and foundations, or separations of pipe and tank seals.

Even passive or dynamic basement protection systems are subject to earthquake rupture, differential settlement, human error, and power failure.

Underground gases pose a serious release hazard to public health and safety of those confined in underground structures such as the proposed orca viewing room. Gas can expose the public to toxics like Arsenic and Cyanide by transporting chemical and heavy metal contaminants. The gases alone present unacceptable hazards to the public.

Gases form unpredictably over time. Gas can migrate along utility lines to pool at structures if a site is not ordered to install gas collector and burn-off mitigation.

F. SeaWorld-Adjacent South Shores Project Cancellations:

Two announced consultant-cleared projects were abandoned due to Mission Bay Landfill toxic Methane, Hydrogen Sulfide gas, and toxic aerospace heavy metals and chemicals:

- 1) The City of San Diego's new South Shores Park was canceled.
- 2) A Ramada Inn Resort Complex slated for South Shores was canceled.⁶

Additional evidence of engineers' concern about harmful gases can be seen in the design of the public restrooms at the Mission Bay Boat Launch at South Shores. The walls and roofs are heightened and vented allowing for greater airflow and ventilation of gases known to release in this area.

G. Two SeaWorld Project Area Gas Releases:

Two excavation-caused Methane and Hydrogen Sulfide gas releases - outside Mission Bay Landfill boundaries, in and adjacent to SeaWorld's leasehold:

- 1) **SeaWorld Project Site LE-Well Gas Release:** Regarding SeaWorld drilling

⁶ Mission Bay South Shore map 5/25/82

of test wells “During the drilling of LE-4. On December 23 [1997], hydrogen sulfide gas was detected at concentrations as high as 9ppm and methane was detected at a maximum of 1000ppm. Drilling was immediately halted and boring LLE-4 was backfilled.” p6
”⁷

“Acetone and 2-butanone are solvents typically used in the aerospace industries, their detection most likely the result of aerospace manufacturing waste disposal in the former landfill.” Fn.6, p9

“[Well] Sample LE-2-10 had a chromium concentration of 79 mg/kg which exceeded the soluble threshold limit concentration (STLC) by more than 10 times.”
Fn.6, p8

2) Fatal SeaWorld-Adjacent Boat Cove Excavation Gas Release: So. Shores Park excavation causes Hydrogen Sulfide Gas pocket release. Emergency project evacuation sees eight workers hospitalized. One dies from poison gas exposure.⁸

H. SeaWorld Project Site J-Wells Reveal Hydrogen Sulfide Build-up:

Two separate J-Wells hit a major Hydrogen Sulfide build-up under SeaWorld --

“The unusually high concentrations of hydrogen sulfide at one probe (1,820 p.p.m.v. in probe J-24d) is likely either an anomaly or the result of a deposit of sulfur materials in close proximity to the probe. Hydrogen Sulfide is dangerous at a concentration of 10 p.p.m.v. and has a IDLH (Immediate Danger to Life or Health) concentration of 100 p.p.m.v. While the concentration of the hydrogen sulfide in probe J-24 was above health safety limits, the concentration in the air above the landfill is typically 2 or 3 orders of magnitude less, as the soil vapor dissipates into the atmosphere. However, cause and monitoring should still be applied at this location.”⁹

We urge the Coastal Commission to request the Applicant produce the data from the unreported 19 of 24 J-Series wells.

Has the Applicant done private well tests with Blue World as with prior site projects? If not, why not? Gas pockets can form subsequent to any well test.¹⁰ Despite prior area gas releases to the air, the City of San Diego does not currently conduct either project accepted site gas monitoring or gas control measures in this area.

I. SeaWorld Toxic Plume:

“The contaminant [1,1,1, trichloroethane concentrations] appears to be widely

⁷ Fluor Daniel GTI 6/9/97

⁸ San Diego Union Tribune 10/9/88 “New tests slated for gas that hit 8 park builders” (See Fn. 4)

⁹ Fluor Daniel GTI 6/9/97 p8 (See Fn. 3)

¹⁰ Map see Appendix (See Fn. 6)

dispersed in a relatively uniform concentration, consistent with dated landfill disposal of barrels in a corrosive environment.” Fn.10, p8. “... groundwater depths at the site were between 11.68 and 21.32 feet below grade.” “1,1,1, trichloroethane is widely used as a solvent in the aerospace industry”¹¹ (p8).

The following SeaWorld studies were not produced by the applicant on the CCC project checklist. These prior project site tests were provided by City of San Diego whistleblowers to the six former members of the SCS Engineers' Mission Bay Landfill citizen Technical Advisory Committee, who contributed to this letter.

J. Applicant Project Checklist Exclusions

Checklist Section II 8. Please list any geologic or other technical reports of which you are aware that apply to this property:

The Applicant did not provide relevant requested scientific reports to regulators in it's proposal checklist responses :

- **Southern California Soil and Testing Inc. 4/21/98 not provided by Applicant:**

Re California Environmental Quality Act (CEQA) concern for project seismic impacts, the huge, multi-story underground public structure and proposed tanks are, as located in unstable dredged hydraulic fill, subject to structural damage from nearby active earthquake faults.

Such breaches in tank or public viewing area walls could accompany seismic release of known area gas pockets, exposing the public. “The site is located approximately 1.5 miles west of the active Rose Canyon Fault Zone. Other active fault zones in the region...include the Coronado Bank, San Diego Trough, and San Clemente Fault Zones to the west, the Elsinore and San Jacinto Fault Zones to the northeast, and the Agua Blanca and San Miguel Fault Zones to the south.”

- **SCS Engineers Report...of the Mission Bay Landfill 9/08/06 not provided by Applicant**

This is another report known to Applicant that was not disclosed.

- **SeaWorld Fluor Daniel GTI Assessment Report Lease Expansion 6/9/97 not provided by Applicant:**

“The [SeaWorld] lease expansion is located above the western extent of the landfill. The City of San Diego used the area as an unrestricted Class I [toxic] landfill from 1952 to 1959. Of most concern, the landfill reportedly received unknown amounts of hazardous industrial wastes including: carbon tetrachloride, methyl-ethyl ketone,

¹¹ Fluor Daniel GTI 6/9/97 (pg. 8; See Fn. 9)

toluene, chlorinated cleaning solvents, paint and oil waste, sulfuric acid, hydrofluoric acid, chromic acid, cyanide, zinc chromate, and cadmium.”

“5 to 20 feet of hydraulic fill was placed over the landfill.”

“5) Groundwater samples contained elevated concentrations of arsenic, copper, nickel, lead, and zinc.”

“Hydrogen sulfide and methane gas were identified site-specific hazards and air monitoring was performed continuously throughout the well drilling and installation procedure.” (p 4, 5). [LE Series wells]

• **SeaWorld Lease Amendment 6/29/98 not provided by Applicant:**

SeaWorld’s lease amendment of 1998 states, in part, Re if “...LESSEE has caused a Release of any Hazardous Substance on or beneath ..Property...[if] such substance is an imminent and substantial danger to public health and safety.... “ ”...Released as a result of the CITY's prior municipal solid waste site use... CITY...shall take all actions necessary to alleviate such danger.”

Through this provision, applicant can pass along the cost of Hazmat response and site remediation to the taxpayers of San Diego.

Compliance with Post-closure Land Use Conditions. “[I]mprovements must comply with ...California Code of Regulations, Title 27, Section 21190 ...LESSEE's improvements shall be designed and maintained to protect public health and safety, and prevent public contact with waste, landfill gas, and leachate. LESSEE's improvements shall be constructed to retain the integrity of the final cover...” Any project excavation down 50 feet or more will remove a significant portion of the cap covering the toxic dump.

“Prior to implementation of the project, LESSEE shall provide to the Local Enforcement Agency, the following items for review and approval: Community Health and Safety Plan, Grading Plan and drainage..., Irrigation Plan, Monitoring Plan, Maintenance Program, Construction Schedule”

Hydrogen Sulfide gas which is denser than air would naturally flow into the deep underground cavities the project would excavate. H₂S is known to corrode the cable infrastructure of underground facilities, potentially leading to explosions. See, “Mystery Beach Blast in Rhode Island Blamed on Hydrogen Gas”¹²

Checklist Section III (CCC Permit Application Checklist dated 4/13/15)

4. c. *Will the project have an effect on public access to and along the shoreline, either directly or indirectly?* Applicant's “No” ignores the fact that public coastal access to the

¹² AP 7/24/15.

Mission Bay Park shoreline is blocked along the entire shoreline of the SeaWorld leasehold.

9. *Is the proposed development in or near:* 9.a. *Sensitive habitat areas.* 9.b. *Areas of state or federally listed rare, threatened, or endangered species.* Applicant's "No's" deny proposal's locale in Mission Bay Park and adjacency to the San Diego River's Southern Wildlife Preserve – habitat to Mission Bay Park's endangered bird and plant species.

9.c. *100-year floodplain.* Applicant's "No" forgets the project lies across SeaWorld Drive from the San Diego River basin's 100-year floodplain.

K. Potential Impacts of Project Dewatering

The Class I toxic dump/landfill is unlined to SeaWorld soil and groundwater. The Blue Water proposal would require extensive dewatering to Mission Bay in excavating 35,000 cubic yards of soil. Toxic soil contaminants would unavoidably mix with contained and uncontained project groundwater.

The proposal would illegally release contaminated groundwater to Mission Bay or the San Diego River through tidal action. Further, the project proposes discharge of untested and untreated waters into Mission Bay by way of project discharge pipes all without RWQCB permit.

The proposal would likely require ongoing dewatering to protect multiple huge subterranean public and orca-holding structures, as the structure would extend below the level of ground water and below sea level.

Another potential environmental health hazard is the liability risk that dewatering such a major volume of groundwater table as the project anticipates will promote toxic dump migrations that put park and SeaWorld visitors at increased risk of gas formation or toxic exposure in recreational waters:

An Applicant letter dated 2/12/96 addressed to the Lead Agent City of San Diego expresses concern for just such a future migration re a prior much smaller project dewatering -

"The purpose of this letter ... as to how the possibility that dewatering at our site could influence the groundwater flow under adjacent City property...resulting in the expansion of a contaminated plume associated with...a landfill on that property."¹³

L. Storage, Movement and Disposal of Contaminated Soils.

The soils beneath the project are known to contain toxic contaminants as described above. Such soils must be tested and handled properly per EPA guidelines and

¹³ SeaWorld letter to City of San Diego 2/12/96 Appendix

protocols. Should these soils exceed acceptable limits of toxins, they will need to be stored (during construction) and disposed of in an EPA-approved repository for toxic waste.

Due to the project site situated atop of or adjacent to a well-known, highly contaminated toxic waste site, we urge the Commissioners to deny the applicant's permit. The project will release toxins into Mission Bay and expose the public to an unacceptable risk, not only in SeaWorld, but in a major public coastal park.

Sincerely,



Scott Andrews

President, Save Everyone's Access (SEA)

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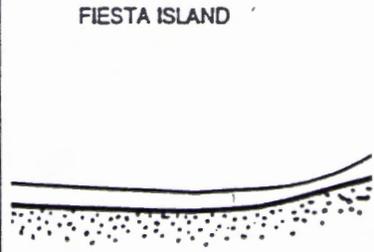
Spring Valley, CA 91979-2789

Tel: (619) 884-9469

cc:

City of San Diego Solid Waste Local Enforcement Agency
Regional Water Quality Control Board

LEGEND		
⊕ MW6	MONITOR WELL LOCATION AND IDENTIFICATION INSTALLED IN 1983	Sb - ANTIMONY
⊕ G-1	GAS WELL INSTALLED IN 1981	As - ARSENIC
⊕ GW-1	GAS WELL INSTALLED IN 1983	Ba - BARIUM
△ 6	LOCATION OF MISSION BAY AND SAN DIEGO RIVER SURFACE WATER SAMPLE POINT	Be - BERYLLIUM
□ 7	LOCATION OF SAN DIEGO RIVER ESTUARY SURFACE WATER SAMPLE POINT	Cd - CADMIUM
		Cr - CHROMIUM
		Co - COBALT
		Cu - COPPER
		Pb - LEAD
		Hg - MERCURY
		Ni - NICKEL
		Se - SELENIUM
		Ag - SILVER
		Tl - THALLIUM
		V - VANADIUM
		Zn - ZINC
		MeCl - METHYLENE CHLORIDE
		CCl ₄ - CARBON TETRACHLORIDE



MISSION BAY

(PACIFIC PASSAGE)

MW19 (Destroyed) 1988
9.0 MeCl

Revised 1990

MW25
87.2 Cd
160 ACETONE

MW24
6.1 MeCl
41,000 ACETONE
60.6 BENZENE
120 pp' DDT

GW-22 ⊕ MW23
4.2 MeCl
4.6 BENZENE

⊕ MW21
3925 Ba

MW16
65 MeCl

MW15 ⊕ GW-14
19.7 MeCl
2650 ACETONE

MW20
4.8 MeCl

GW-17 ⊕ MW18
60 Sb
320 LINDANE
100 HEPTACHLOR
27 ALDRIN

SEA WORLD DRIVE

8

SAN DIEGO RIVER AND ESTUARY

9

5.0 PRELIMINARY DRILLING ASSESSMENT

5.1 Drilling

On December 20 and 23, 1996, wells LE-1, LE-2, and LE-3 were drilled and installed in the lease expansion area (Figure 2). During the drilling of LE-4, on December 23, hydrogen sulfide gas was detected at concentrations as high as 9 ppm and methane was detected at a maximum of 1,000 ppm. Drilling was immediately halted and boring LE-4 was backfilled. On January 9, 1997 the drilling was again mobilized following additional study and preparation for the hydrogen sulfide and methane hazard. Wells LE-5 and LE-6 were installed and boring LE-4 was re-drilled and converted to a monitoring well. To minimize exposure to methane and hydrogen sulfide gasses, work was conducted up-wind and fans were used to ventilate the work area.

The wells were drilled with a CME-75 drill rig using 8 and 9-inch diameter hollow-stem augers.

5.2 Soil and Groundwater Disposal

On May 1, 1997, seventeen drums of soil cuttings were disposed of at the waste disposal facility in McKittrick, California. Twelve drums of auger rinsate and well purge water were disposed of at DeMenno/Kerdoon in Compton, California on May 5, 1997. The soil and water were transported under non-hazardous waste manifests (Appendix 3).

Of the drums disposed of, nine soil and one water were generated during a previous investigation at the Sea World Wild Arctic Exhibit.

5.3 Soil Sampling and Analyses

Samples were collected at approximate 5-foot intervals for lithologic description and hydrocarbon analyses. Samples were collected in general accordance with the Quality Assurance/Quality Control procedures listed in Appendix 4.

Two soil samples were selected from each of the six borings for analysis. All soil samples were analyzed for hydrocarbon components using the EPA Method 8015 hydrocarbon screen. Additionally, all soil samples from borings LE-1 through LE-4 were analyzed for volatile organic

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APPROVED BY

CHECKED BY

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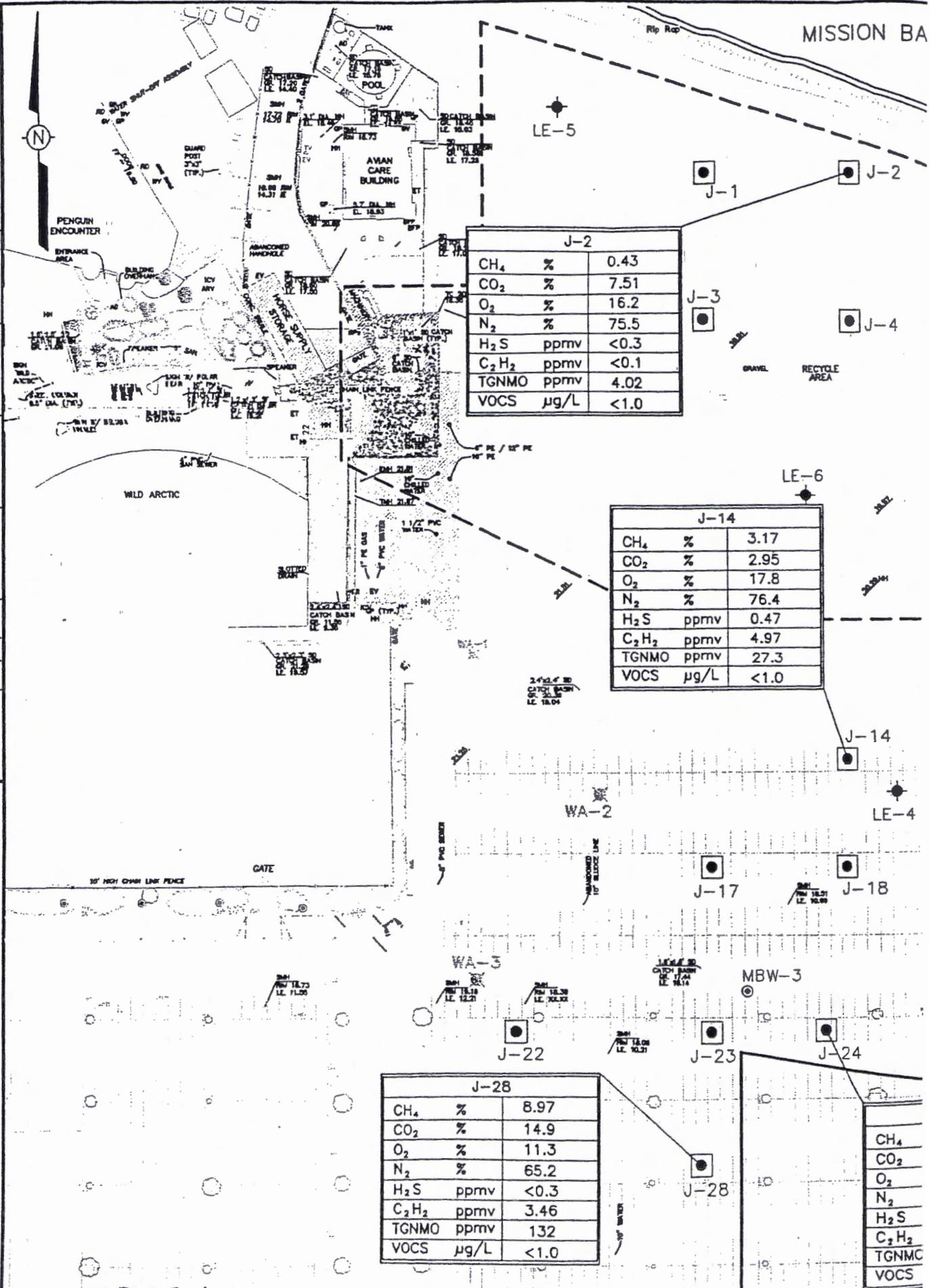


EXHIBIT I

W 351

New tests slated for gas that hit 8 park builders | Decomposing trash believed likely source

The San Diego Union - Tribune; San Diego, Calif.; Oct 9, 1988; John Wilkens;

Sub Title: [UNION, 1,2 Edition]

Start Page: B-3

Personal Names: Stephany, Gary

Abstract:

Gary Stephany, director of county Environmental Health Services, said yesterday that eight workers reported being stricken by gas that smelled of rotten eggs Wednesday and Thursday at the 109-acre South Shores Park. The park is being built just east of Sea World over an old city dump.

Stephany said the source of the fumes had not been found, but officials said they were fairly certain that an earth mover hit a pocket of underground hydrogen sulfide gas created by decomposing trash.

County health workers tested the site Thursday but found no gas, Stephany said. This is one reason that they suspect a pocket of fumes was released. The gas never posed a danger to Sea World or other adjacent areas, Stephany said.

Full Text:

Copyright SAN DIEGO UNION TRIBUNE PUBLISHING COMPANY Oct 9, 1988

Additional tests are scheduled tomorrow to determine the source of fumes that sickened construction workers and halted grading last week at a city park being built in Mission Bay.

Gary Stephany, director of county Environmental Health Services, said yesterday that eight workers reported being stricken by gas that smelled of rotten eggs Wednesday and Thursday at the 109-acre South Shores Park. The park is being built just east of Sea World over an old city dump.

Three workers began suffering from vomiting, diarrhea and headaches and were taken to a hospital, where they were treated and released, Stephany said. The other five were less seriously affected and went home.

Stephany said the source of the fumes had not been found, but officials said they were fairly certain that an earth mover hit a pocket of underground hydrogen sulfide gas created by decomposing trash.

The rotten-egg smell is consistent with hydrogen sulfide gas, and is not unusual at an old landfill, Stephany said.

County health workers tested the site Thursday but found no gas, Stephany said. This is one reason that they suspect a pocket of fumes was released. The gas never posed a danger to Sea World or other adjacent areas, Stephany said.

Work at the site has been halted until tests are made by an engineering consultant tomorrow, he said. County officials may require revisions to the project's safety plan, depending on what the tests show.

Stephany said the existing safety plan calls for the workers to wear respirators because of possible hazards from the landfill and because of dust kicked up by the graders.

***** CONFIDENTIAL *****
***** PREDECESSIONAL DOCUMENT *****

SUMMARY SCORESHEET FOR COMPUTING
PROJECTED PROPOSED REVISED HRS SCORE

SITE NAME: Mission Bay Landfill

CITY, COUNTY: San Diego, San Diego

EPA ID #: CAD 980881353 Lat/Long: 32°45'50"/117°12'30"

PROGRAM ACCOUNT #: FCA12283BA T/R/S: _____

EVALUATOR: Kate Dragolovich DATE: 6/19/90

THIS SCORESHEET IS FOR A: PA _____ SSI _____ LSI _____

SIRE _____ PA Redo _____ Other (Specify) LSI Prioritization

RCRA STATUS (check all that apply):
 Generator Small Quantity Generator Transporter TSDP

Not Listed in RCRA Database as of (date of printout): 5/8/90

STATE SUPERFUND STATUS: This site has not been included in the SEP, as of the 6/10/90 update.

_____ BEP (date) _____ WQARF (date) _____

	S pathway	S ² pathway
Air Migration Pathway Score (S _a)	27.16	737.67
Groundwater Migration Pathway Score (S _{gw})	0	0
Surface Water Migration Pathway Score (S _{sw})	66.68	4,446.22
On-site Exposure Pathway Score (S _{os})	100	10,000
$S_a^2 + S_{gw}^2 + S_{sw}^2 + S_{os}^2$		15,183.89
$(S_a^2 + S_{gw}^2 + S_{sw}^2 + S_{os}^2) / 4$		3,795.97
$\sqrt{(S_a^2 + S_{gw}^2 + S_{sw}^2 + S_{os}^2) / 4}$		61.61

*Pathways not evaluated (explain): _____

To: Mission Bay Landfill Technical Advisory Committee Members
From: Mission Bay Park Toxic Cleanup
Date: December 9, 2005
HAND DELIVERED

Re: U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) SITE ASSESSMENT:
MISSION BAY LANDFILL

Because the City of San Diego's paid document researcher has never made any report to TAC members, MBPTC is providing the following documents from the EPA site assessment. City TAC employees are already in possession of these documents - MBPTC's documents closely parallel those collected by the paid document researcher in the 88-pp index.

- The enclosed worksheet shows the EPA scored the site equal to the Stringfellow Acid Pits in Riverside CA. The Mission Bay Landfill scored 61.61, and the EPA scored Love Canal 55. (Prepared by Kate Dragolovich, Ecology and Environment 6/19/90).
- The second states the site has a high release and public exposure risk through three of four pathways. (Prepared by Kate Dragolovich, Ecology and Environment 11/09/89.):

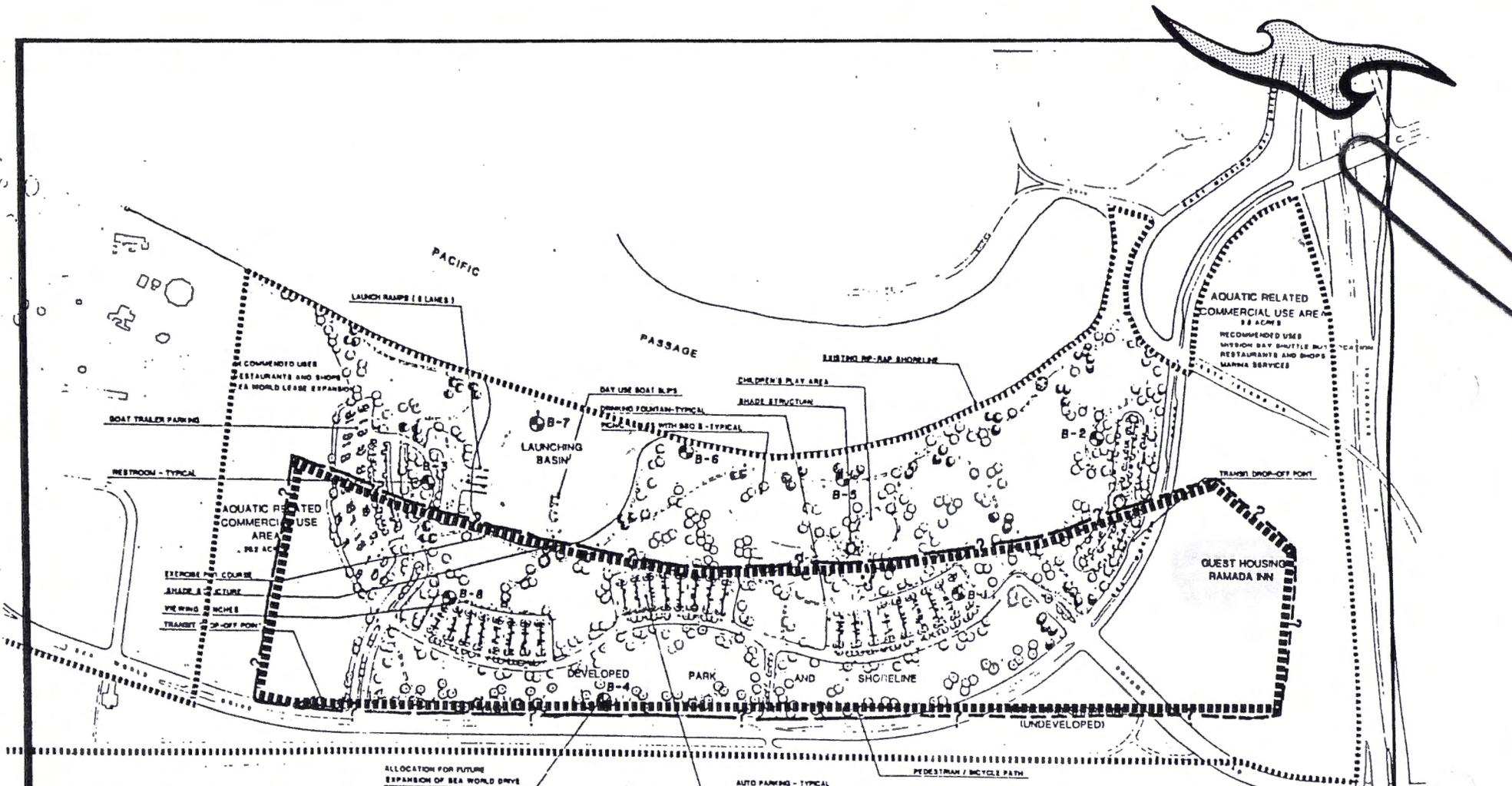
"...the site may qualify for listing on the National Priorities List (NPL)."

"The potential for release to surface water is high due to the proximity of the site to Mission Bay, the lack of adequate containment of the landfill material, and a large waste quantity."

"If surface water contamination did occur, it is likely that hazardous substances, such as mercury, would enter the human food chain."

"A potential for a release to air may exist due to contamination of the landfill soil cover and high mobility characteristics for hazardous substances, such as 1,4-dichlorobenzene."

"Persons who could be exposed to air emissions from the site include the workers at the nearby Marine World Aquatic Park and residents in the densely populated areas surrounding Mission Bay. Since the site is only partially fenced, these residents could also be targets for on-site exposure to hazardous substances."



mission bay south shores

master plan

LEGEND

-APPROX. LOCATION OF EXPLORATORY BORING
- ESTIMATED LIMITS OF UNDERLYING CITY OF SAN DIEGO SANITARY LANDFILL, BASED ON CITY OF SAN DIEGO RECORDS

GEOCON FILE NO. D-2737-M01
INCORPORATED FIG. 1 DATE 5-25-82

PREPARED BY
ROGER DEWESE INC & ASSOCIATES
SAN DIEGO, CA
PROJ. # D-2737-M01
5/25/82



Figure 6. Landfill location determined from City records and exploratory borings.



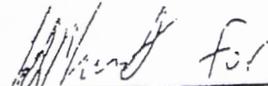
FLUOR DANIEL GTI

**ASSESSMENT REPORT
SEA WORLD LEASE EXPANSION
1720 SOUTH SHORES ROAD
SAN DIEGO, CALIFORNIA
HMMD CASE NO. H21142
June 9, 1997**

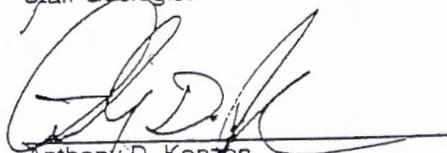
Fluor Daniel GTI Project 023400221

Prepared for:
Mr. Kevin Carr
Sea World Of California
1720 South Shores Road
San Diego, California 92109-7995

Fluor Daniel GTI, Inc.
Submitted by:

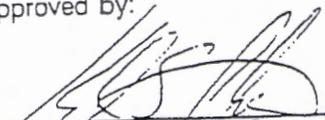


Fred Essig
Staff Geologist

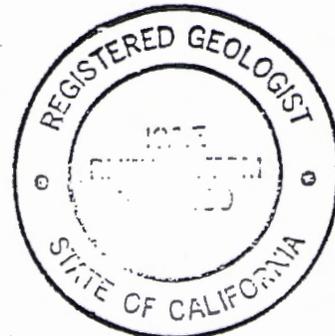


Anthony D. Konzen
Senior Project Manager

Fluor Daniel GTI, Inc.
Approved by:



Kyle S. Rheubottom, RG
Operations Manager



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2. Soil Analytical Results, Sampled December 20 and 23, 1996 and January 9, 1997, Sea World, 1720 South Shores Drive, San Diego, California
3. Groundwater Analytical Results, Sampled January 20, 1997 and April 29, 1997, Sea World, 1720 South Shores Drive, San Diego, California

Appendices

1. Boring Logs
2. Boring Permit
3. Non-hazardous Waste Data Forms
4. Soil Sampling QA/QC Procedures, Laboratory Analytical Reports, and Chain-of-Custodies

1.0 INTRODUCTION

1.1 Site Identification

Company Name: Sea World of California

Site Address: 1720 South Shores Road
San Diego, California 92109

Assessors Parcel No.: 435-480-15

HMMD Case No.: H00905

Property Owner: City of San Diego Real Estate Assets
1200 Third Avenue
San Diego, California 92101
(619) 236-6985
Attn: Linda Fierro

Contact Person: Mr. Kevin Carr
1720 South Shores Road
San Diego, California 92109
(619) 226-3934

Responsible Party: Sea World of California
1720 South Shores Road
San Diego, California 92109

1.2 Purpose of Work

The purpose of this investigation was to summarize past and present site use and analyze soil and groundwater in the subsurface for the presence of gasoline hydrocarbons, volatile organic and semi-volatile organic compounds, and CAM metals.

The investigation centered on a parcel of City-owned land immediately east of the Sea World Park Boundary. The parcel is within the inactive Mission Bay Landfill and is currently under a landfill monitoring program overseen by the Regional Water Quality Control Board (RWQCB)(Figures 1 and 2). Wells MBW-2 and 3 shown on Figure 2 were installed by the City of San Diego and are included in the RWQCB monitoring program.

1.3 Background

Site activities performed to date are summarized below.

- The City of San Diego used the area as an unrestricted Class 1 landfill from 1952 to 1959.
- Between 1959 and 1962, 5 to 20 feet of hydraulic fill was placed over the landfill.
- Woodward-Clyde Consultants (WWC) submitted a summary of a comprehensive investigation into the extent and hazardous waste content of the City of San Diego's Mission Bay Landfill. (WWC, 1983).
- California RWQCB Order No. 85-78 (September 16, 1985) established periodic sampling of groundwater within the landfill plus surface water and sediment sampling of Mission Bay and the San Diego River.
- In 1996 Sea World planned to lease the parcel immediately to the east of the park.
- In December 1996 and January 1997, Fluor Daniel GTI, Inc. (Fluor Daniel GTI) conducted Phase I and Phase II investigations on the undeveloped parcel located east of the Sea World property boundary. On April 29, 1997, an additional round of groundwater samples was collected from wells LE-1 through LE-6 for metals analyses.

1.4 Scope of Services

Fluor Daniel GTI performed or subcontracted the following work in accordance with the *Cost Estimate For Phase I and II Site for Sea World Expansion - East* (Fluor Daniel GTI, 1996).

Phase I Investigation

- Compiled a Phase I assessment report in general accordance with the instructions from Sea World dated April 22, 1996. The assessment data was compiled from the following sources; regulatory file reviews, personal interviews, site reconnaissance, data base reviews, and review of photographic archives.



Phase II Investigation

- Obtained permits to drill and install six groundwater monitoring wells.
- Obtained an Underground Service Alert number and met with utility companies prior to drilling.
- Drilled, logged, sampled, and installed six wells ranging in depth from 33 to 35 feet below grade (Figure 2).
- Collected soil samples at approximate 5-foot intervals for lithologic evaluation and laboratory analysis.
- Purged and sampled the 6 monitoring wells (2 events).
- Coordinated analysis of 12 soil samples and 6 groundwater samples.
- Prepared a "30-day" drilling report as required by the San Diego County Site Assessment and Mitigation Division (SAMD).
- Prepared an assessment report summarizing Phase I research and this most recent landfill-site assessment.

2.0 GEOLOGY AND HYDROGEOLOGY

2.1 Geology

As mapped by Kennedy and Peterson (1975), the site is built upon land reclaimed by hydraulic fill which is apparently underlain by formations included in the Eocene Poway and La Jolla Groups. The site is situated on the south side of Mission Bay essentially at sea level (Figure 1). The study area has little relief except that dictated by structures in the vicinity.

2.2 Site Geologic Description/Soil Types

As observed from the borings drilled by Fluor Daniel GTI on December 20 and 23, 1996 and on January 9, 1997, the site is underlain by hydraulic fill that extends to the maximum depths explored. The hydraulic fill is characterized by randomly distributed sand and sand/silt mixtures with trace amounts of gravel. Boring logs from the recent drilling investigation are presented in Appendix 1.

The November 17, 1983 WWC report described encountering various types of landfill waste (i.e., wood, paper, glass, etc.) during 1980 test pit excavation. Landfill debris was not encountered during December 1996 through January 1997 drilling investigation, indicating that the borings were not within the landfill limits.

2.3 Hydrogeology

The site lies within the Mission San Diego Hydrologic Subarea (HSA 7.11) of the Lower San Diego Hydrologic Area (HA 7.10) of the San Diego Hydrologic Unit (HU 7.00). Because the site is west of Interstate 5, there are no beneficial uses for groundwater (RWQCB, San Diego Region Basin Planning Area).

Surface drainage in the vicinity of the site is toward Mission Bay immediately to the north. The San Diego River floodway is located approximately one-half mile to the south. There are no permanent streams in the area surrounding the site (Figure 1).

Groundwater depths gauged on January 20, 1997 ranged from 11.68 to 21.32 feet below grade. Because of significant tidal influence, groundwater gradient and flow were not determined. Groundwater elevations are presented in Figure 3 and Table 1.

The tidal influence on groundwater elevation was measured in well LE-3 on January 9, 1997. The groundwater elevation in LE-3 declined 4.2 feet between 8:50 AM and 3:30 PM. Because of this tidal influence and the likelihood of lateral permeability variations due to the random nature of artificial fill emplacement, a groundwater gradient map was not prepared.

2.4 Summary of the Phase I Report

The WWC *Site Assessment Report* summarizes the findings of a comprehensive investigation into the extent and hazardous waste content of the City of San Diego's Mission Bay Landfill. According to the report, the landfill occupies approximately 115 acres in the southeast corner of Mission Bay. The lease expansion is located above the western extent of the landfill. The City of San Diego used the area as an unrestricted Class I landfill from 1952 to 1959. The landfill received up to 25,000 cubic yards of municipal and commercial waste per month. Of most concern, the landfill reportedly received unknown amounts of hazardous industrial wastes including: carbon tetrachloride, methyl-ethyl ketone, toluene, chlorinated cleaning solvents, paint and oil waste, sulfuric acid, hydrofluoric

acid, chromic acid, hydrochloric acid, cyanide, zinc chromate, and cadmium. Between 1959 and 1962, 5 to 20 feet of hydraulic fill was placed over the landfill. The scope of the site assessment investigation performed by WWC included reviewing landfill operation documents, photographs and reports, interviewing landfill eyewitnesses, conducting geophysical and soil gas surveys, and drilling and sampling soil borings and groundwater monitoring wells. The report had a number of conclusions: 1) As many as 130 metallic drums per acre were dumped in the landfill. Most of these drums would have corroded and released their contents within ten years. 2) Elevated concentrations of arsenic, cadmium, copper, lead, mercury, and zinc were observed in landfill waste samples. The metals likely exist as metallic sulfides which have limited mobility. 3) Hydrocarbon pollutant concentrations were generally low. Detectable acetone concentrations were on the order of 1 parts per million (ppm). Naphthalene and phenanthrene were detected at concentrations up to 13 ppm and 6.2 ppm, respectively. 4) Carbon tetrachloride, cyanide, and polychlorinated biphenyls (PCBs) were not detected in soil samples. 5) Groundwater samples contained elevated concentrations of arsenic, copper, nickel, lead, and zinc. Acetone was detected in groundwater at concentrations up to 41,000 parts per billion (ppb). Eleven other volatile organic compounds were found at concentrations up to 50 ppb. Twenty extractable organic compounds were found at concentrations up to 5 ppb.

3.0 HEALTH AND SAFETY

A site-specific health and safety plan was prepared prior to drilling. An "Agreement and Acknowledgment" statement was signed by on-site personnel indicating that the health and safety plan had been read and understood. Hydrogen sulfide and methane gas were identified site-specific hazards and air monitoring was performed continuously throughout the well drilling and installation procedure.

4.0 PERMITTING

A boring permit for six monitoring wells was acquired from the San Diego County HMMD prior to drilling (Appendix 2).



5.0 PRELIMINARY DRILLING ASSESSMENT

5.1 Drilling

On December 20 and 23, 1996, wells LE-1, LE-2, and LE-3 were drilled and installed in the lease expansion area (Figure 2). During the drilling of LE-4, on December 23, hydrogen sulfide gas was detected at concentrations as high as 9 ppm and methane was detected at a maximum of 1,000 ppm. Drilling was immediately halted and boring LE-4 was backfilled. On January 9, 1997 the drilling was again mobilized following additional study and preparation for the hydrogen sulfide and methane hazard. Wells LE-5 and LE-6 were installed and boring LE-4 was re-drilled and converted to a monitoring well. To minimize exposure to methane and hydrogen sulfide gasses, work was conducted up-wind and fans were used to ventilate the work area.

The wells were drilled with a CME-75 drill rig using 8 and 9-inch diameter hollow-stem augers.

5.2 Soil and Groundwater Disposal

On May 1, 1997, seventeen drums of soil cuttings were disposed of at the waste disposal facility in McKittrick, California. Twelve drums of auger rinsate and well purge water were disposed of at DeMenno/Kerdoon in Compton, California on May 5, 1997. The soil and water were transported under non-hazardous waste manifests (Appendix 3).

Of the drums disposed of, nine soil and one water were generated during a previous investigation at the Sea World Wild Arctic Exhibit.

5.3 Soil Sampling and Analyses

Samples were collected at approximate 5-foot intervals for lithologic description and hydrocarbon analyses. Samples were collected in general accordance with the Quality Assurance/Quality Control procedures listed in Appendix 4.

Two soil samples were selected from each of the six borings for analysis. All soil samples were analyzed for hydrocarbon components using the EPA Method 8015 hydrocarbon screen. Additionally, all soil samples from borings LE-1 through LE-4 were analyzed for volatile organic



compounds by EPA method 8020 and one soil sample from each of the six borings was analyzed for volatile and semi-volatile organic compounds using EPA methods 8240, and 8270, respectively. Analyses of soil samples were performed by Del Mar Analytical, a State-certified laboratory. After further discussions with Sea World in April 1997, one sample from each boring was additionally analyzed for CAM metals.

5.4 Groundwater Sampling and Analysis

Wild Arctic well WA-3 was gauged and Lease Expansion wells LE-1 through LE-6 were gauged, purged, and sampled on January 20, 1997. Wells LE-1 through LE-6 were gauged, purged and sampled again on April 29, 1997.

One sample was submitted from each well for analysis. The samples collected on January 20 were analyzed for organic lead, total lead, volatile organics, and semi-volatile organics using the California DHS Method, and EPA Methods 7421, 8240, and 8270, respectively. The samples collected on April 29 were analyzed for CAM metals.

Chemical analyses of the groundwater samples were performed by Del Mar Analytical. Samples were collected in general accordance with the Quality Assurance/Quality Control procedures listed in Appendix 4. To reduce interference from soil particles in suspension, groundwater samples collected on April 29 were filtered and acidified at the laboratory prior to metals analyses.

6.0 FINDINGS

6.1 Soil Analytical Results

Twelve soil samples were analyzed for hydrocarbon components using the EPA Method 8015 hydrocarbon screen. Samples from wells LE-1 through LE-5 were screened in the C₆ to C₄₄ range (gas standard and diesel standard) and analyzed for volatile organic (BTEX) compounds using EPA method 8020. Samples from wells LE-5 and LE-6 were screened against the C₁₀ to C₄₀ diesel fuel standard (Figure 4). Soil analytical data are summarized in Table 2. Laboratory reports are in Appendix 4.

Hydrocarbons within the C₂₂ through C₄₄ range were detected in soil from well LE-1 at 10 feet below grade (79 milligrams per kilogram, mg/kg). Hydrocarbons within the C₁₀ through C₄₄ range were detected in both samples from well LE-4 (200 mg/kg at 10 feet, 380 mg/kg at 15 feet below grade). The hydrocarbons sources for the C₁₀ to C₂₀ range are likely diesel-weight fuels and solvents; source materials for the C₂₀ to C₄₄ range include heavier oils such as hydraulic, motor, and natural oils.

One sample from each of the six borings was analyzed for volatile organics, semi-volatile organics, and metals using EPA methods 8240, 8270, and various EPA 6000 and 7000 methods. Acetone was detected 15 feet below grade in wells LE-3, LE-4, LE-5, and LE-6 at 26 micrograms per kilogram ($\mu\text{g}/\text{kg}$), 220 $\mu\text{g}/\text{kg}$, 21 $\mu\text{g}/\text{kg}$, and 14 $\mu\text{g}/\text{kg}$, respectively (Figures 5 and 6). In well LE-4, 2-butanone (MEK) was detected 15 feet below grade at 36 $\mu\text{g}/\text{kg}$. Acetone and 2-butanone are solvents typically used in the aerospace industries, their detection most likely the result of aerospace manufacturing-waste disposal in the former landfill. These same constituents were detected at higher concentrations during the 1983 WWC investigation. Acetone and 2-butanone are not listed as constituents of concern in the Basin Plan guidelines.

Generally, metals analyses showed detectable concentrations of arsenic, barium, total chromium, cadmium, cobalt, copper, lead, molybdenum, nickel, vanadium and zinc. Sample LE-2-10 had a chromium concentration of 79 mg/kg which exceeded the soluble threshold limit concentration (STLC) by more than 10 times. However, the remaining samples and the statistical mean were below the 10 times limit. None of the metals exceeded the total threshold limit concentration (TTLC) values.

6.2 Groundwater Analytical Results

No total lead or organic lead were found in any of the groundwater samples. Groundwater analytical data is summarized in Table 3, laboratory reports are in Appendix 4.

On January 20, 1997, detectable 1,1,1-trichloroethane concentrations ranged from 2.4 micrograms per liter ($\mu\text{g}/\text{L}$) in wells LE-4 and LE-6 to 7.2 $\mu\text{g}/\text{L}$ in LE-2. Only well LE-3 contained nondetectable 1,1,1-trichloroethane. The contaminant appears to be widely dispersed in a relatively uniform concentration, consistent with dated landfill disposal of barrels in a corrosive environment. 1,1,1-Trichloroethane is widely used as a solvent in the aerospace industry. Figure 7 shows the distribution of 1,1,1-trichloroethane in the "LE" series wells.

The groundwater Maximum Contaminant Limit (MCL) concentration in the Basin Plan for 1,1,1-trichloroethane is 200 $\mu\text{g/L}$. During this investigation, 1,1,1-trichloroethane concentrations did not exceed MCL limits (Table 3).

Generally, metals analyses showed detectable concentrations of barium, selenium, silver, and zinc (Table 3). A majority of the metals concentrations were below detection limits. Dissolved selenium, silver, and zinc concentrations exceeded Basin Plan oceanwater quality goals (RWQCB, 1994). However, applicable groundwater MCLs for these metals are unlisted in the Basin Plan.

7.0 SUMMARY

- In December 1996 and January 1997, wells LE-1 through LE-6 were drilled and installed. Landfill debris was not encountered during drilling.
- The site lies within the Mission San Diego Hydrologic Subarea (HSA 7.11) of the Lower San Diego Hydrologic Area (HA 7.10) of the San Diego Hydrologic Unit (HU 7.00). Based on the January 20, 1997 gauging, groundwater depths at the site were between 11.68 and 21.32 feet below grade. Due to tidal fluctuations, groundwater gradient and flow direction were not determined.
- Hydrocarbons within the C_{22} through C_{44} range were detected in soil from well LE-1 at 10 feet below grade (79 mg/kg). Hydrocarbons within the C_{10} through C_{44} range were detected in both samples from well LE-4 (200 mg/kg at 10 feet, 380 mg/kg at 15 feet below grade). The hydrocarbons sources for the C_{10} to C_{20} range are likely diesel-weight fuels and solvents, source materials for the C_{20} to C_{44} range include heavier oils such as hydraulic, motor, and natural oils.
- Acetone in soil was detected 15 feet below grade in wells LE-3, LE-4, LE-5, and LE-6 at 26 $\mu\text{g/kg}$, 220 $\mu\text{g/kg}$, 21 $\mu\text{g/kg}$, and 14 $\mu\text{g/kg}$, respectively. In well LE-4, 2-butanone (MEK) was detected 15 feet below grade at 36 $\mu\text{g/kg}$. Acetone and 2-butanone are solvents typically used in the aerospace industries, their detection most likely the result of aerospace manufacturing-waste disposal in the former landfill. Metals analyses generally showed detectable arsenic, barium, total chromium, cadmium, cobalt, copper, lead, molybdenum, nickel, vanadium and zinc. Concentrations were below levels discussed in the 1983 WWC report, and below TTLC levels. Some of the metals concentrations likely represent natural background concentrations.



- 1,1,1-trichloroethane was found in groundwater samples from every well except LE-3 at concentrations from 2.4 $\mu\text{g/L}$ in well LE-4 and LE-6 to 7.2 $\mu\text{g/L}$ in LE-2. The contaminant appears to be widely dispersed in a relatively uniform concentration, consistent with dated landfill disposal of barrels in a corrosive environment. 1,1,1-Trichloroethane is widely used as a solvent in the aerospace industry. The Basin Plan MCL concentration for 1,1,1-trichloroethane is 200 $\mu\text{g/L}$. During this investigation 1,1,1-trichloroethane concentrations did not exceed MCL limits. No other organic compounds listed in the Basin Plan as contaminants of concern were detected in this investigation.
- Detectable concentrations of barium, silver, selenium and zinc were measured in groundwater samples. Applicable Basin Plan groundwater quality goals are not listed. Chromium, cobalt, copper and other metals detected in the WWC wells were not detected in the "LE" series wells.

8.0 REFERENCES

- California Water Resources Control Board and California Regional Water Quality Control Board, San Diego Region (9), June 1994, *Comprehensive Water Quality Control Plan for the San Diego Basin*.
- California Water Regional Water Quality Control Board, San Diego Region, 1990, Resolution No. 90-55, *A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for the San Diego Region*.
- Fluor Daniel GTI, Inc., 1996, *Cost Estimate For Phase I and II Site for Sea World Expansion - East*, May 7.
- Kennedy and Peterson, 1975, *Geology of the San Diego Metropolitan Area, California*, California Division of Mines and Geology, Bulletin 200.
- Woodward-Clyde Consultants, 1983, *Site Assessment Report*, November 17.

TABLE 1
Monitoring Data
Sampled January 20, 1997
Sea World, 1720 South Shores Drive, San Diego, California

Well ID	DTW	TOC Surveyed Wellhead Elevation	Elevation of Water
WA-1	NA	22.22	
WA-2	NA	20.39	
WA-3	15.35	19.23	3.88
LE-1	21.32	24.36	3.04
LE-2	11.68	15.11	3.43
LE-3	14.85	19.99	5.14
LE-4	15.96	20.28	4.32
LE-5	15.37	21.17	5.80
LE-6	16.84	19.96	3.12

Notes:

- 1) All depths are reported in feet
- 2) DTW = depth to water
- 3) TOC = top of casing
- 4) NA = not available

TABLE 2
Soil Analytical Results
 Sampled December 20 and 23, 1996 and January 9, 1997
 Sea World, 1720 South Shores Drive, San Diego, California

Sample ID	Hydrocarbon Range	TPH Screen	TPH _g	B	T	E	X
LE-1-10	C ₂₂ - C ₄₄	79	<1.0	<0.0050	<0.0050	<0.0050	<0.015
LE-1-15	NA	<5.0	<1.0	<0.0050	<0.0050	<0.0050	<0.015
LE-2-5	NA	<5.0	<1.0	<0.0050	<0.0050	<0.0050	<0.015
LE-2-10	NA	<5.0	<1.0	<0.0050	<0.0050	<0.0050	<0.015
LE-3-10	NA	<5.0	<1.0	<0.0050	<0.0050	<0.0050	<0.015
LE-3-15	NA	<5.0	<1.0	<0.0050	<0.0050	<0.0050	<0.015
LE-4-10	C ₁₀ - C ₄₄	200	<1.0	<0.0050	<0.0050	<0.0050	<0.015
LE-4-15	C ₁₀ - C ₄₄	380	<1.0	<0.0050	<0.0050	<0.0050	<0.015
LE-5-10	NA	<5.0	--	--	--	--	--
LE-5-15	NA	<5.0	--	--	--	--	--
LE-6-10	NA	<5.0	--	--	--	--	--
LE-6-15	NA	<5.0	--	--	--	--	--

Notes:

- 1) All results reported in mg/kg
- 2) TPH = total petroleum hydrocarbons; analyzed using EPA 3550/CA DHS Modified 8015
- 3) TPH_g = total petroleum hydrocarbons as gasoline; analyzed using EPA 5030/CA DHS Modified 8015/8020
- 4) B = benzene, T = toluene, E = ethylbenzene, X = xylenes; analyzed using EPA 5030/CA DHS Modified 8015/8020
- 5) < number = analyte below reported detection limit
- 6) NA = not applicable
- 7) -- = not analyzed

TABLE 3
Groundwater Analytical Results
Sampled January 20, 1997 and April 29, 1997
Sea World, 1720 South Shores Drive, San Diego, California

Well ID	1,1,1-Trichloroethane	Barium	Selenium	Silver	Zinc
LE-1	6.5	180	<10	85	<50
LE-2	7.2	<50	27	<50	74
LE-3	<2.0	70	33	<50	<50
LE-4	2.4	3,700	26	<50	<50
LE-5	4.8	<50	19	<50	<50
LE-6	2.4	310	45	<50	<50
Basin Plan Water Quality Goal	200 ²	NL	15 ³	0.7 ³	20 ³

Notes:

- 1) All results reported in µg/L
- 2) Basin Plan Groundwater Primary Maximum Contaminant Level, RWQCB, Region IX, 6/94
- 3) Basin Plan Ocean Water Quality Goal, RWQCB, Region IX, 6/94
- 4) NL = Maximum Contaminant Level not listed in Basin Plan
- 5) 1,1,1-trichloroethane by EPA Method 8240, barium, silver, and zinc by EPA Method 200.7, selenium by EPA Method 200.9

Same as Fn. 4

Hydrocarbons within the C_{22} through C_{44} range were detected in soil from well LE-1 at 10 feet below grade (79 milligrams per kilogram, mg/kg). Hydrocarbons within the C_{10} through C_{44} range were detected in both samples from well LE-4 (200 mg/kg at 10 feet, 380 mg/kg at 15 feet below grade). The hydrocarbons sources for the C_{10} to C_{20} range are likely diesel-weight fuels and solvents; source materials for the C_{20} to C_{44} range include heavier oils such as hydraulic, motor, and natural oils.

One sample from each of the six borings was analyzed for volatile organics, semi-volatile organics, and metals using EPA methods 8240, 8270, and various EPA 6000 and 7000 methods. Acetone was detected 15 feet below grade in wells LE-3, LE-4, LE-5, and LE-6 at 26 micrograms per kilogram ($\mu\text{g}/\text{kg}$), 220 $\mu\text{g}/\text{kg}$, 21 $\mu\text{g}/\text{kg}$, and 14 $\mu\text{g}/\text{kg}$, respectively (Figures 5 and 6). In well LE-4, 2-butanone (MEK) was detected 15 feet below grade at 36 $\mu\text{g}/\text{kg}$. Acetone and 2-butanone are solvents typically used in the aerospace industries, their detection most likely the result of aerospace manufacturing-waste disposal in the former landfill. These same constituents were detected at higher concentrations during the 1983 WWC investigation. Acetone and 2-butanone are not listed as constituents of concern in the Basin Plan guidelines.

Generally, metals analyses showed detectable concentrations of arsenic, barium, total chromium, cadmium, cobalt, copper, lead, molybdenum, nickel, vanadium and zinc. Sample LE-2-10 had a chromium concentration of 79 mg/kg which exceeded the soluble threshold limit concentration (STLC) by more than 10 times. However, the remaining samples and the statistical mean were below the 10 times limit. None of the metals exceeded the total threshold limit concentration (TTLC) values.

6.2 Groundwater Analytical Results

No total lead or organic lead were found in any of the groundwater samples. Groundwater analytical data is summarized in Table 3, laboratory reports are in Appendix 4.

On January 20, 1997, detectable 1,1,1-trichloroethane concentrations ranged from 2.4 micrograms per liter ($\mu\text{g}/\text{L}$) in wells LE-4 and LE-6 to 7.2 $\mu\text{g}/\text{L}$ in LE-2. Only well LE-3 contained nondetectable 1,1,1-trichloroethane. The contaminant appears to be widely dispersed in a relatively uniform concentration, consistent with dated landfill disposal of barrels in a corrosive environment. 1,1,1-Trichloroethane is widely used as a solvent in the aerospace industry. Figure 7 shows the distribution of 1,1,1-trichloroethane in the "LE" series wells.

Same as Fn. 6

Same as Fn. 9



Case of Mysterious Rhode Island Beach Blast Solved

CBS/AP

Published: July 24, 2015, 8:45 pm



Police at Salty Brine Beach in Narragansett, Rhode Island, where a mysterious explosion injured two people on Saturday, July 11, 2015. WPRI

PROVIDENCE, R.I. — Scientists say the mysterious blast on a Rhode Island beach was very likely caused by the combustion of hydrogen gas built up because of a corroded copper cable under the sand.

The [blast at Salty Brine beach in Narragansett](http://www.cbsnews.com/news/narragansett-rhode-island-apparent-explosion-at-salty-brine-beach-injures-1/) (<http://www.cbsnews.com/news/narragansett-rhode-island-apparent-explosion-at-salty-brine-beach-injures-1/>) was so strong that Kathleen Danise was hurled from her beach chair near the water line and thrown against a rock jetty 10 feet away. Danise, 60, of Waterbury, Connecticut, suffered two fractured ribs and bruises, her family said.

Witnesses that morning said they heard a rumbling and loud bang (<http://www.cbsnews.com/news/womans-ribs-fractured-in-unexplained-ri-beach-explosion/>) that sounded like a large firecracker, a grenade or a gas explosion, and noticed a sulfur or butane smell.

The blast left behind a rift in the sand and little else.

Rhode Island Department of Environmental Management Director Janet Coit announced the cause Friday, nearly two weeks after the blast sent a woman flying into a jetty.



(<https://mgtvwspa.files.wordpress.com/2015/07/ri-blast-cbs.jpg>)

Police at Salty Brine Beach in Narragansett, Rhode Island, where a mysterious explosion injured two people on Saturday, July 11, 2015.
WPRI

Coit says scientists at the University of Rhode Island pinpointed the cause to a hydrogen blast. An abandoned copper cable that was previously used by the U.S. Coast Guard ran under the sand.

"I'm grateful to the extraordinary scientists at URI, especially the team from the Graduate School of Oceanography, whose hard work led to this explanation," said Gov. Gina Raimondo.

Coit says scientists took core samples of the beach sand where the incident occurred and the sand at the site of the incident had unusually high levels of hydrogen.

rewritten, or redistributed. The Associated Press contributed to this report.

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February 12, 1996

of California

Mr. George Morton
City of San Diego - Environmental Services
Refuse Disposal Division
4950 Murphy Canyon Road, Suite 101
San Diego, CA 92123

Subject: Proposed Dewatering Operation for Wild Arctic Construction Project

Dear Mr. Morton:

The purpose of this letter is to respond to concerns you have expressed as to how the possibility that dewatering at our site could influence the groundwater flow under adjacent City property potentially resulting in the expansion of a contaminated plume associated with the City's prior operation of a landfill on that property.

Our consultant, Southern California Soil and Testing, Inc., has indicated that due to the distance separating your clean-up site and our construction project, that it is very unlikely that our dewatering operation would have any significant impact on the existing groundwater flow. However, the consultant has suggested that out of an abundance of caution, the installation of additional monitoring wells would allow the City to identify the initiation of any migration of your contaminated groundwater towards the Sea World property. While Sea World believes this is the City's responsibility, as an accommodation to the City, and subject to the following condition, Sea World is willing to install monitoring wells on Sea World property and to perform this additional monitoring. Sea World makes this offer on the condition that in the event migration of the contaminated plume is observed, City will install and operate, and Sea World will grant the City the right to install and operate a system to establish a hydraulic barrier to prevent further migration.

The construction project requires that dewatering commence on Monday, February 19, 1996. We will proceed with permitting for the monitoring wells upon receipt of written acceptance of the foregoing. Please feel free to call me at (619) 226-3934 if you have any questions. If you would like to have your counsel contact our attorney to develop appropriate documentation, please contact our in-house counsel in St. Louis, MO, Frank Hruby at (314) 577-3203.

Sincerely,

SEA WORLD OF CALIFORNIA

Kevin J. Carr
Environmental Coordinator

Sea World of California
1720 South Shores Road
San Diego, CA 92108-7095
(619) 222-6363

\\KEVIN\OWP\GOLIDWBT.96

Busch Entertainment
Corporation

ONE OF THE AMUSEMENT COMPANIES

Orca Facility, SeaWorld@Coastal

From: Advocate <advocate@animalactivist.com> on behalf of Patrick Daley
<newsmanager@peta.org>
Sent: Sunday, July 19, 2015 6:00 AM
To: Orca Facility, SeaWorld@Coastal
Subject: You Must Vote AGAINST SeaWorld's Blue World Project

Jul 19, 2015

California Coastal Commission

Dear Coastal Commission,

SeaWorld's Blue World Project proposal is a desperate drop-in-the-bucket move at a time when public opinion is clearly turning away from keeping orcas captive.

The additional space and a "fast water current" are simply acknowledgments that orcas need more space and more than just still water, but they would do little to provide the animals with a natural life. The fact is that in the wild, orcas dive as deep as 1,000 feet, and the tank expansion SeaWorld has announced would have a depth of only 50 feet. Because the tank will be only 350 feet long, orcas would have to swim more than 1,500 lengths back and forth per day to approximate the 100 miles a day they may naturally travel in the ocean.

One look at the drawings and details of the plan makes clear that SeaWorld is more interested in improving the human experience than that of the orcas. Please do not be fooled.

If SeaWorld really wants to help the orcas and create a better tourist attraction for San Diego--because, at the end of the day, SeaWorld is an amusement park, not a conservation organization--it should let them live as nature intended by sending them to seaside sanctuaries, and it should invest in innovative, animal-free attractions that would actually make it more competitive with the hugely successful attractions nearby. Indeed, several studies have shown that seeing animals in captive environments actually fosters disrespect rather than reverence for the species being viewed and gives visitors a false sense of security about the wild species.

I care about orcas, and I'm sure you do, too. Please deny SeaWorld the opportunity to build a bigger prison. Help get the orcas one step closer to a world where they can really thrive--not in tanks, but in seaside sanctuaries.

Please vote AGAINST the Blue World Project.

Sincerely,

Patrick Daley

Approximately
120,000
received

Orca Facility, SeaWorld@Coastal

From: Born Free USA <alertsmanager@bornfreeusa.org> on behalf of Violetta Rodigari <alertsmanager@bornfreeusa.org>
Sent: Tuesday, September 29, 2015 10:39 AM
To: Orca Facility, SeaWorld@Coastal
Subject: Please Deny SeaWorld's Blue World Project Permit

Sep 29, 2015

Commissioners California Coastal Commission CA

Dear Commissioners,

As a member of Born Free USA, I am writing to you in opposition to SeaWorld's proposed Blue World Project for the construction of a larger tank for their captive orcas.

Approving this permit would arguably violate the Commission's mandate to "protect, conserve, restore, and enhance" marine resources within its jurisdiction. Orcas are not suited for captivity, and building this enclosure--regardless of its size--will not alleviate the suffering endured by these animals.

In the wild, orcas travel long distances and dive hundreds of feet into the ocean, which is impossible to do in a tank. These intelligent animals with complex familial bonds are routinely separated from their families--often when they are much too young. Further, SeaWorld has admitted to providing drugs to their orcas to keep them displaying healthier signs of behavior, like administering Diazepam to suppress the signs of stress. Orca welfare should not include pharmaceuticals to suppress their depression and anxiety, which is caused by captivity in the first place.

If approved, SeaWorld will spend in excess of \$100 million, which would provide further incentive to keep these animals captive to recover its costs.

Public sentiment is changing on the issue of keeping orcas captive. In fact, The Orca Welfare and Safety Act (A.B. 2140), which is currently before the California legislature, would prohibit the public display of orcas in the state.

Please do not provide SeaWorld with any incentive to keep orcas in captivity. I respectfully ask that you deny this permit.

Sincerely,

Ms. Violetta Rodigari
Via Giuseppe Toniolo, 10
Lissone, None 20851
violetta.rodigari@gmail.com

Approximately
3,900
received

Orca Facility, SeaWorld@Coastal

From: mailagent@thesoftedge.com on behalf of gloryresa@cox.net
Sent: Tuesday, September 29, 2015 11:41 AM
To: Orca Facility, SeaWorld@Coastal
Subject: Say NO to the Blue World Project!

Dear California Coastal Commission:

I am a citizen of California. I am writing in regard to CDP Application No. 6-15-0422 (SeaWorld Orca Enclosure Expansion) for the "Blue World Project" at SeaWorld San Diego. SeaWorld Entertainment has always claimed that Shamu Stadium is more than adequate for its orcas, so spending \$100 million on this project and affecting water and environmental quality, both during construction and operation, have no discernible purpose or value.

Please reject this permit application for the following reasons:

- 1) The Blue World Project is a waste of resources. California is experiencing a historic drought and this land-based construction project, which will require significant materials and several years, and will consume vital water.
- 2) The multi-year construction of this new enclosure complex will cause significant negative impacts to air and water quality (as well as noise levels) in Mission Bay, due to particulates in the air and water, effluent, and other detritus.
- 3) The operation of this new enclosure complex will have a larger impact on the water and environmental quality in Mission Bay than the current Shamu Stadium, as it will have a greater volume of effluent associated with it. Given its overall lack of purpose or value, this impact is unjustified.
- 4) The park in San Diego is as vulnerable to earthquakes as any other structure in southern California. The proposed underwater viewing area will have some of the largest panes of Plexiglas known for a water tank (see <http://blueworldproject.seaworld.com/realm/>). The risk of these panes cracking or breaking in a significant earthquake is real and, should this happen, the devastation to the whales and possibly people viewing them would be unprecedented.
- 5) The California legislature is considering a bill (the Orca Welfare and Safety Act) that would prohibit the public display of orcas. If this bill passes, construction of the Blue World Project would become even more wasteful, especially of vital water.

The best use of resources related to orca enclosure expansion (particularly the \$100 million that SeaWorld clearly has to invest toward improving orca welfare) would be to construct a sea pen sanctuary on the coast of California. Such a sanctuary would also fall within the Commission's regulatory purview and we urge you to approve such a proposal should it come before you.

Sincerely,

Gloria Resa
151 Rainier Ct.
Chula Vista, CA 91911-5422

Approximately
377
received

Orca Facility, SeaWorld@Coastal

From: Michelle Holland <shelly989@hotmail.co.uk>
Sent: Tuesday, September 29, 2015 9:58 AM
To: Orca Facility, SeaWorld@Coastal
Subject: Please Change Your Mind

Dear California Coastal Commission,

I am writing to you with complete and utter disappointment and disbelief about the news that the CCC staff has advised the approval of the SeaWorld Blue World Project. <http://www.nbcsandiego.com/news/local/Report-Recommend-Approving-Bigger-SeaWorld-Orca-Tanks-329553211.html>

I am shocked that none of the scientific evidence for the suffering of orcas in captivity has swayed your mind in any way. Surely, you are aware of the current debate about keeping orcas in captivity and advocates such as Dr. Ingrid Visser, Lori Marino, Naomi Rose, Paul Spong, and Ken Balcomb opposing the captivity of orcas because there is clear evidence that orcas do not and cannot thrive in captivity?

Damaged teeth that need to be drilled, social hierarchy fights that can be fatal, higher mortality rates for captive orcas and a long list of stereotypical behaviours such as chewing on the gates and walls, swimming in circles and taking a breath at exactly the same spot or motionlessly floating on the water surface, are all signs that captive orcas are suffering from stress, anxiety, boredom or even depression.

You cannot possibly be ignoring these facts by writing a report that recommends this outdated, cruel and clearly detrimental form of entertainment for one of the most social, intelligent, self-aware species on our planet?

If you are unaware of the legitimate evidence showing that orcas do not thrive in captivity, please see the following website: <http://www.seaworldfactcheck.com/index.htm>

If you require any further evidence for the shortened life spans of captive orcas, please refer to this peer-reviewed paper on orca mortality available at: <http://onlinelibrary.wiley.com/doi/10.1111/mms.12225/abstract>

The Coastal Commission seems to be misinformed by SeaWorld not just about the facts regarding captive orcas mortality, well-being and mental health but also seems to be in the belief that SeaWorld is not interested in acquiring orcas from the wild anymore. I am certain that SeaWorld has assured you many times that they will uphold the Virgin Pledge which commits them to no longer acquire animals captured from the wild past February 2014 or their progeny.

However, that random date permits SeaWorld to trade animals with other facilities around the globe that have been captured before that date, such as the wild caught Russian orcas Narnia and Nord captured in 2012 and 2013 and any of their offspring. Narnia and Nord are currently performing in a Russian facility and were trained according to SeaWorld protocols as Russian facilities get advice from SeaWorld on the training and habituation of orcas to captivity.

SeaWorld already has deals with China and Russia. SeaWorld uses Chinese social media to promote their business overseas and helps to train the Russian captured orcas. China buys wild caught orcas from Russia and Russia has increased the capture quota of orcas to 10 animals per year since SeaWorld announced their expansion plans. SeaWorld plans to expand to the Asian market by 2020 and the Blue World Project would allow them to breed 4-5 new calves per facility which could then be shipped to the new facility. SeaWorld Asia could simply not sign up to the Virgin Pledge as a new facility and trade cetaceans all over Asia with other facilities, without legal minimum requirements for facilities to house cetaceans and no legal framework to protect trainers from getting in the water with

the animals.

SeaWorld could open up a new market for cetaceans in Asia, in some ways one could argue that it has already done with the current boom in China, and will likely use Blue World as a the first step onto the Asian market.

Economically, this plan is wonderful but for the animals involved it is not just dangerous as transportation is so stressful for cetaceans that it increases their risk of death, it is also morally questionable to separate young calves of ages 8 and younger from their mothers which SeaWorld has done plenty of times. To give just one example, SeaWorld separated Keet from his mother Kalina when Keet was just 18 months old and still very dependent on his mother. This will likely be the new trend in Asia, especially if SeaWorld manages to open that new park and become the new leader on an unregulated cetacean market.

By approving SeaWorld's Blue World Project, the California Coastal Commission would turn a blind eye to all of these issues and allow SeaWorld to expand to Asia and open up a new market for the captures of cetaceans in Asia.

Please, do not approve the Blue World Project of SeaWorld and do not turn a blind eye to the suffering of captive orcas.

You may be rolling your eyes at yet another animal activist emailing you about this issue but the day none of us care about how other creatures on our planet are treated really will be the end of this planet. I really urge you to think of the whales and not the \$\$\$\$ - let's face it SeaWorld wouldn't be in existence if it weren't for the fact it makes money out of the animals and stripping everything down to the bare bones what have we left if we don't have humanity?

Yours sincerely,

Michelle Holland

Approximately
200
received

Orca Facility, SeaWorld@Coastal

From: Cathy Reid <cathyreid2011@hotmail.com>
Sent: Tuesday, September 29, 2015 12:21 PM
To: Orca Facility, SeaWorld@Coastal
Subject: Please Place Strict Restrictions on SeaWorld's Blue World Project

As someone who cares about marine life, I was extremely disappointed to hear that the California Coastal Commission appears to be caving to SeaWorld's corporate interests with a staff report that suggests it is willing to rubber stamp an expansion of the San Diego facility that will be detrimental to orcas.

There is no educational value in watching orcas—who would swim up to 100 miles a day in the wild—confined to sterile tanks and deprived of their natural instincts and species-specific needs. Indeed, experts have spoken at length about how forcing animals to perform tricks in an unnatural captive setting is detrimental to conservation of wild orcas because it gives the viewing public the impression that these animals are abundant and readily available to be used for human whims, when some populations are actually in endangered in the wild.

An enlightened public is rejecting the notion that these intelligent marine mammals should be confined in tiny tanks for purposes of public entertainment. Therefore, the Commission should take affirmative steps on behalf of the orcas it is entrusted to protect by conditioning the Blue World expansion permit on a strict requirement that SeaWorld San Diego may not continue to breed or acquire additional orcas.

Please do the right thing for conservation of marine resources in California.

Thank you.

Cathy Reid
Bluestem Rd
Round Lake, IL 60073

Approximately
1,900
received

Orca Facility, SeaWorld@Coastal

From: Nancy Smith <nancyannesmith@yahoo.com>
Sent: Sunday, July 12, 2015 4:52 PM
To: Orca Facility, SeaWorld@Coastal; skinsey@marincounty.org
Subject: Please deny SeaWorld's Blue World Project!

Dear Steve Kinsey and California Coastal Commission:

Please deny SeaWorld's Blue World Project!

HERE ARE SEVEN REASONS SEAWORLD'S BIGGER ORCA TANKS PROJECT IS A JOKE:

7. Tilikum Killed People Because Captivity Drove Him Nuts Orca bull Tilikum has killed three people. One of them, a trainer he basically scalped as he threw her around like a rag doll. The reason this happened wasn't because orcas are evil monsters. It's because Tilikum has been confined to an artificial space where he spends his days as frustrated as you would be if you had to live your whole life in a box. And Tilikum isn't the only orca in captivity to attack and kill humans. But Tilikum, who still lives his days in Orlando's SeaWorld, is the face of this whole whale-in-captivity experiment gone horribly wrong. Meanwhile, there have been exactly zero recorded moments of an orca attacking a human in the wild. Bigger tanks are going to fix that?

Which leads us to...

6. The Fancy Big Changes Are Still Artificial The crux of SeaWorld's Blue World Project is that the new tanks will be bigger, covering 1.5 acres at 50 feet deep and 350 feet wide. The new tanks will hold 10 million gallons of water, which is double the amount they currently hold. The new tanks will also feature a 40-foot partition for people to view the whales below the water line. That seems like a better situation than what the whales are currently in. But whales belong in the unlimited open space of the ocean, where they can roam freely in their own habitat, and not in a glorified bathtub with people watching them. Orcas are known for traveling vast miles in a straight line at high speeds, use the ocean depth to communicate with each other for miles, and send their clicks and signals to hunt for prey -- as they are designed by nature to do. An artificial tank, no matter how large, still stifles an orca's very existence. This is why you see orcas in parks with drooping dorsal fins, and orcas in the wild with straight, erect dorsal fins. At the end of the day, they're still limited to where they can swim, are still expected to jump into the air for fish, and will still be watched by people for money. None of these things happen in the wild.

5. These Changes Were About Money, Nothing More Back in March, SeaWorld insisted that Blackfish and the ensuing protests had no impact whatsoever on their bottom line or on how the park would handle its business. Now, suddenly, as if by magic, it's decided to announce its Blue World Project out of thin air.

Coincidentally, it's doing this just as news of the company's bottom line is getting rocked on Wall Street. Last week came the news that the company's stock fell 33 percent. Attendance has been flat this summer (a time when attendance is high for theme parks), and the company is hemorrhaging money. Now, out of the blue, comes the decision to construct the bigger tanks and hire an advisory group. SeaWorld still insists that this is about the trainers and the whales and not the protesters. The company does this while pointing out that "more than 20,000 people will visit SeaWorld today who will enjoy our park and be inspired by our animals." Even in its statement announcing Blue World, SeaWorld can't help but try to make it sound as if all is well, nothing to worry about here, look at all the people coming to our park, you should totally come to the park too!

4. This Is Still the Company That Wrecked Orca Families "For SeaWorld there is no higher priority than the health and welfare of our animals, and any claims to the contrary made by these radicals are simply wrong," SeaWorld said in a statement when announcing Blue World Project. "The truth is that our killer whales are happy and healthy, and thrive in our care."

Keep in mind that SeaWorld's methods of capturing these happy and healthy whales were to break up orca families in the wild, destroying the animals' complex social structure and basically kidnapping them from their mothers. Male orcas have been known to live in the wild close to their mothers pretty much their whole lives. But when SeaWorld needed some whales to jump into the air for fish to entertain tourists, it split up families and tore babies from their mothers and families.

But no worries; the whales have been known to be medicated to make the I really miss my family blues go away.

And also, hey, bigger tanks now!

3. Orcas in Captivity Still Die Way Before Their Time While Again, this whole thing is supposed to be about the orcas' welfare. And bigger tanks. And an advisory board with experts. Yet, none of these things will likely change the somber fact that a captive orca's life expectancy tends to be way shorter than an orca in the wild. According to the Oceanic Preservation Society, most orcas at SeaWorld have died in their teens and 20s, as opposed to those in the wild who live well into their 60s and even 90s. There have been some orcas at SeaWorld that have lived a regular orca lifespan, but these are the lucky few. The reason you haven't heard about the number of orcas that died prematurely in captivity? Revisit Number 5 on this list.

2. This Isn't About Real Scientific Research SeaWorld is boasting that the Blue World Project is all about the orca's well-being, and to study them to understand these animals better. The company is, after all, investing \$10 million for research and hiring professors and physiologists to conduct independent studies for, as the company puts it, the "health and well-being" of the animals.

But here's a queer idea: You can actually do better research on orcas when you study them in the wild, in their actual natural habitat and not in, you know, a big pool where the way they eat is by doing tricks for tourists.

Pretty revolutionary, we know. But there's a reason Tilikum lost his mind and started killing people. Again, no orca has ever attacked a human in the wild. If you wanted to study say, human beings, you wouldn't throw a person into a jail cell for his entire life and expect to come up with actual defining results that would tell you everything you need to know about humans.

But orcas are different, apparently.

1. A Jail Cell Is Still a Jail Cell, which brings us to this... you can expand the tanks all you want. But a jail cell is still a jail cell. Be it big or small, a whale dropped into a confined space is still a whale living in a confined space. Their home (the ocean) is 3/4 the planet!

Thank you,

9
received

Orca Facility, SeaWorld@Coastal

From: Kathleen McGarr <katmcgar@hotmail.com>
Sent: Wednesday, September 30, 2015 6:57 PM
To: Orca Facility, SeaWorld@Coastal
Subject: This taxpayer DOES NOT support Blue World Habitat

California Coastal Commission:

I ask that you deny SeaWorld a permit to construct Blue World Habitat. No matter what SeaWorld does there will never be enough room for these sentient beings. A mere 50 foot depth does not even come close to the depths they dive in the wild - A study of southern resident killer whales in the North Pacific recorded an animal diving up to 264m (866 ft.) Researchers believe that at least some killer whales can dive to at least 350m (1,148 ft.) Adult male killer whales dive more often and deeper than adult females.

With the public outcry, to approve these plans would be a disaster for you and SeaWorld. The Coastal Commission is funded by taxpayers. I do not want this Commission to participate in any deal making with SeaWorld. 'We'll take ten million to clean up the ocean and sure, you can have your permit'. NO.

All cetaceans belong in the ocean, not in a concrete tank swimming in circles. An Orca at SeaWorld would have to swim the circumference of the main pool 1,400 times to match the equivalent daily distance travelled in the wild.

With the amount of documented, scientific evidence from 3rd parties, not affiliated with SeaWorld it has been proven time and time again these are socially complex beings, they stay with their families in the wild. At SeaWorld they are bred and inbred. They use food deprivation to get the animals to preform. Impregnate females too early and separate mothers and calves.

In recent years is the existence in some whale and dolphin species of special brain cells known as spindle cells or Von Economo neurones.

Spindle cells are thought to be responsible for 'rapid intuitive choice in complex social situations' and are associated with emotions such as empathy. Until relatively recently it was believed that these special brain cells were only found in the brains of humans and some primates. Research now shows that spindle cells are present in the brains of the following whale and dolphin species: (www.USwhales.org)

Humpback whales

Fin whales

Sperm whales

Orcas

Belugas

Bottlenose dolphins and

Risso's dolphins

92% of SeaWorld's Orca's have not survived past the age of 25. There is a documented Orca named Granny who is living in the wild who is 104 Years old still residing with her pod.

Animal abuse is now a felony in 50 states in the US. California being one. Florida being another

[\(http://aldf.org/blog/50-states-now-have-felony-animal-cruelty-provisions/\)](http://aldf.org/blog/50-states-now-have-felony-animal-cruelty-provisions/). Keeping Orcas and Dolphins in Tanks is not only physically but physiologically destructive as well. It is time for SeaWorld to step up and do the right thing. Rehabilitate all their cetaceans and release them first into sea pens and then into their native waters, or where they would have been if not bred in captivity based on the type.

At least 148 orcas have been taken into captivity from the wild since 1961 (including Pascuala, Morgan and Tilikum who was stolen from his family off the shores of BC at 2 years old). 127 of these orcas are now dead.

Countless dolphins and whales have died in SeaWorld's care. Documents here:

<http://www.wowvstaiji.com/img/mmir-complete-09jul2013.pdf>

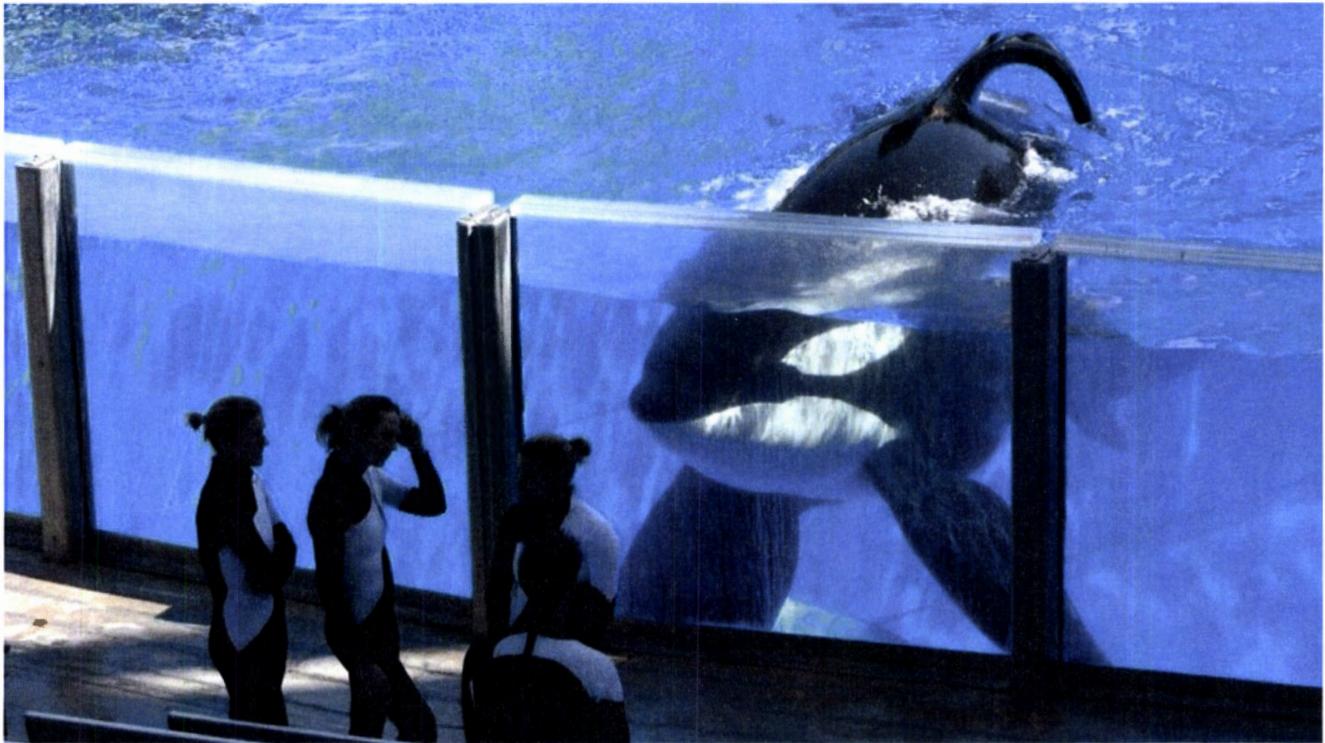
So I urge you to deny SeaWorld permits for anything except rehab to sea pens and ultimately release. There is documented evidence that clearly shows successful release has happened and is possible.

Please DO NOT approve any plans for Blue World Habitat.

Sincerely,

Kathleen McGarr
San Francisco, CA

Approximately
10
received



Regina DeFalco Lippert
Martinez, CA

2,199

Supporters

SeaWorld in San Diego wants to build an enlarged killer whale "habitat," and has petitioned the California Coastal Commission for a permit to do so. But NO tank or artificial "habitat" can EVER be large enough! Killer whales, and dolphins, belong ONLY in their NATURAL habitat - the ocean - swimming wild and free with their family groups! Captivity is cruelty!!

Orcas and dolphins suffer in captivity. They are sentient, highly intelligent marine mammals that live in family groups, and do NOT belong living in a chlorine-laden, confined tank their entire lives, being forced to perform for humans.

SeaWorld claims they love their orcas and dolphins, but 44 orcas have died at SeaWorld. They currently confine 23 orcas in their facilities, and these orcas have been separated from their mothers. In the wild, orcas seldom leave their mother's side, even when fully grown. SeaWorld blatantly lies in their newest TV ads, claiming that their orcas live the same lifespan as they do in the wild, but over 90% of their orcas have not survived beyond 25 years! In the wild, a female orca can live up to 80 to 90 years.

All SeaWorld cares about are their profits - if they truly cared about orcas and dolphins, they would not keep them in captivity in the first place! SeaWorld should NOT be granted a permit to build a larger tank - they need to stop imprisoning orcas, and dolphins, and retire the ones they currently own to sea pens!

Letter to
The California Coastal Commission
Deny a permit (# 6-150422) to SeaWorld, San Diego, to build an orca "habitat"

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AUG 10 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

210 Donegal Way
Martinez, CA 94553
August 4, 2015

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

Dear Commissioners,

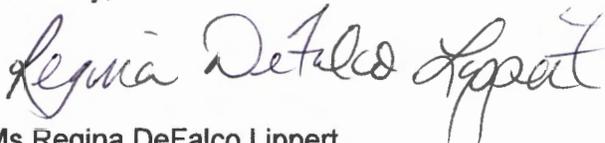
Sea World is applying for a permit (#6-150422) to build what they call "the most sophisticated killer whale habitat in the world."

I am writing to ask you to DENY them this permit. The ONLY habitat killer whales belong in is the one they were intended to live in - THE OCEAN!

Sea World tries to convince the public that they care about the killer whales and dolphins they keep in cruel captivity, and force to perform - but all they really care about is their profits!

Even if they don't take dolphins and orcas from the wild, any kind of "habitat" is woefully inadequate compared to their natural home in the oceans. If Sea World truly wants to educate people about dolphins and whales, they should buy some boats and take people out on the ocean to see them in the only place where they belong - in the wild.

Sincerely,



Ms Regina DeFalco Lippert

Enclosures: Signed petitions opposing the permit

Article by Dr. Lori Marino: "Orcas Cannot Thrive At SeaWorld, And It's Not a Matter of Opinion"

Tell the CA Coastal Commission to say NO to SeaWorld!

Created by

Regina DeFalco Lippert

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AUG 10 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Signatures

4,872

Petition Text

SeaWorld in San Diego wants to build an enlarged killer whale "habitat," and has petitioned the California Coastal Commission for a permit to do so. But no tank or artificial "habitat" can EVER be large enough! Killer whales, ...

This online petition has gathered 4,872 signatures, which, when printed out, totals 408 pages.
I have included only the first 20 pages of signatories.



Regina DeFalco Lippert
Martinez, CA

Dear California Coastal Commission, San Diego Office,

We are pleased to present you with this petition affirming this statement:

"SeaWorld in San Diego wants to build an enlarged killer whale "habitat," and has petitioned the California Coastal Commission for a permit to do so. But no tank or artificial "habitat" can EVER be large enough! Killer whales, and dolphins, belong ONLY in their natural habitat - the ocean - swimming wild and free! Captivity is cruelty!"

Attached is a list of individuals who have added their names to this petition, as well as additional comments written by the petition signers themselves.

Sincerely,
Regina DeFalco Lippert

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AUG 10 2015

PETITION TO THE CALIFORNIA COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

We, the undersigned, ask the California Coastal Commission to DENY the permit (# 6-150422) requested by SeaWorld, to build an enlarged "habitat" for orcas.

Orcas are sentient beings who live with their family groups and swim hundreds of miles in the open ocean - no tank or artificial "habitat" can ever be large enough, not even for orcas born in captivity. CAPTIVITY IS CRUELTY.

Name Street City, State, Zip Code

Claire Dudan 50 Layman Ct. Walnut Creek CA 94596

Don Dudan " " " " " "

Mary A Wade 1090 ALLEGHENY Dr. Danville, Ca 94526

Ann Rice 702B Oklahoma Dr. Petaluma, CA 94952

Tim Park 1020 Las Pampas Ave San Rafael CA 94903

Cynthia Fry 25 Santa Maria Dr. Novato 94947

Howard Jr. 25 Santa Maria Dr. Novato

Shemari Bessmer 729 Bluegrass Dr Petaluma Ca 94950

Jennifee Bessmer 1825 Castle Dr Petaluma 94954

MARK BEECHER 250 Allston Way Berkeley CA 94704

MARGO WAGNER CASTRO VALLEY CA

Enika Colura SANTA ROSA CA 95403

Hadley Asher Santa Rosa Ca 95404

Lisa Soldavini Petaluma, CA 94954

Jesa Nicholas Santa Rosa Ca 95403

89 signatories

Renowned conservationist Dr. Jane Goodall recently wrote:

Dear Park Board Chairman and Commissioners,

The capture, breeding and keeping of cetaceans world-wide has come under increasing public scrutiny due to recent high-profile stories being released from industry insiders. The scientific community is also responding to the captivity of these highly social and intelligent species as we now know more than ever, about the complex environments such species require to thrive and achieve good welfare. **Those of us who have had the fortunate opportunity to study wild animals in their natural settings where family, community structure and communication form a foundation for these animals' existence, know the implications of captivity on such species.**

I understand the Vancouver Park Board and the Vancouver Aquarium became industry leaders in 1996, when an agreement was made to not allow the keeping of cetaceans caught from the wild after September 16th of that year (with the exception of endangered species or rehabilitation animals that could not be released). **However, the current permission of Vancouver Aquarium cetacean breeding programs on-site, and at SeaWorld with belugas on loan, is no longer defensible by science.** This is demonstrated by the high mortality rates evident in these breeding programs and by the ongoing use of these animals in interactive shows as entertainment.

The idea that certain cetaceans "do better" in captivity than others is also misleading, as belugas, dolphins and porpoises are highly social animals which can travel in large pods and migrate long distances. In captivity, these highly vocal and complex communicators are forced to live in a low-sensory environment, which is unable to fully meet the needs of their physical and emotional worlds.

As society at large and the scientific community now reflect on the keeping of highly cognitive species like primates, elephants, and cetaceans in entertainment and research, I ask the Vancouver Park Board and the Vancouver Aquarium to do the same. **The phasing out of such cetacean programs is the natural progression of human-kind's evolving view of our non-human animal kin.** I hope the Vancouver Park Board and the Vancouver Aquarium will be a leader in compassionate conservation on this issue, as you have done before,

Sincerely,
Jane Goodall

Sign the Petition for the CA Orca Welfare & Safety Act!

<http://action.sumofus.org/a/seaworld-orcas-captivity-california-ban-black-fish/87/?sub=fb>

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AUG 13 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

The legendary National Geographic recently interviewed John Racanelli, the National Aquarium's chief executive officer, about the idea of creating a seaside sanctuary for captive cetaceans:

- “Shows are antiquated. **No animals at zoos perform in shows any more.** We somehow reached a level of enlightenment with chimpanzees, elephants, tigers, and lions. Why are we still interested in having dolphins do shows?”
- “We take seriously that we're one of Baltimore's star tourist attractions, and we would never do anything to jeopardize that. Some say that the bottom will fall out if we don't have dolphins. **But our mission—to show the ocean's treasures—[is what] attracts our visitors.** We have more than 17,000 animals for people to see. People love the sharks, and the exhibits that re-create the real world. Our far-and-away most popular exhibit right now shows people what a real Indo-Pacific coral reef looks like. But trying to replicate the world of most marine mammals is pretty hard to do. So we have to look at other alternatives.”
- “It would be wonderful to build a dolphin sanctuary right here for our dolphins. But they don't naturally live in these waters; they would head south. If we have to move them to another location, we'll only do so if our plan can meet two requirements: **One, the dolphins must be kept together, and two, visitors here must be able to see them and interact with them digitally.**”
- “That's why we're holding a dolphin summit at the end of this month. The summit is a workshop to figure out how to develop an off-site dolphin sanctuary. What would be the best environment? What type of husbandry will the dolphins require? What kind of corporate partners might exist? **We're thinking of it as a National Dolphin Center, like the National Elephant Center, where zoo elephants can retire.**”
- “We want to do right by our dolphins and by our audience, and do a better job of serving our mission. **We want to change the way humanity views and cares for the ocean.** Everything we do is centered on that mission.”
- “The sanctuary idea isn't unique or our own. But we are the first to make a deep inquiry—and at this stage it is [still] an inquiry—into how to do it. **We are committed to doing whatever is best for the eight dolphins in our care.** [Of course, we] hope to develop a way for our peers to also do this, if it works for them. **If we figure out a way to do this and raise the money for it to happen, I can't imagine not offering it to others, so that their animals could go to [the sanctuary] as well.**”

Sign the Petition for the CA Orca Welfare & Safety Act!

<http://action.sumofus.org/a/seaworld-orkas-captivity-california-ban-blackfish/8/2/?sub=fb>



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SEP 02 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

August 26, 2015

Mr. Steve Kinsey, Chair
And Members of the California Coastal Commission
California Coastal Commission
45 Fremont Street #2000
San Francisco, CA 94105

RE: Background on CDP Application No. 6-15-0422 (SeaWorld Orca
Enclosure Expansion).

Dear Chairman Kinsey and Members of the Coastal Commission:

We would like to provide you with some background information on this
issue.

Enclosed are copies of the documentary *Blackfish*, which shows how orcas
are harmed by captivity in SeaWorld based on testimony from former SeaWorld
trainers, along with additional written materials that contribute to our comments
below.

We further recommend Commission members review the books *Death at
SeaWorld: Shamu and the Dark Side of Killer Whales in Captivity* by David Kirby and
Beneath the Surface: Killer Whales, SeaWorld, and the Truth Beyond Blackfish by John
Hargrove.

We will be submitting more detailed comments shortly.

Sincerely yours,

David Phillips
Director

Mark J. Palmer
Associate Director

International Marine Mammal Project
Earth Island Institute
David Brower Center
2150 Allston Way, Suite 460
Berkeley, CA 94704-1302 USA
Tel: 510-859-9100
Fax: 510-859-9093

HUFF POST

GREEN

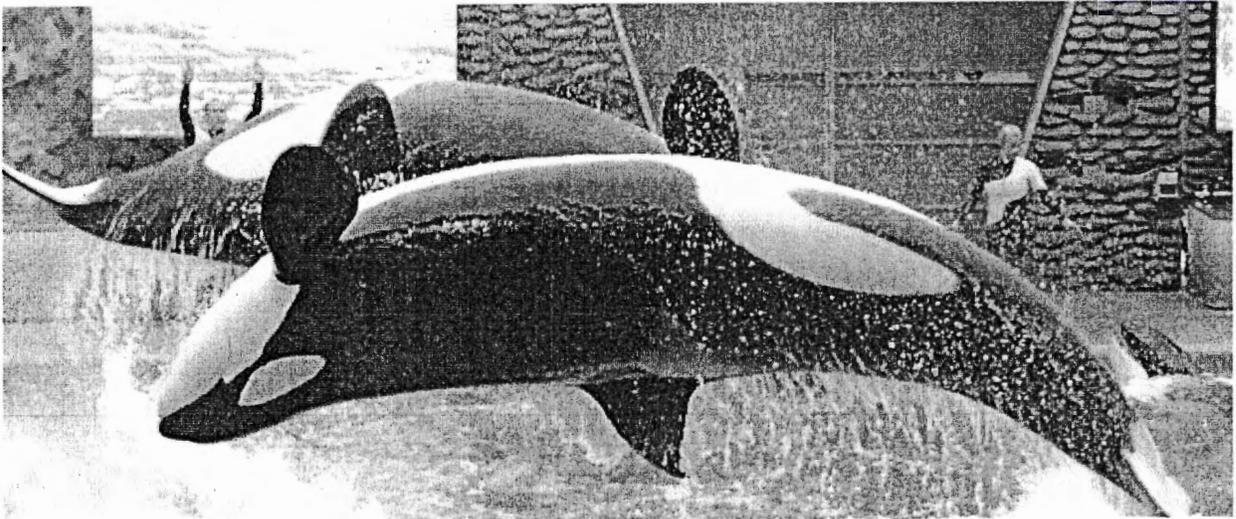
The Blog:



Mark J. Palmer [Become a fan](#)

Associate Director, International Marine Mammal Project, Earth Island Institute

What SeaWorld *Should* Do



Posted: 12/19/2014 3:24 pm EST Updated: 02/18/2015 5:59 am EST

SeaWorld has been pummeled by revelation after revelation about its treatment of cetaceans: dolphins, orca whales, and beluga whales that they are responsible for. The most punishing blow came more than a year ago from the shocking documentary "Blackfish," in which several former SeaWorld trainers expressed their own anguish and hurt for the orcas in their care -- SeaWorld insists on calling them "killer whales." One SeaWorld orca, Tilikum, has been involved in the killing of three people so far, yet is still kept for public performances and, perhaps more importantly, for milking of his sperm to use to artificially inseminate female captive orcas to breed yet more captive orcas.

The documentary, and subsequent incidents such as children being bitten in dolphin feeding pools and videos of dolphins flopping out of their pools, has led to major changes in public perceptions of SeaWorld and other dolphinariums. SeaWorld's value as a business on the stock market has gone way, way down. Amid the red ink, SeaWorld's CEO Stan Atchison recently stepped down.

Well, SeaWorld, now that we have your attention...

SeaWorld has responded by proposing to build new orca tanks that will be twice the size of the current tanks, complete, according to an artistic rendering, with nice trees and even a water "treadmill" for orcas to swim against. All this is supposed to make things better for one of the smartest animals in the world, as if they were chickens that just need a bit bigger cage to play in.

What SHOULD SeaWorld do?

Here are some ideas:

Stop the Circus Acts: Marine mammals are the only zoo animals that have to perform for their food. Indeed, the business model for SeaWorld is not that of a zoo; it is of a circus. If the animals don't perform, they do not eat; they need to be kept hungry to make them perform all the tricks. And the tricks are just that -- there is nothing natural about an orca or dolphin being ridden by a human trainer or launching a trainer up into the air or jumping over obstacles. The open mouth that orcas and dolphins display when they bob their head above the water is completely unnatural -- it is a begging behavior to get more fish. As biologist Dr. Naomi Rose of the Animal Welfare Institute says: "The fish are in the water; they don't rain down from the sky." These performances are unnatural for the cetaceans and teach our children dominance of animals. SeaWorld argues that the cetaceans like doing the tricks, but then why do they require fish rewards? SeaWorld also claims the

performances are critical for exercise and to stimulate the animals, but the performances are the same day after day, week after week, year after weary year. Taking advantage of natural behaviors and different experiences each day would suit their needs for exercise and mental stimulation much better, albeit this is no substitute for their rich lives in the wild.

Stop the Lies: Parents take their children to SeaWorld to learn about the ocean and be entertained, but the information provided by SeaWorld is often warped if not dead wrong. Male orcas like Tilikum have flopped-over dorsal fins in captivity -- this rarely occurs in nature. Yet SeaWorld tells visitors that the flopping dorsal fin is "natural." One guide even told people that flopped-over fins were like some people having curly hair! Most cetaceans do poorly in captivity, but SeaWorld insists they live as long as in the wild. SeaWorld claims that its goal is to make committed conservationists out of the visiting public. But as Dr. Susan Davis summed up in her book-length study of SeaWorld ("Spectacular Nature"), its message to the public is falsely soothing: "Don't worry; there are problems with the environment, but scientists and corporations are working together to solve them." SeaWorld even outrageously says that by attending its park, people are contributing to protection of the oceans! Stop lying to the public, SeaWorld, and provide the public with the truth.

Stop the Breeding: None of the species of dolphins, orcas and whales held in captivity are considered endangered, and aquariums breed them with little regard for genetic purity anyway. The only reason SeaWorld breeds dolphins and orcas and belugas are to produce more cetaceans for their silly shows. Most of the breeding is done through artificial insemination. Stop the breeding and stop the production of more miserable circus clowns.

No More Captures of Wild Cetaceans: The capture of wild dolphins, orcas, and belugas, which has been depicted in documentaries like "Blackfish" and "The Cove," is a horrendous and cruel activity. Many animals die during such captures. SeaWorld now claims that they do not catch dolphins, orcas and belugas in the wild anymore, but they once did, including buying dolphins from the dolphin slaughter at Iki Island, Japan. And SeaWorld is part of a consortium now trying to import 18 beluga whales captured in the wild in Russia. In other words, SeaWorld doesn't catch wild cetaceans anymore -- they pay the Russians and others to do it for them. Let us put an end to this nonsense and leave cetaceans in the wild where they belong.

Consider Sea Pens: There is an alternative to the sterile concrete tanks that captive cetaceans now live in. In a sea pen, an area fenced off from the ocean, a captive orca or dolphin can experience the tides, the currents, the fish and the seasons as if in nature. Care and feeding could still be given to the animals. The Free Willy/Keiko Foundation kept the orca Keiko, the star of the hit movie "Free Willy," in his home waters in Iceland for six years, most spent in a sea pen. Keiko was even taken out on the open ocean for "walks" in following a boat to and from his pen. And putting dolphins and whales in a sea pen does not mean ending public involvement -- seeing these animals in a more natural habitat can only enhance the educational experience. Sea pens are a good compromise between the deep ocean and the shallow sterile boxes on land where captive cetaceans are currently housed. SeaWorld has made millions off of performing dolphins and whales. It is time for them to give some of that money back and develop sea pens, carefully built and carefully sited, for the retirement of their captive cetaceans.

Consider Releases Back Into the Wild: SeaWorld insists that none of the animals can be released back into the ocean, and they may be right. The question of which whale or dolphin might be able to survive in the wild is complex: Can they catch fish and feed themselves? Were they born in captivity or were they taken from the ocean? Are they in good health? Is there a chance they can be re-united with their home pod and family, or perhaps be integrated into another pod? These are questions for experts based on the best available scientific information and evaluation, not glib SeaWorld publicists and hacks. Many dolphins and one orca have been successfully returned to their ocean habitat -- some are still there and thriving. It is a question we should seriously ask.

SeaWorld has a choice. They can continue to cast aspersions on their critics, and they can continue to deny the truth about their dolphins, orcas and belugas by spinning fantasies about how much these wild intelligent beings enjoy life in a small concrete tanks doing stupid circus tricks for the public. Or they can seize the opportunity to truly show their corporate integrity and do the right thing. I've outlined a few ideas above. We all know what SeaWorld SHOULD do. But will SeaWorld do it?

###

Mary Winters, former SeaWorld Sea Maid, reflects on powerful moments with cetaceans, advises current trainers and challenges American culture.

Interview and edited for length and clarity: Zoie Wesenberg, IMMP Intern & Mary Winter's daughter

When did you work at SeaWorld?

Just after graduating High School, from 1977 to 1982.

What does a Sea Maid's job entail?

We mainly did underwater ballet shows with dolphins and sea lions. I eventually did shows with pilot whales at the lagoon, which was attached to the bay. My act was to pretend I was an audience member who accidentally fell into the pool. I was swept up by the dolphins and rode them across the water like skis. Some years into my time at SeaWorld, they brought white Russian beluga whales and we launched a show called "Belinda Boogy," where we danced and sang with the whales; [laughs] it was quite cheesy. The trainers would sometimes let us swim in the pool while they were training the dolphins. A couple times a dolphin fluke hit me. It hurt like heck. I'm sure it was an accident, but they're super strong animals. I helped out in the Shamu shows, although I never swam with them. One time, I remember, some baby walrus were born. We were allowed to help feed them and they were so cute.

What sparked your interest in working for SeaWorld?

Kathy, a girl I knew from high school, had worked at SeaWorld and had told me there was a Sea Maid opening. I decided to try out and remember being really nervous, but letting the dolphins calmed my nerves. There was something about the creatures that I loved. They intrigue me. It was almost like a ballet-try out; they were looking at how your body looked while performing underwater. I was called back and accepted-I needed money and liked it.

Was there a particular moment that made you realize cetaceans do not belong in captivity?

My realization was gradual, but a few moments stand out.

In one instance, I was doing an evening Belinda Boogy show. In the midst of a loop through the pool, Kojak, one of the beluga whales, swam directly above me and pinned me towards the floor. This was a massive animal. I absolutely could not get up and wasn't going to push him; you don't do that to a whale. The trainers were supposed to deal with these scenarios and I remember them slapping the water and the lights dimming, as though the show was meant to end, so the audience wouldn't see. Kojak released me and I was able to swim up. My heart was pounding. I was never blamed for this; it was always the trainer's responsibility. I think the beluga whale was pissed. They had to do too many shows. A few were fine, but when they were forced to doing 10 shows a day, they became aggressive.

A more powerful moment happened with Dina and Stein, the first few dolphins I swam with. One day, I went to a feeder pool to visit them because they'd gotten too old to participate in the shows. I remember **looking into Dina's eyes and...it was horrible**. She was stuck in this 6-foot pool and I remember realizing that **this animal was going to die in a bathtub. In that moment, I hated SeaWorld**. The last act for this intelligent, charismatic creature that I had liked and bonded with, that I had affection for, was stuck in jail. I knew they wouldn't survive in the wild, but couldn't they at least put Dina in the lagoon? In that moment, I thought, **I have no idea how these creatures aren't so full of hatred towards us...or maybe they are, I have no idea**. I mean, seriously, we wouldn't do that to a domesticated animal, how on earth could we do that to a wild animal? **That was my biggest turning point**.

If you had the chance, what would you tell current SeaWorld employees?

We all do things that we justify in some way. We rationalize, on some level, and push thoughts away. We are humans, and we are often stubborn. We cling to our beliefs, despite all the evidence pointing elsewhere. Trainers have many rationalizations even if they, at times, question captivity: how will they change the system, the corporation is powerful, if it's not me it's someone else, finding a new career path, I *love* these animals...I've been there, and I am careful about judging every trainer. So, I would be inclined to **ask them about what they observe, to set aside the glamour and their own views, and see what the creatures are telling them about their lives in captivity.** Sit down, watch them, and think. Truly think. **Don't let predispositions block the thought process.**

Getting people talking and articulating their senses may be precisely how change is affected. I don't know that trainers are so different than those who give into SeaWorld's misleading advertisements. People want to blame someone, and that blame can often be placed on the trainers and SeaWorld. **But I think the blame is on us.** It's on American culture and our values, which are reflected in what we consume: SeaWorld. **We have to own that as a culture. Once we own it, we can change.**

September 9, 2015

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105

RECEIVED

SEP 16 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

SEP 15 2015

CALIFORNIA
COASTAL COMMISSION

RE: Please Vote AGAINST SeaWorld's Blue World Project

I am writing because I care about orcas, and because SeaWorld has submitted an application to the California Coastal Commission to build new tanks.

SeaWorld's Blue World Project proposal is a desperate attempt at a time when public opinion is clearly turning away from keeping orcas captive. The additional space and a "fast water current" are simply acknowledgments that orcas need more space and more than just still water, but they would do little to provide the animals with a natural life. I ask you to please deny SeaWorld the opportunity to build a bigger prison.

In the wild, orcas dive as deep as 1,000 feet, and the tank expansion SeaWorld has announced would have a depth of only 50 feet. Because the tank will be only 350 feet long, orcas would have to swim more than 1,500 lengths back and forth per day to approximate the 100 miles a day they may naturally travel in the ocean.

This project will not provide anything close to truly "dynamic opportunities" or to "support the whales' broad range of behaviors and provide choices that can challenge the whales both physically and mentally," as SeaWorld claims. This project is window-dressing intended to mislead the public into thinking that the orcas are no longer suffering.

One look at the drawings and details of the plan makes clear that SeaWorld is more interested in improving the human experience than that of the orcas. Please do not be fooled; SeaWorld is an amusement park, not a conservation organization. SeaWorld presents circus-like shows featuring orcas performing tricks in order to be fed. SeaWorld force-breeds orcas in captivity to get new generations of captive orcas for their shows. SeaWorld separates orca mothers from their babies on a routine basis to meet "show schedules."

Several studies have shown that seeing animals in captive environments actually fosters disrespect rather than reverence for the species being viewed and gives visitors a false sense of security about the wild species.

If SeaWorld really wants to help the orcas and create a better tourist attraction for San Diego, it would let them live as nature intended by sending them to seaside sanctuaries, where marine mammals can feel and experience the ocean, hear their families, and perhaps one day even be reunited with them. SeaWorld would invest in innovative, animal-free attractions that would actually make it more competitive with the hugely successful attractions nearby, not build a slightly bigger orca prison. Seeing animals in captive environments fosters disrespect rather than reverence for the species being viewed and gives visitors a false sense of security about the wild species.

I ask your help because I care about orcas, as I am sure you do. Captive orcas face stressful and shortened lives. Please deny SeaWorld the opportunity to build a bigger prison. Please help get the orcas one step closer to a world where they can really thrive--not in tanks, but in seaside sanctuaries.

Please vote against the Blue World Project. Thank you for your help on behalf of our world's great wildlife.

Yours truly,



J. Capozzelli

315 West 90th Street

New York, NY 10024

July 30, 2015

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive #103
San Diego, CA 92108

RECEIVED

AUG 06 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To the California Coastal Commissioners,

My concern is with San Diego SeaWorld's application for a larger tank for their orcas.

The National Geographic magazine has, for the past two months (at least in the Spanish edition), run feature stories about orcas. Last month the story was about the difficulty of returning orcas to the wild, and this month the story was about new research documenting orca families living in the wild.

The message, based on new science, is that these are impressively intelligent and social beings who belong to real families and who teach and care for their members throughout and beyond their own lifetimes.

With this information, take another look at the sterile, lonely life of a captive orca. Watch Blackfish or read Death at SeaWorld to get a sense of the business side of managing these magnificent animals.

Last week's news showed a baby orca beached on a rocky British Columbian coast when the tide went out. Humans were able to keep the baby alive until the tide rose, lifting him off the rock and he was able to rejoin his family that had circled around, not leaving him behind.

Please do not permit SeaWorld to build another not-big-enough tank for orcas. Encourage the company to polish its image by, perhaps, funding a sanctuary for the animals that have served it for so many years.

Thank you.

Sincerely,



Irina Gronborg
424 Dell Court
Solana Beach, CA 92075

Please forward to where this should go. Thanks.

RECEIVED

July 31, 2015

AUG 04 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

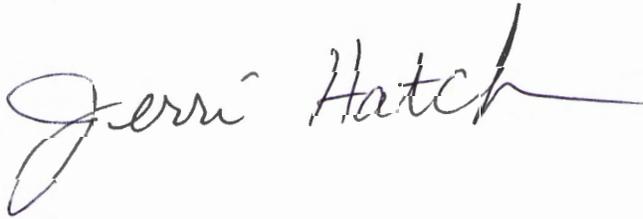
Dear Coastal Commission,

Please DO NOT allow Sea World to continue their cruel treatment of captive Orcas by allowing them to further invest in their habitat by building larger tanks. If this happens Sea World will claim a right to a "return on investment" and will continue with their barbaric program.

If Sea World agrees to STOP their artificial insemination and breeding program (prisoners having babies in prison) THEN we can allow them to increase the size of the pools so that the remaining Orcas can live out their lives in some greater degree of humanity. But better yet, force Sea World to open "sea pens" for Tilikum and other whales that are now in total isolation, living a life of unbearable sadness, boredom and confinement.

Send the message now that Sea World's days of exploiting Orcas are over. Tell them to stop.

Thank you,

A handwritten signature in cursive script that reads "Jerri Hatch". The signature is fluid and includes a long horizontal flourish at the end.

Jerri Hatch

1744 Mallow CT

Carlsbad CA 92011

RECEIVED

AUG 17 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

1012 Middlesex St
Toms River, N.J.
08757

April 7, 2015

California State Coastal
Commission
South Coast District Office
200 Ocean Gate
Suite 1000
Long Beach, California 90802

RECEIVED
South Coast Region

AUG 12 2015

CALIFORNIA
COASTAL COMMISSION

Dear Sirs:

I urge you to vote against Sea
World's Blue World Project.
Sea World is claiming their Blue
World will help Orcas. They want to
build new artificial tanks.

In the wild Orcas dive up to 1000
feet. The proposed tank expansion will
have a depth of only 50 feet. The length
of the tank will only have a length of
350 feet. Orcas would have to swim
more than 1,500 lengths back and forth per
day to approximate the 100 miles a day
they may naturally travel in the ocean.
This project will not provide anything close
to truly "dynamic opportunities" that
will support the broad range of behaviors
and provide choices that can be a
challenge to them both physically and
mentally, as the company claims. This
project is window dressing intended
to mislead the public into thinking the
Orcas are no longer suffering.

CA. Coastal Commission
45 Fremont St. #2000,
San Francisco, CA 94105
USA

RECEIVED
SEP 01 2015
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED
AUG 31 2015
CALIFORNIA
COASTAL COMMISSION

Please Vote AGAINST Sea World's Blue World Project

Dear CA. Coastal Commission:

SeaWorld's Blue World Project proposal is a desperate drop-in-the-bucket move at a time when public opinion is clearly turning away from keeping orcas captive.

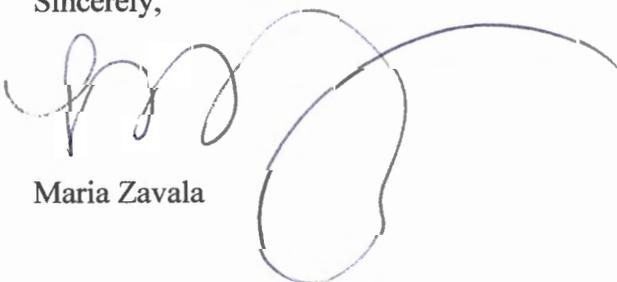
The additional space and "fast water current" are simply acknowledgments that orcas need more space and more than just still water, but they would do little to provide the animals with a natural life. The fact is that in the wild, orcas dive as deep as 1,000 feet, and the tank expansion SeaWorld has announced would have a depth of only 50 feet. Because the tank will be only 350 feet long, orcas would have to swim more than 1,500 lengths back and forth per day to approximate the 100 miles a day they may naturally travel in the ocean. One look at the drawings and details of the plan makes clear that SeaWorld is more interested in improving the human experience than that of the orcas. Please do not be fooled.

If SeaWorld really wants to help the orcas and create a better tourist attraction for San Diego--because, at the end of the day, SeaWorld is an amusement park, not a conservation organization--it should let them live as nature intended by sending them to seaside sanctuaries, and it should invest in innovative, animal-free attractions that would actually make it more competitive with the hugely successful attractions nearby. Indeed, several studies have shown that seeing animals in captive environments actually fosters disrespect rather than reverence for the species being viewed and gives visitors a false sense of security about the wild species.

I care about orcas, and I'm sure you do, too. Please deny SeaWorld the opportunity to build a bigger prison. Help get the orcas one step closer to a world where they can really thrive--not in tanks, but in seaside sanctuaries.

Please vote AGAINST the Blue World Project.

Sincerely,



Maria Zavala

September 11, 2015

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105

RECEIVED

SEP 16 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

SEP 15 2015

CALIFORNIA
COASTAL COMMISSION

I am writing to ask you to oppose SeaWorld's proposed Blue World Project for the construction of a larger tank for their captive orcas.

Approving this permit would arguably violate the Commission's mandate to "protect, conserve, restore, and enhance" marine resources within its jurisdiction. Orcas are not suited for captivity, and building this enclosure regardless of its size will not alleviate the suffering endured by these animals.

In the wild, orcas travel long distances and dive hundreds of feet into the ocean, which is impossible to do in a tank. These intelligent animals have complex familial bonds yet they are routinely separated from their families, often when they are much too young.

Further, SeaWorld has admitted to providing drugs to their orcas to keep them displaying healthier signs of behavior, like administering Diazepam to suppress the signs of stress. Orca welfare should not include pharmaceuticals to suppress their depression and anxiety, which is caused by captivity in the first place.

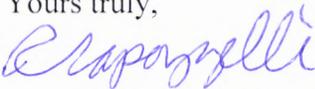
If approved, SeaWorld will spend in excess of \$100 million, which would provide further incentive to keep these animals captive to recover its costs.

Public sentiment is changing on the issue of keeping orcas captive. In fact, the Orca Welfare and Safety Act (A.B. 2140), which is currently before the California legislature, would prohibit the public display of orcas in the state.

Please do not provide SeaWorld with any incentive to keep orcas in captivity. I respectfully ask that you deny this permit.

Thank you for your help on behalf of orcas.

Yours truly,



R. Capozzelli
Yonkers, NY 10704

Orca Facility, SeaWorld@Coastal

From: Shelley A Ottenbrite <ShelleyOttenbrite@vermontlaw.edu>
Sent: Monday, July 13, 2015 2:14 PM
To: Orca Facility, SeaWorld@Coastal
Subject: Killer whale "habitat"

Dear Commissioners,

I was fortunate to visit San Diego in 2011 and spent a wonderful week on the beach, whale watching, at the zoo, at Scripps aquarium, and at the art museum and restaurant in Balboa Park. I absolutely refused to visit SeaWorld as a place that profiteers off of animal abuse and contributes nothing to understanding our natural world or caring for it (unless it is a small action for marketing purposes).

Please do not approve a tank expansion which doubles the space for SeaWorld San Diego's killer whale exhibit. San Diego certainly does not need to be known as a center of animal cruelty when so much lovely nature imbues the city. San Diego should be looking at sustainability as one of the world's driest municipalities, not an expansion of resource intensive entertainment in a dying industry.

As far as Seaworld's level of care for killer whales, which are dolphins, SeaWorld did not know the needs of killer whales when they began this captivity experiment, and they are denying their biological needs now. Dolphins are the most intelligent animal on the planet, next to man. There is evidence their physiology is designed for more emotional complexity than man as well.

The most humane place for these animals is in sea pens in the ocean.

While SeaWorld gathers letters from people who financially benefit from this situation, experts in animal behavior are swaying the rest of the world that this is the cruelest of entertainments. Many countries refuse this entertainment and many are in the midst of shutting the industry down. Canada and Ontario's studies are incorporated in regulatory efforts that have banned new killer whale exhibits and will likely close the one remaining. Science and time is on the side of the killer whales.

Please make San Diego a 21st century place.

Yours,

Shelley Ottenbrite
1809 W Grace St
Richmond, VA
804-901-9334

Orca Facility, SeaWorld@Coastal

From: John DeVincent <jdevincent@roadrunner.com>
Sent: Monday, July 13, 2015 2:48 PM
To: Orca Facility, SeaWorld@Coastal
Subject: Sea World plans to expand Orca tanks - OPPOSE

Dear Coastal Commission:

I am writing as a public citizen concerned about the captive Orcas at Sea World San Diego and plans to expand the tanks used to house these captive orcas. I oppose such plans because it will just give the illusion of greater freedom, yet these orcas will still be captive and unable to swim with the kind of freedom they are used to in the wild. Captive orcas, it is well documented, do poorly, do not live as long, suffer miserably compared to wild orcas. There is also pending legislation in CA that would ban captive breeding and use of orcas for entertainment. Why consider approving such expansion of tanks before such legislation is settled?

The orcas at Sea World deserve wild sea pens or planned release back into the wild, not larger tanks. Larger tanks are still a prison to them and still they are captive orcas. This is a tragedy for anyone concerned about the welfare of these intelligent animals. Indeed, there are efforts under way to grant nonhuman animal rights to them given the capacity of their intelligence.

Please do not approve Sea World's expansion. It is not the solution needed to help these magnificent Blackfish.

Sincerely,

John DeVincent
18331 Kittridge St., Apt 9
Reseda, CA 91335
(818) 457-4134
jdevincent@roadrunner.com

Orca Facility, SeaWorld@Coastal

From: Jane Cartmill <janecartmill@gmail.com>
Sent: Tuesday, July 14, 2015 2:01 PM
To: Orca Facility, SeaWorld@Coastal
Subject: Blue World Project

Dear Commissioners:

On behalf of the membership and supporters of San Diego Animal Advocates, an all-volunteer nonprofit organization established in 1984, I am writing to ask that the California Coastal Commission **DENY** SeaWorld's proposed Blue World project for the following reasons.

1. **The Blue World project wastes resources.** SeaWorld has consistently claimed that the existing Shamu Stadium is more than adequate for its orcas, rebutting any criticism regarding the size of the pools. Spending \$100 million on this project, with its impact on the environment and water quality, has no apparent purpose beyond the public relations value for enhanced gate receipts.
2. The construction of this proposed enclosure complex will take several years to complete, during which time there will be **significant impact on air and water quality** in Mission Bay due to particulate in the air and water, effluent, and other construction debris. The protected habitat located on the South side of SeaWorld Drive may be impacted as well.
3. The **construction noise levels are likely to be very disturbing to Mission Bay residents and tourists** using the nearby park, pedestrian pathways and bike lanes, and boating facilities, possibly resulting in reduced ability of the public to enjoy the use of these areas.
4. Once in operation, the new enclosure will have a larger affect on the environment of Mission Bay than the current Shamu Stadium due to the **higher volume of effluent** produced.
5. **Pending legislation (The Orca Welfare and Safety Act, AB 2140) makes it inappropriate and unnecessary to make a determination on the SeaWorld proposal at this time.**
The bill would ban the public display of orcas for entertainment purposes and end the captive breeding of this species. The goal would be to phase out the captive display of orcas. This is a contentious bill in the state; yet there was a lively hearing in the Committee of Water, Parks, and Wildlife in April 2014. The bill was referred to interim study, a common process in the Assembly when members wish to learn more about the implications of a bill. It remains likely that the bill will be re-introduced in the 2015 or at the latest the 2016 session. Passage of this bill or a modified version is a very real possibility, making it **premature to consider permitting the Blue World project now.**

Thank you very much for your review of these considerations.

Sincerely yours,

Jane Cartmill, President
San Diego Animal Advocates
P.O. Box 230135, Encinitas, CA 92023
(760) 632-8638

Orca Facility, SeaWorld@Coastal

From: bill@gouletindustries.com
Sent: Tuesday, July 14, 2015 2:30 PM
To: Orca Facility, SeaWorld@Coastal
Subject: whale captivity issue

Hello Coastal Commission,

I have lived in San Diego County since 1978. In all that time, I have never been to Sea World. Anyone who decides to cage an intelligent Mammal is tan demount to human bondage. It is especially disturbing is that these creatures are use to swimming thousands of miles in a lifetime and we keep them in what we would consider a small bedroom if we compared our surroundings to their's. What have the whales done to deserve this? They eat seals who right now are overpopulating the oceans. I was against Sea World in 1978 and I am now adamantly against it after viewing the Blackfish Documentary. Please let these Masters of the Sea be what we are as Masters of the land in this world we cohabitate. Sea World will do just fine without them. It's an amusement park. Build some mechanical wonder to replace the whales. Make their management figure out another way to sell tickets.

Bill Goulet
1052 Cuyamaca Avenue
Chula Vista, CA 91911

Orca Facility, SeaWorld@Coastal

From: Sharon Grace <sharongrace@centurylink.net>
Sent: Saturday, July 11, 2015 10:05 AM
To: Orca Facility, SeaWorld@Coastal
Subject: SeaWorld Application for Blue World Project

Dear Coastal Commission:

If it is within the power of the Coastal Commission, the SeaWorld Blue World Project application should be denied. Sea World built its business on removing Southern Resident killer whales from the wild. Coasts are impacted whenever orcas are removed from the wild. In the past 40 years we have learned that orcas are acoustic marine mammals that travel 50 to 100 miles and more daily to forage and socialize. Their range includes thousands of miles. The proposed new enclosure would be similar to moving a human prisoner from a small closet to a larger closet. It is cruel and unusual.

Sincerely,

Sharon Grace

175 Gretchen Way

Friday Harbor, WA 98250

parons@rockisland.com

COMMITTEES
BUDGET
BUSINESS AND PROFESSIONS
HIGHER EDUCATION
TRANSPORTATION
SUBCOMMITTEE
SUBCOMMITTEE NO. 6 ON BUDGET
PROCESS OVERSIGHT AND
PROGRAM EVALUATION

Assembly California Legislature



RICHARD BLOOM
CHAIR, BUDGET SUBCOMMITTEE NO. 3 ON RESOURCES & TRANSPORTATION
ASSEMBLYMEMBER, FIFTIETH DISTRICT

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0050
(916) 319-2050
FAX (916) 319-2150

DISTRICT OFFICE
2800 28TH STREET, SUITE 105
SANTA MONICA, CA 90405
(310) 450-0041 AND
(818) 596-4141
FAX (310) 450-6090

E-MAIL
assemblymember.bloom@assembly.ca.gov

October 1, 2015

Steven Kinsey
Chairman, California Coastal Commission
& California Coastal Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: Agenda Item Thursday 14a: No 6-15-0424 (SeaWorld Orca Enclosure Expansion, San Diego)

Dear Chairman Kinsey and Commissioners:

Thank you for the opportunity to address you on the topic of Sea World's "Blue World" project.

In my opinion, in the opinion of the public and in the opinion of the large majority of marine mammal scientists, the era of captive orca display and breeding must come to an end. We know far more about these incredibly intelligent and socially complex marine mammals now than when we first began captive display over 40 years ago. With this in mind, I introduced AB 2140 in our last legislative session. AB 2140 would have prohibited all captive breeding at Sea World's San Diego facility, and limited their display to the 11 whales currently housed there.

I elected to study the issue further before advancing the measure, and the more I learn, the more committed I become to bringing about an end to the practice of orca captivity for display and entertainment. A growing body of marine biology science, demonstrates that highly intelligent orcas, who enjoy virtually unlimited range in their natural environment and live in familial pods, do not thrive in captivity where they are separated from family, restricted to comparatively tiny environs and raised on a regimen that is distinctly different from nature.

Therefore, I fully intend to pursue the policy goals of AB2140 and, consequently, it would be extremely unfortunate and counterproductive if the Coastal Commission were to grant an entitlement to Sea World to expand their captive breeding program in the interim.

Fortunately, your broad jurisdiction under the Coastal Act gives you the authority to advance protective measures for these magnificent marine mammals, and play an important role in bringing captivity practices to a close. Your staff report does an excellent job of establishing that you are not legally preempted by any state or federal law from regulating these activities (contrary to the assertions of Sea World). It also correctly identifies 30230 as the applicable Coastal Act section that gives you specific authority over Sea World's breeding and display practices.

Regrettably, your staff's recommendations do not go far enough. Prohibiting the display of wild whales captured offshore California, and the display or utilization of wild caught whales or their gamete of



individuals captured after February 12, 2014, is largely symbolic. It will do little to protect wild whales, and nothing to limit the continued production of captive orca who will live out their lives in grossly inadequate circumstances.

Please take note that under the staff recommendation, transient whales that pass through California waters (and are, therefore, incontrovertibly, California resources) could still be captured offshore in Mexico, Oregon or elsewhere. This condition, therefore, would not guarantee the protection of orca that are clearly California marine resources and species of great significance to our state.

Moreover, the February 2012 cutoff date for the utilization of sperm from wild-captured whales conveniently allows Sea World to benefit from the 10 wild whales captured by Russia in 2012 and 2013. Moreover, it would allow Sea World to house, display, and breed from any of the captive whale's offspring, whose importation requires far less regulatory oversight. The vague, general condition that the population at the San Diego facility be limited to "sustainable growth" is little comfort, considering that no accredited population guidelines exist thus allowing for as many as 94 whales to be housed at this facility.

As long as captive orca display and breeding is allowed to persist, it will necessitate the continuation of wild capture to periodically replenish the gene pool. The staff report's assertion that captive breeding is preferable to wild capture is misguided. The fact is, that captive breeding perpetuates wild capture. That is why it is imperative that both wild capture and captive breeding must end.

As a former Coastal Commissioner, I would like to assure you that you have it within your discretion to help bring the captive breeding program in San Diego to a close. Your staff agrees that you have the authority to condition the project under Section 30230. Therefore, it is equally clear that you have the authority to prohibit captive breeding. It is totally within your discretion as Commissioners to determine what the appropriate application of 30230 is.

And that is what you should do, along with specifying that the new tank can only be utilized by the existing group of 11 whales. I urge you to exercise your full discretion in support of the whales and the emerging public consensus that the time has come to end the practice of captive orca breeding and display.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Bloom', with a long horizontal stroke extending to the right.

RICHARD BLOOM
Assemblymember, 50th District

UNITE HERE! *Local 11*

464 Lucas Ave., Suite 201 • Los Angeles, California 90017 • (213) 481-8530 • FAX (213) 481-0352

September 17, 2015

Re: Sea World's Blue World Project

Dear Chairman Kinsey and Coastal Commissioners:

I am writing on behalf of the more than 20,000 members of Unite Here Local 11 to urge the Commission to place conditions on any approval of this project that prohibits the breeding of captive orca or their sale or transport to any place other than a sea pen. Given our current understanding of orca biology, social structure, and physiology, it has become evident that the keeping of orca in captivity for the purpose of entertainment is not appropriate. This practice sends the wrong message to the many young people who come to see them. Working families are interested in giving their children experiences that provide a healthy atmosphere, and send a message of respect for the environment. We believe that coastal access as contemplated by the Coastal Act hinges on promoting practices that respect all of our coastal resources—including the animals.

Reports show that these whales suffer from their captivity and treatment at Sea World. They are impacted both socially and biologically. Is this really the lesson we want our children to learn? We would hope that the message should be to understand and respect the environment and the wildlife that inhabits it.

Please do what you can to end the use of killer whales for breeding and entertainment purposes by, in the least, conditioning the project to require the phasing out of their use.

Respectfully,

Melanie Luthern

NOTE FROM COMMISSION STAFF

In addition to the comments of opposition and form letters included in the staff report addendum for CDP No. 6-15-0424, several thousand additional comments have been received by Commission staff. Due to limited resources, and pursuant to Section 13057 of the California Code of Regulations, a summary of the relevant communications is provided below.

The additional public comment expressing opposition to the proposed development raised multiple points:

- The size of the proposed orca facility would still be inadequate in light of the natural ocean environment in which orcas live.
- Expanding the tank will allow for more breeding of captive orcas resulting in less space per orca.
- Captive orca breeding engenders in-breeding and causes harm to the health of the orcas.
- Captive orcas display unnatural behavior, indicating psychological or physical harm from captivity.
- Captive orcas live shorter lives than wild orcas.
- Orcas in the wild travel hundreds of miles a day which they cannot do in captivity.
- Orcas have a complex family relationship which is damaged when individuals are separated.
- Sonar echolocation is impossible to use in the tanks the orcas are kept in.
- Sea pens or wild release would be beneficial to the captive orcas.
- Orca captivity gives San Diego, and the United States in general, a bad name worldwide.
- SeaWorld's declining attendance indicates the changing public attitudes against orca captivity.
- Tourism will suffer if the project is approved
- The Coastal Commission should wait until the proposed legislation in the California State Assembly regarding orca captivity reaches a final decision.
- SeaWorld is no longer an educational facility but has instead become another amusement park.
- It is immoral to keep animals for human entertainment and profit.
- The expansion should only occur if captive breeding is prohibited.
- SeaWorld pollutes Mission Bay.
- SeaWorld causes noise and water pollution from fireworks.
- Expanded tanks should not be allowed in a drought.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Greg Cox

1) Name or description of project:

Seaworld's Expansion of the Orca Habitat Experience

2) Date and time of receipt of communication: May 1, 2015 at 9:00AM

3) Location of communication: San Diego
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication:

Corinne Brindley

5) Identity of person(s) on whose behalf communication was made:

SeaWorld

6) Identity of persons(s) receiving communication:

Greg Murphy, on behalf of Greg Cox

7) Identity of all person(s) present during the communication:

Anne Blemker, Corinne Brindley and Darlene Walter

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Greg Murphy on my staff met with representatives of SeaWorld to discuss their proposed BlueWord Orca Habitat Enhancement project in San Diego. They described the project as conforming to the approved master plan for SeaWorld and went through the various components of their plan to expand and enhance the orca facility. The representatives also stressed the fact that Coastal Commission has no practical or legal authority to condition approval of a CDP on whether or not marine mammals are affected, since that authority is reserved for the federal government.

5/11/15
Date

Greg Cox
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

EXHIBIT NO. 14

APPLICATION NO.

6-15-0424

Ex Parte



RECEIVED
MAY 12 2015
CALIFORNIA COASTAL COMMISSION
SAN DIEGO OFFICE DISTRICT

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Greg Cox

- 1) Name or description of project: 6-15-0424 (Blue World Habitat, SeaWorld)
- 2) Date and time of receipt of communication: Aug. 7, 2015 at 3:30pm
- 3) Location of communication: San Diego
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Anne Blemker
- 5) Identity of person(s) on whose behalf communication was made:
Seaworld
- 6) Identity of persons(s) receiving communication:
Greg Cox and Greg Murphy
- 7) Identity of all person(s) present during the communication:
John Reilly, Corrine Brindley, Darlene Walter, and Anne Blemker

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I received an update from SeaWorld representatives regarding the Blue World project for expansion of the existing killer whale habitat with a new marine aquarium, themed exhibit and immersive killer whale habitat experience.

We discussed the project's consistency with the SeaWorld Master Plan (part of the San Diego LUP) and applicable policies of the Coastal Act, including those related to public access, views and water quality. The applicant is continuing to work with CCC staff to ensure that the project can move forward for consideration at the October hearing. The applicant requests approval by the Commission.

8/11/15
Date

Greg Cox
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Greg Cox

- 1) Name or description of project: SeaWorld Blue World Project
- 2) Date and time of receipt of communication: September 29, 2015 at 1:30pm
- 3) Location of communication: San Diego
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Pamela Heatherington
- 5) Identity of person(s) on whose behalf communication was made:
Pamela Heatherington and the Environmental Center of San Diego
- 6) Identity of persons(s) receiving communication:
Greg Murphy, on behalf of Greg Cox
- 7) Identity of all person(s) present during the communication:
Pamela Heatherington

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Pamela Heatherington took the time to express her opposition to the continued exploitation of sea mammals in captivity at SeaWorld. She asked that the Commission please take the animals welfare into account when making a decision. Pamela thinks the Commission does have jurisdiction to condition permits related to animal welfare, and she hopes the Commission's action includes encouraging SeaWorld to change their business models to no longer rely on animal captivity. She says more information is needed related to the size of the tanks and the number of orcas that would be held in captivity.

10/1/15
Date

Greg Cox
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Roberto Uranga

- 1) Name or description of project: 6-15-0424 (Blue World Habitat, SeaWorld)
- 2) Date and time of receipt of communication: Sept. 3, 2015 at 11:00am
- 3) Location of communication: SeaWorld, San Diego
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Anne Blemker
- 5) Identity of person(s) on whose behalf communication was made:
Corrine Brindley, SeaWorld
- 6) Identity of persons(s) receiving communication:
Roberto Uranga
- 7) Identity of all person(s) present during the communication:
John Reilly, Darlene Walter, Dr. Hendrik Nollens, Dr. Ann Bowles, Dr. Todd Schmitt, Michael Tucker, Susan McCabe, Anne Blemker, Jessica Chetsawang (City Staff)

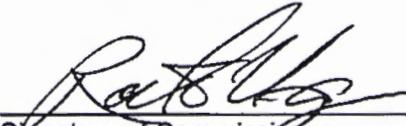
Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I participated in a comprehensive tour of the Hubbs Research Institute and SeaWorld facilities, including various research laboratories, veterinary hospital, water quality treatment equipment area and orca habitat. During the tour, I received an update from SeaWorld representatives regarding the Blue World project for expansion of the existing orca habitat with a new marine aquarium, themed exhibit, and immersive orca habitat experience.

We discussed the project's consistency with the SeaWorld Master Plan (part of the San Diego LUP) and applicable policies of the Coastal Act, including those related to public access, views and water quality. At the time of our meeting, the applicant was continuing to work closely with CCC staff to ensure that the project could move forward for consideration at the October hearing. The applicant requests approval of the Blue World project by the Commission.

SEPT. 14, 2015

Date


Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: Application No. 6-15-0424 (SeaWorld Orca Enclosure
Expansion, San Diego)

Time/Date of communication: Sept. 21, 11 am

Location of communication: Long Beach City Hall

Person(s) initiating communication: Sara Wan, Elizabeth Lambe

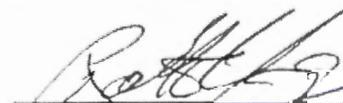
Person(s) receiving communication: Commissioner Roberto Uranga, Celina Luna

Type of communication: Meeting

We discussed the proposed Blue World project submitted by SeaWorld. That this was a major issue that people from across the U.S. and even elsewhere were interested in because of their concerns about captive orcas and their treatment. Received a letter from scientists and one from a variety of environmental organizations. The impacts of captivity on orcas and how they are treated were discussed. SeaWorld's claim that the Commission is federally preempted from placing any conditions on the maintenance of orcas and why that is not a valid claim. In addition, we discussed why the Commission may use section 30230 of the Coastal Act to review and impose conditions on the permit. The permit conditions that ALDF is asking for and why this was best for both the Orca. SeaWorld may only keep the existing orcas for use at the park and that they be prohibited from the captive breeding or orcas. Lastly, the history of 2 individuals killed at SeaWorld and 4 overall plus the recent filing of worker safety violations against SeaWorld were discussed.

Date:

Sept. 25, 2015



Signature of Commissioner

September 16, 2015

Mary Luévano
Coastal Commissioner
California Coastal Commission

Via e-mail:

Dear Ms. Luévano,

I am writing today on behalf of PETA and our more than 3 million members and supporters to request an appointment to discuss SeaWorld's application to build new tanks for the orcas confined at its parks. As you know, the vote on the issue has been delayed until early October; thus, we are open to meeting anytime between now and the week of the meeting. In the interim, *attached* please find PETA's comments regarding SeaWorld's application.

Please let me know a few dates/times that work best for you and we will do our best to accommodate your schedule.

We look forward to meeting soon.

Thank you,
Stephanie Shaw
Corporate Affairs Specialist
People for the Ethical Treatment of Animals
stephanies@peta.org
(323) 210-2234

PEOPLE FOR
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TREATMENT
OF ANIMALS
FOUNDATION

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2154 W. Sunset Blvd.
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323-644-PETA

Norfolk
501 Front St.
Norfolk, VA 23510
757-622-PETA

Oakland
554 Grand Ave.
Oakland, CA 94610
510-763-PETA

PETA FOUNDATION IS AN
OPERATING NAME OF FOUNDATION
TO SUPPORT ANIMAL PROTECTION

AFFILIATES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

July 23, 2015

Alex Llerandi
Coastal Program Analyst II
California Coastal Commission

Via e-mail: Alexander.Llerandi@coastal.ca.gov

Dear Mr. Llerandi,

I'm writing on behalf of PETA and its more than 3 million members and supporters—including more than 315,000 California residents and 28,000 in San Diego—to urge you to vote no on SeaWorld's proposed Blue World Project (application no. 6-15-0424; "Project"). Approving SeaWorld's expansion plan would be an enormous step backward for animals abused in the entertainment industry at a time when public opinion has shifted away from captivity and decisionmakers in the state are working to put an end to it.

In an attempt to repair a fractured reputation for its unethical business and unsavory recent actions, SeaWorld is misleading the public and hoping people will believe that superficial aesthetic changes to their tanks equates to a better quality of life for the orcas who are enslaved there. In addition, there is nothing in SeaWorld's proposal that actually improves the lives of the orcas there or that will stimulate them physically or mentally **despite claims to the contrary.**

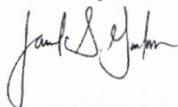
In reality, these new tanks will:

- Fail to provide adequate space and range of motion for natural behavior
- Have the same devastating physical and psychological effects on marine mammals, leading to distressing stereotypic behavior observed only in captivity
- Negatively affect the local landscape and delay true conservation efforts
- Work against overwhelming public opinion, which favors retiring captive orcas to coastal sanctuaries

For these and the many reasons outlined in the attached appendix, the California Coastal Commission can and should deny SeaWorld's permit application.

Thank you for your consideration.

Sincerely,



Jared S. Goodman
Director of Animal Law

Appendix

1. The Commission Can and Should Consider the Orcas' Welfare in Denying the Permit for the Project

The California Coastal Commission (Commission) can and should consider the impact of proposed coastal development on the welfare of marine mammals, both captive and wild. Federal law does not preclude this consideration but, in fact, invites it. SeaWorld's analysis to the contrary is misleading and incomplete.

1.1. The Commission's Authority Over Marine Mammals Is Expansive

Congress passed the Coastal Zone Management Act¹ (CZMA), in part, to "encourage the states to exercise their full authority over the lands and waters in the coastal zone" to protect "living marine resources" and "wildlife" from "ill-planned development."² California, through the California Coastal Act of 1976 (Coastal Act),³ created the Commission to fulfill this mandate.⁴ Thus, the Commission does not just have the authority to consider the impact of coastal development on marine mammals—this is what it was designed to do.

The CZMA was enacted to "[p]rotect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources."⁵ The Coastal Act was deemed by the legislature to be "necessary to provide for continued state coastal planning and management" in order "to provide *maximum state involvement* in federal activities allowable under federal law or regulations ... which affect California's coastal resources" and "to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources."⁶

The Commission's authority over California's coastal resources, including marine mammals, is primary. Federal agencies must coordinate with and seek the approval of the Commission before taking actions that may adversely affect the state's coastal resources.⁷ The Commission routinely reviews projects governed by other federal laws, including the Marine Mammal Protection Act⁸ (MMPA). The Commission's power is limited only to the extent that it conflicts with or is specifically preempted by these laws.

Federal law governing the treatment of marine mammals is limited and does not conflict with or preempt the Commission's powers under the Coastal Act and the CZMA. The Commission may therefore exercise its authority to consider the interests of captive wild animals in determining whether to deny a coastal development permit.

1.2. The Federal Regulation of Marine Mammals Is Limited

The MMPA prohibits harassing, hunting, capturing, or killing a marine mammal without a permit, which may be issued, under certain circumstances, to allow the public display of a

¹16 U.S.C. §§ 1451-66.

²16 U.S.C. § 1451(c),(g), (i).

³Cal. Pub. Res. Code §§ 30000-30900.

⁴Cal. Pub. Res. Code §§ 30300, 30330.

⁵*Id.* § 30001.5(a).

⁶*Id.* § 30004(b) (emphases added).

⁷16 U.S.C. § 1456(c)(3)(A).

⁸16 U.S.C. §§ 1361-1423h.

protected animal. The MMPA thus functions as a gatekeeper, keeping marine mammals in the wild.

Once marine mammals are taken captive for public display, their care is governed by the Animal Welfare Act⁹ (AWA), which imposes minimal standards of care¹⁰ in an effort to ensure the humane care and treatment of captive animals. The AWA thus functions as a guide, operating exclusively upon those who hold animals captive.

Neither law explicitly or implicitly prevents the Commission from considering the impact that coastal development may have on the welfare of captive marine mammals. In fact, the AWA expressly invites states to consider and improve the welfare of captive animals.¹¹ The MMPA, meanwhile, only prevents states from authorizing or prohibiting the harassment, hunting, capturing, or killing of marine mammals.

1.2.1. The AWA Fails to Ensure the Humane Care of Marine Mammals

The AWA's standards for the treatment of captive animals are archaic and under-enforced. Under the AWA, for example, a captive orca who is 24 feet long may lawfully be confined to a tank that is merely 12 feet deep.¹² Although the AWA also requires that orcas must receive shade¹³ and companionship,¹⁴ the Miami Seaquarium has been allowed, under the auspices of an AWA exhibitor's license, to isolate an orca named Lolita in an unshaded tank for decades. Lolita has not seen another orca since she watched her tank mate, Hugo, die in 1980. The fact that the Miami Seaquarium holds an AWA license is evidence that SeaWorld's claim that "to maintain a valid exhibitor's license, each licensee must undergo routine inspections to ensure ongoing compliance with the requirements of the AWA and the MMPA," is either erroneous or blatantly false.

1.2.1.1. License Renewal Is Automatic

In litigation over Lolita's unlawful confinement, the U.S. Department of Agriculture (USDA), which administers the AWA, has made it clear that it does not condition license renewal in compliance with the AWA. Rather, the USDA takes the position that a facility's flagrant violation of the AWA is completely irrelevant to the agency's decision to renew the exhibitor's license. In fact, the USDA claims it must renew the licenses of all applicants that submit the requisite paperwork and renewal fee on time.

Thus, the fact that SeaWorld holds an AWA license is not evidence of the company's "ongoing commitment to compliance with federal law." It merely reflects the fact that SeaWorld submitted its application and paid its renewal fee in a timely manner.

1.2.1.2. Facility Inspections Are Discretionary and Ineffective

⁹ U.S.C. §§ 2131-59.

¹⁰ C.F.R. §§ 3.100-3.118.

¹¹ 7 U.S.C. § 2143(a)(8) (federal standards governing the care of exhibited animals "shall not prohibit any State (or a political subdivision of such State) from promulgating standards in addition to those" promulgated under the AWA).

¹² C.F.R. § 3.104(b).

¹³ C.F.R. § 3.103(b).

¹⁴ C.F.R. § 3.109.

Moreover, the USDA's inspections of public display facilities are not required by law, as SeaWorld suggests. They are wholly discretionary.¹⁵ They do, however, generally occur annually by one of the fewer than 200 inspectors responsible for inspecting thousands of licensed facilities.

Even when inspections reveal violations of the AWA, these violations may go uncorrected for months and sometimes years. The USDA has been repeatedly criticized by its own Office of the Inspector General (OIG) for its failure to enforce the AWA when evidence of noncompliance is found.¹⁶ Chronic violators of the AWA routinely receive reduced fines and penalties, and sometimes investigations are abandoned altogether, even when violations were egregious. In one report, the OIG noted that the lack of appropriate enforcement "weakened the agency's ability to protect ... animals," and the enforcement process was "ineffective in achieving [violation] compliance with AWA and regulations" because the agency took "little or no enforcement action against most violators."¹⁷

1.3. Inspections by Accrediting Organizations Are Irrelevant and Confidential

The Association of Zoos and Aquariums (AZA) and the Alliance of Marine Mammal Parks and Aquariums (AAMPA) are private industry organizations that exist to ensure the ongoing display of captive animals. Moreover, while the USDA's inspections are a matter of public record, inspections by these organizations are confidential. Since neither organization is subject to any public records acts, any concerns they may have about SeaWorld's operations are totally confidential.

Even if SeaWorld is in perfect compliance with the standards of care imposed by the AWA, AZA, and AAMPA, this compliance would not and should not limit the Commission's interest in preventing the suffering of captive marine mammals. The CZMA requires the Commission to consider the impact of coastal development on marine mammals. The AWA expressly invites states to improve the well-being of captive marine mammals. And the AZA and AAMPA have no authority to limit the Commission's jurisdiction in any way.

1.4. The Marine Mammal Protection Act's Scope and Preemptive Power Is Limited

Similarly, the MMPA has no power to limit the Commission's interest in the welfare of captive marine mammals. In fact, the MMPA scarcely applies to captive marine mammals at all, except to authorize permits to allow the removal of marine mammals from the wild for the purpose of public display¹⁸ and then to require that facilities that display marine mammals offer a "program for education or conservation purposes," be licensed under the AWA, and be open to the public on a regular basis.¹⁹

The MMPA does not attempt to influence the treatment of marine mammals once they are captive, and therefore no regulations to this effect have ever been promulgated, because to do so

¹⁵See 7 U.S.C. § 2146(a) (research facilities must be inspected annually, and exhibitors are inspected as "necessary").

¹⁶See, e.g., USDA, OIG Audit Report: APHIS Animal Care Program, Inspection and Enforcement Activities i–ii (Sept. 2005), available at <http://www.usda.gov/oig/webdocs/33002-03-SF.pdf> (The USDA "is not aggressively pursuing enforcement actions against violators of the AWA").

¹⁷USDA, OIG Audit Report: APHIS Animal Care Program, Inspections of Problematic Dealers 1-2 (2010), available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>.

¹⁸16 U.S.C. § 1371(a)(1).

¹⁹16 U.S.C. § 1374(c)(2)(A).

would exceed the statutory authority. In fact, the National Marine Fisheries Service (NMFS), which administers the MMPA, once planned to require "take" permits for all captive marine mammals, including those born in captivity. However, NMFS reversed course when the MMPA was amended in 1994, noting that the recent amendments had "eliminated the basis" for these and other proposed changes.²⁰ Since NMFS, the agency responsible for administering the MMPA, does not interpret the statute to cover marine mammals once they are in captivity at AWA-licensed facilities, it is abundantly clear that the statute does not restrict the Commission in any way.

1.4.1. The MMPA Preempts Only State Regulation of Marine Mammal Takes

The MMPA does not "pre-empt[] all state laws involving any aspect of the display and exhibition of marine mammals," as SeaWorld falsely asserts. The MMPA very specifically preempts only state regulations "relating to the taking of" marine mammals.²¹ Thus, the Commission may not regulate the take²² of a marine mammal but may absolutely consider the impact that coastal development may have on the welfare of captive marine mammals.

While the AWA authorizes state regulation that is consistent with the Coastal Act and thereby improves captive-animal welfare, the MMPA's express preemption provision applies whether a state law conflicts with or is consistent with the MMPA. Accordingly, the MMPA preempted Alaska's law that prohibited walrus hunts that were otherwise authorized under the Coastal Act.²³ The MMPA also preempted Hawaii's seasonal regulation of parasailing, which prevented the harassment of humpback whales in the winter.²⁴ Thus, the Commission may not directly authorize or prohibit the hunting or harassment of marine mammals, as Alaska and Hawaii did, and this restriction is reflected in state law.²⁵ But the MMPA does not in any way prevent the Commission from considering the impact of coastal development on marine mammals in captivity or in the wild.

1.4.2. The MMPA Does Not Preempt All Laws "Relating to" Captive Marine Mammals

SeaWorld attempts to overstate the MMPA's preemptive reach by relying on dicta from the Supreme Court's statutory interpretation analysis in *Morales v. Trans World Airlines*.²⁶ In *Morales*, the Court ruled that a state consumer protection law addressing misleading advertising of airline rates was preempted by the federal Airline Deregulation Act (ADA). There, the use of the phrase "relating to" in the ADA preempted all state laws relating to airline rates. It did not preempt all laws relating to airlines.²⁷ Here, the MMPA's preemption of all laws "relating to" the taking of marine mammals does not preempt all laws relating to *marine mammals*. No matter

²⁰61 Fed. Reg. 21926 (May 10, 1996); *c.f.* 58 Fed. Reg. 53320-01 (Oct. 14, 1993) (NMFS at that time asserted that "holding a marine mammal captive is, in itself, a take under the MMPA").

²¹16 U.S.C. § 1379(a).

²²*See* 16 U.S.C. § 1362(13) (defining "take").

²³*People of Togiak v. U.S.*, 470 F.Supp. 423, 427 (D.D.C. 1979).

²⁴*UFO Chuting of Hawaii, Inc. v. Young*, 327 F. Supp. 2d. 1220 (D.Hi. 2004), vacated by *UFO Chuting v. Young*, 380 F. Supp. 2d. 1144 (D.Hi. 2005) (later congressional action authorized the parasailing regulation).

²⁵*See* Cal. Fish & Game Code § 4500(b) (conditioning the state's jurisdiction to regulate the taking of marine mammals upon a federal transfer of authority).

²⁶504 U.S. 374 (1992).

²⁷*Morales*, 504 U.S. at 390 (the ADA does not preempt "state laws against gambling and prostitution as applied to airlines," and the Court not need consider "state regulation of the nonprice aspect of fare advertising" as that is "obviously ... far more tenuous").

how much SeaWorld would like it to be so, the mere existence of the phrase "relating to" cannot expand the plain language of the MMPA.

SeaWorld's reliance on the 10th Circuit's dicta in *Mountain States Legal Foundation v. Hodel*²⁸ is similarly misplaced. In that case, the Court found that the government is not responsible for damage done to private lands by wild horses so long as the land retains some economic value. In doing so, the Court considered the "plenary federal authority for the conservation of marine mammals" only to illustrate that the rights of state landholders are limited by the federal government's interest in protecting certain species. If anything, here, as there, SeaWorld should expect that its right to use its coastal property will be limited by the government's interest in conserving marine mammals.

In this instance, SeaWorld does not just argue that the MMPA preempts all laws "relating to" the public display of marine mammals. SeaWorld argues that because no state may pass a *law* relating to the public display of marine mammals, the Commission may not even *consider* the welfare of captive marine mammals when deciding whether to authorize development in the coastal zone. In considering the welfare of marine mammals, the Commission is not passing any law at all, let alone one authorizing or prohibiting the take of a marine mammal. Accordingly, no preemption can be found.

2. The Project Would Fail to Provide an Adequate Aquatic Environment for Marine Mammals

The project proposes to create new tanks that marginally increase the size of the current tanks to 350 feet long, with depths ranging from 18 to 50 feet at the deepest. Using the most fundamental understanding of marine mammals, it's clear that these new tanks in no way support an orca's broad range of behavior.

2.1. Orcas at SeaWorld Are Restricted From Engaging in Natural Behavior

Orcas are one of the fastest animals in the sea, traveling at speeds of up to nearly 28 miles per hour.²⁹ They are also adapted for swimming extended distances and durations. Individual orcas have been recorded traveling nearly 100 miles per day³⁰ and are capable of covering vast distances of many thousands of miles.³¹ They regularly dive 200 to 300 meters (656 to 984 feet)³² and spend 95 percent of their time submerged.³³ In the wild, orcas swim almost

²⁸799 F.2d 1423, 1427 (10th Cir. 1986).

²⁹Terrie M. Williams, *Swimming*, in ENCYCLOPEDIA OF MARINE MAMMALS 1140, 1145 (William F. Perrin *et al.* eds., 2008) (Orcas swim at an average "casual" speed of 3.6 meters per second (m/sec) or 8.05 miles per hour (mph), and "sprint" at up to 12.5 m/sec or 27.96 mph.); John K.B. Ford, *Killer Whale: Orcinus orca*, in ENCYCLOPEDIA OF MARINE MAMMALS 654 (William F. Perrin *et al.* eds., Academic Press 2002) (traveling over distances at speeds of over 20 kilometers per hour (km/h), or 12.43 mph); *id.* (a mean traveling speed of 10.4 km/h, or 6.46 mph).

³⁰*See, e.g.,* Robin W. Baird, *The Killer Whale: Foraging Specializations and Group Hunting*, in CETACEAN SOCIETIES: FIELD STUDIES OF DOLPHINS AND WHALES 131, 136-37 (Janet Mann *et al.* eds., U. Chi. Press, 2000) (160 km (99.42 miles) in 24 hours) [hereinafter *Foraging Specializations*].

³¹Ingrid N. Visser, *Propeller Scars on and Known Home Range of Two Orca (Orcinus orca) in New Zealand Waters*, 33 N.Z. J. OF MARINE AND FRESHWATER RES. 635, 638 (1999) (15,600 km (9693 miles) in six years).

³²Craig O. Matkin *et al.*, *Expanding Perspectives: Investigating Pod Specific Killer Whale Habitat with ARGOS Satellite Telemetry*, Presented at the Alaska Marine Science Symposium, Anchorage, Alaska (Jan. 2012) (orca for whom "regular dives of 200-300 m were recorded and

continuously.³⁴ In SeaWorld's plans for new tanks, an orca would have to swim more than 1,500 lengths back and forth per day to approximate the 100 miles they may naturally travel with their pod in one day in the ocean.

Orcas are highly acoustic animals who use a range of signals for distinct purposes,³⁵ including clicks for echolocation to navigate and detect environmental objects and prey³⁶ and whistles and pulsed calls for social communication.³⁷ Orca pods have distinctive sets of discrete call types known as dialects that are passed down through vocal learning,³⁸ i.e., the dialect is learned by calves through contact with their mothers and other pod members. Holding orcas in the confined and virtually barren tanks at SeaWorld has been said to be a cruel form of sensory deprivation.

Dr. Hal Whitehead, an expert on cultural transmission in cetaceans—the order that includes whales and dolphins—and coauthor of a groundbreaking review of culture in orcas and other cetaceans, compares the experience of a "highly acoustic cetacean" such as an orca "living in a tank with acoustically reflective walls to that of a visually oriented animal, like a human, living captive in a room covered with mirrors on all walls and the floor. The experience is likely to be profoundly disturbing, especially over the long term."³⁹ Similarly, oceanographer Jean-Michel Cousteau compared keeping orcas in tanks to "a person being blindfolded in a jail cell."⁴⁰

2.2. The Orcas at SeaWorld Already Exhibit Stereotypic Behavior of Physical and Psychological Distress From Captivity

Orcas are highly intelligent social apex predators. Among other things, the physical constraints of the artificial enclosures at SeaWorld limit their opportunity to exercise, disperse from

one dive of 400 m was logged"); Robin W. Baird *et al.*, *Factors Influencing the Diving Behaviour of Fish-Eating Killer Whales*, 83 CAN. J. OF ZOOLOGY 257, 262–63 (2005) (a population that uses "primarily near-surface waters" still dives "below 150 m on a regular basis" and up to 264 m).

³³National Marine Fisheries Service, Northwest Regional Office, *Proposed Conservation Plan for S. Resident Killer Whales (Orcinus orca)* 16 (2005), available at <http://orcaspHERE.net/pdfs/SRKWpropconplan-Oct05.pdf>.

³⁴Rob Williams and Dawn P. Noren, *Swimming Speed, Respiration Rate, and Estimated Cost of Transport in Adult Killer Whales*, 25(2) MARINE MAMMAL SCI. 257 (2009).

³⁵Volker B. Deecke *et al.*, *Quantifying Complex Patterns of Bioacoustic Variation: Use of a Neural Network to Compare Killer Whale (Orcinus orca) Dialects*, 105 J. ACOUSTICAL SOC'Y AM. 2499, 2499–2500 (1999).

³⁶John K.B. Ford *et al.*, *Killer Whales: The Natural History and Genealogy of Orcinus Orca in British Columbia and Washington State* 21 (2d. ed., U. Wash. Press, 2000).

³⁷*Id.*

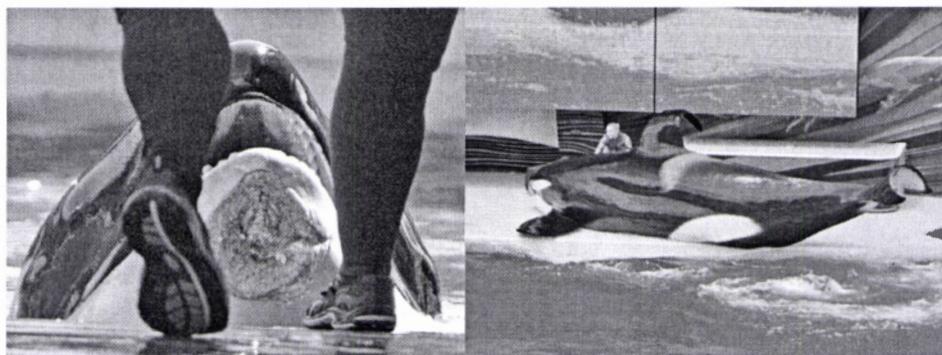
³⁸Rendell and Whitehead, *supra*, at 314 (citations omitted).

³⁹Vanessa Williams, CAPTIVE ORCAS: "DYING TO ENTERTAIN YOU": THE FULL STORY 35 (Whale and Dolphin Conservation Society, 2001) (quoting Hal Whitehead, Speech, *The Value of Oceanaria* (Whales in Captivity: Right or Wrong? Symposium 1990).

⁴⁰Tyler Haden, *Cousteau on SeaWorld Tragedy*, THE INDEPENDENT (Feb. 27, 2010). Like social structures and dialects, foraging is also an important component of orca culture, and their methods of finding, capturing, and eating prey as well as the types of prey vary widely. Orcas are the oceans' apex predators and forage on, inter alia, fish, seals, sharks and rays, and other cetaceans. They are also known for their use of a range of often complex and cooperative hunting techniques, including launching out of the water to take prey on dry land, coordinating to create a wave to wash prey off ice floes, and debilitating prey by ramming or striking them with their tail fluke. See generally Rendell and Whitehead, *supra*, at 314–15 (citations omitted). Alternatively, all captive orcas are fed only frozen and then thawed dead fish, which prevents them from engaging in any of the social and cultural aspects of hunting. Williams, *supra*, at 34–35.

incompatible pairings, escape from conflict, or engage in natural types of behavior, such as swimming at high speeds or diving, causing them extreme stress and frustration. Small enclosures have been shown to induce stress in various species,⁴¹ and "among the carnivores, naturally wide-ranging species," which includes orcas, "show the most evidence of stress and/or psychological dysfunction in captivity."⁴²

A study by dolphin researcher Laurence Couquiaud concluded that "some behaviors tend to occur when space is limited; the environment does not provide occupational activity; and when animals are kept alone, deprived of stimulus diversity, or are subject to environmental stress."⁴³ Other research says that "stereotypical behavior patterns ... tend to emerge when the animal cannot engage in behavior it is highly motivated to perform, such as searching or hunting for food, seeking social interaction or just trying to escape."⁴⁴



The image on the left shows a facial wound to an orca named Nakai. An expert opined that it was the result of a fight with another orca with whom Nakai was incompatibly housed (photo courtesy of the Orca Research Trust). The image on the right shows a collapsed dorsal fin, which is common among captive orcas but very rarely seen in wild orcas.

At SeaWorld, orcas lie listlessly at the surface or the bottom of a tank for extended periods. Research has shown that behavior such as spending inordinate amounts of time "surface resting" and lying motionless at the bottom of the tanks is common when orcas are unable to carry out even the most rudimentary types of behavior that they would naturally engage in.⁴⁵

Further evidence of suffering caused by the captive conditions at SeaWorld is found in the lengthy record of orcas killing and seriously injuring humans, other whales, and even themselves in captivity. SeaWorld's own corporate incident logs reveal that the company itself has recorded "600 pages of incident reports documenting dangerous and unanticipated orca behavior with trainers," consisting of "some 100 occurrences of killer whales biting, hitting, lunging toward, pulling on, pinning, dragging, and aggressively swimming over SeaWorld trainers" regularly for

⁴¹See generally Kathleen N. Morgan and Chris T. Tromborg, *Sources of Stress in Captivity*, 102 APPLIED ANIMAL BEHAV. SCI. 262, 277-78 (2007).

⁴²Georgia Mason, *Captivity Effects on Wide-Ranging Carnivores*, 425 NATURE 472 (2003).

⁴³Couquiaud, *supra* at 297.

⁴⁴Françoise Wemelsfelder, *Animal Boredom: Understanding the Tedium of Confined Lives, in MENTAL HEALTH AND WELL-BEING IN ANIMALS* (Franklin D. MacMillan ed. 2005), at 85.

⁴⁵Ros Clubb and Georgia Mason, *Captivity Effects on Wide-Ranging Carnivores*, 425 NATURE 473 (2003); See generally JETT and VENTRE, *supra*.

decades.⁴⁶ There has been only one reliable report of an orca in the wild seriously injuring a human.⁴⁷

Orcas attempt to establish dominance over one another in the captive environment and will repeatedly charge with open mouths and rake others with their teeth.⁴⁸ SeaWorld trainers have noted that this behavior regularly results in injury to the orcas. In the wild, aggression toward other orcas is relatively uncommon⁴⁹ and conflict is resolved through dispersion and shifting alliances within groups of orcas,⁵⁰ a natural behavior that is impossible to replicate in captivity.

Other abnormal, stereotypical behavior observed in captive orcas held at SeaWorld includes repetitive movements such as swimming in circles, unresponsiveness, excessive submissiveness, hyper-sexual behavior, self-inflicted physical trauma and mutilation, stress-induced vomiting, and compromised immunology. **These types of behavior are not seen in wild orcas.**

In attempts to quell these types of stereotypical behavior, which are common in captive orcas, SeaWorld's own veterinary records show that orcas are administered diazepam just to withstand the stress of captivity. Marginally bigger tanks will not remedy the devastating physical and mental stress that SeaWorld inflicts on the ocean's most intelligent species.

2.3. Marine Animal Deaths at SeaWorld Remain Consistent

Since 1971, *at least* 36 orcas have died from effects of captivity, at an average age of 13. This number does not account for the numerous stillbirths that occur at SeaWorld. Wild male orcas live an average of 30 years and can live up to 60 years while wild female orcas can live an average of 50 and up to more than 100 years. Orcas at SeaWorld often die by the time they reach their teens, and few have even approached the *average* life expectancy of their wild counterparts, despite SeaWorld's false claims otherwise. Contrary to what SeaWorld would have the public believe, only one orca at SeaWorld—Corky, who was captured in the wild—has actually reached SeaWorld's claimed "average life expectancy" of 41.6 years. All other orcas who have perished at SeaWorld died far short of how long they are expected to live.

2.4. SeaWorld Is Misleading and Lying to the Public When It Claims That It Doesn't Separate Mothers and Their Offspring

John Hargrove, an ex-trainer at SeaWorld, said that the process of separating orca mothers from their calves was "horrible," and he knew of at least 19 mother-calf pairs at SeaWorld who had been separated.⁵¹ Reportedly, the mother and calf shown in SeaWorld's photo propaganda⁵² aren't even together—the calf was taken from her mother when she was 4 years old and sent to a

⁴⁶E.g., Brief for Respondent Secretary of Labor at 25–28, *SeaWorld of Fla. v. Perez* (D.C. Cir. No. 12-1375).

⁴⁷*Keiko Reminds Man of Whale Attack*, LODI NEWS-SENTINEL, Jan. 17, 1996.

⁴⁸See, e.g., Morgan Report, *supra*, at 4, 12; Tim Zimmermann, *The Killer in the Pool*, OUTSIDE MAGAZINE (July 30, 2010).

⁴⁹Marino and Frohoff, *supra*, at 3.

⁵⁰*Id.*

⁵¹Melissa Cronin, "Ex-SeaWorld Trainer Reveals 'Stupid' Company Lie to Jon Stewart," *The Dodo*, March 27, 2015 <<https://www.thedodo.com/jon-stewart-sea-world-trainer-1061696870.html>>.

⁵²SeaWorld, *Tweet*, Jan. 15, 2015

<<https://twitter.com/SeaWorld/status/423572134573522944/photo/1>>.

marine park in Spain.⁵³ Hargrove said that when Takara, the calf, was taken, her mother, Kasatka, began "emitting vocalizations that had never been heard before ever by anyone ... obviously Takara was gone and Kasatka was trying anything she could to try to locate and communicate with Takara, which is absolutely heartbreaking. These vocalizations continued on for a long time."⁵⁴

3. Coastal Sanctuaries Provide a More Natural Environment Than Tanks

With a budget of \$95 million, SeaWorld could make a true difference in the lives of the orcas it currently holds by investing that money in the creation of coastal sanctuaries and the retirement and rehabilitation of orcas.

In coastal sanctuaries or sea pens, the orcas would be able to feel and experience the ocean, interacting with other wildlife and ocean creatures, learn to hunt and catch their own meals, and swim in a natural environment with adequate space that provides them with the physical and mental stimulation that is crucial to their existence.

Coastal sanctuaries can still offer the public an opportunity to see these magnificent animals from designated whale-watching towers or elsewhere ashore, not by watching them from the other side of a plexiglass panel that encapsulates a holding cell.

4. SeaWorld Makes Misleading Conservation Claims

SeaWorld never intended to be an organization with a mission to protect and conserve the wild population of orcas. It is and always has been a for-profit amusement park. Only in recent years, after growing public concern for animal welfare, has SeaWorld started including in its marketing strategy a pretense that its business is vital to wild conservation efforts. There is no evidence and there are no quantifiable results from its decades of capturing and breeding orcas, besides research that only helps SeaWorld keep orcas in captivity, that suggest this claim is true.

Numerous studies conducted by animal behaviorists have concluded that the unnatural portrayal of animals used in entertainment actually undermines the scientific, welfare, and conservation goals of those who seek to protect them by leading to the incorrect perception that the animals must not be in jeopardy if such uses are permitted.^{55,56} A 2010 study published in the *Journal of Human-Animal Studies* concluded that "there is no compelling or even partially suggestive evidence for the claim that zoos and aquariums promote attitude change, education, and interest in conservation in visitors."⁵⁷

⁵³Melissa Cronin, "Ex-SeaWorld Trainer Reveals 'Stupid' Company Lie to Jon Stewart," *The Dodo*, March 27, 2015 <<https://www.thedodo.com/jon-stewart-seaworld-trainer-1061695870.html>>.

⁵⁴Melissa Cronin, "Yes, SeaWorld Does Take Orca Calves From Their Moms. Here's Proof," *The Dodo*, March 24, 2015, <<https://www.thedodo.com/seaworld-separates-orcas-1057282183.html>>.

⁵⁵Stephen R. Ross *et al.*, *Inappropriate Use and Portrayal of Chimpanzees*, *319 Science* 1487 (Mar. 14, 2008).

⁵⁶Stephen R. Ross *et al.*, *Specific Image Characteristics Influence Attitudes About Chimpanzee Conservation and Use as Pets*, *6(7) PLoS ONE* (2011).

⁵⁷Lori Marino *et al.*, "Do Zoos and Aquariums Promote Attitude Change in Visitors? A Critical Evaluation of the American Zoo and Aquarium Study," *Society and Animals* 18 (2010) <http://enima1.sancsociety.org/as/sets/322_marinoazastudy.pdf>.

SeaWorld spends less than 1 percent of its revenue on rescue and conservation, and it continues to breed aggressive and suffering orcas who can never be released to the wild.⁵⁸

5. SeaWorld Is Said to Be One of the Largest Polluters of the California Coast

In 2012, SeaWorld was fined \$6,000 for dumping excessive amounts of ammonia and animal waste into San Diego's Mission Bay.⁵⁹ This is not an isolated incident, as SeaWorld has reportedly been cited for pollution dozens of times over the years. Bigger tanks that hold more water lead to more water and more waste that needs to be disposed of.

6. General Opinion Toward Animals Held in Captivity Is Rapidly Changing

In the last several years, the vocal public outcry against using animals for commercial entertainment has led businesses to begin phasing out their animal acts. Most recently, Ringling Bros. announced that after 100 years of forcing wild elephants to perform tricks on stage, it will officially retire elephant acts by 2018.⁶⁰

All over the country, jurisdictions are passing legislation that bans cruel training practices and the use of wild animals for entertainment altogether. The Orca Welfare and Safety Act (AB 2140), now in interim study, received a huge outpouring of support. When it was considered at the assembly hearing, virtually everyone other than SeaWorld employees urged its passage.

The California bullhook ban⁶¹ (S.B. 716) is well on its way to passing through the assembly. Two major California cities, Los Angeles⁶² and Oakland,⁶³ have already passed bullhook bans that go into effect in 2017 and 2018, respectively. (A bullhook is a sharp metal weapon resembling a fireplace poker that is used to inflict pain and fear on elephants.) Elephants in the circus, similar to orcas at SeaWorld, are forced to perform unnatural and confusing tricks for daily public shows. According to former SeaWorld employees, other cruel training techniques like food deprivation are used to train orcas.

7. Conclusion

SeaWorld is not a business that cares about ethics—it cares about its bottom line. Just this month, an espionage campaign by SeaWorld was discovered in which at least one employee had

⁵⁸Tim Zimmermann, "Can SeaWorld Be Saved?" Nov. 24, 2014 <<http://timzimmermann.com/2014/11/24/can-seaworld-be-saved/>>.

⁵⁹Frank Gormlie, "San Diego Coastkeeper and SeaWorld: Is Something Fishy Going On?" San Diego Free Press, Oct. 23, 2012 <<http://sandiegofreepress.org/2012/10/san-diego-coastkeeper-and-seaworld-is-something-fishy-going-on/#.U--t1PRdWSo>>.

⁶⁰Richard Pérez-Peña, "Elephants to Retire From Ringling Brothers Stage," *The New York Times*, March 5, 2015, <http://www.nytimes.com/2015/03/06/us/ringling-brothers-circus-dropping-elephants-from-act.html?_r=0>.

⁶¹Don Thompson, "California May Be First to Ban Use of Bullhooks on Elephants," *Napa Valley Register*, May 23, 2015 <http://napavalleyregister.com/ap/state/california-may-be-first-to-ban-use-of-bullhooks-on/article_99970001-bfd2-5162-8612-6dcdf8f8a596.html>.

⁶²Emily Albert Reyes, "City Council Bans Use of Bullhooks on Circus Elephants in L.A.," *Los Angeles Times*, Jul. 22, 2015 <<http://www.latimes.com/local/lanow/la-me-ln-elephant-bullhooks-20140430-story.html>>.

⁶³AP, "California: Oakland Bans Bullhooks," *The New York Times*, Dec. 18, 2014 <http://www.nytimes.com/2014/12/19/us/california-oakland-bans-bullhooks.html?_r=0>.

been posing as a PETA activist for years, regularly attending demonstrations held at SeaWorld and trying to incite other activists to intensify their protesting to include illegal activities that PETA does not engage in.⁶⁴

The project is another desperate attempt by SeaWorld to deflect negative attention away from its failing business model. This is further evidenced by the fact that SeaWorld announced plans for the project two days after its stock dropped 33 percent, even before applying for any permits or finishing concrete plans.

We strongly urge the California Coastal Commission to consider this information carefully and prevent the cruel confinement of more orcas by voting against SeaWorld's Blue World Project. This tank expansion is not in the best interests of the animals' welfare or the California coast.

⁶⁴Chris Palmeri, "SeaWorld Employee Masqueraded as Animal Activist, Peta Says," Bloomberg.com, July 14, 2015 <<http://www.bloomberg.com/news/articles/2015-07-14/seaworld-employee-posed-as-animal-activist-for-years-peta-says>>.

From: **Sara Wan**
Date: 23 September 2015 at 07:39
Subject: SeaWorld fact check website
To: Mary Luevano

Scientists and animal protection advocates have developed a new website, <http://www.SeaWorldFactCheck.com>, to clarify and correct misinformation presented in SeaWorld Entertainment's Twitter campaign. I thought you should have it so you can look at it.

From: Sara Wan

Date: September 27, 2015 at 7:30:23 AM PDT

To: undisclosed-recipients;;

Subject: Ex-parte documents

Orcas do not belong in captivity:

Orcas are large, intelligent animals with a very close and complex family life in the wild. Captivity denies orcas (including orcas born in captivity) the two most important things in their life: the life-long company of their family and the ocean environment to which they are adapted.

Orca tanks, even with the expansion proposed by SeaWorld with this permit, are far too small and limited for orcas to live in.

- Orcas die in captivity before reaching their species' average age. At SeaWorld's three parks alone, 37 captive orcas have died over the years, not including 30 miscarried or stillborn calves. Of all the orcas ever held at SeaWorld, only one has lived past 40. Most do not reach 25 years of age. The oldest whale currently living at SeaWorld is around 50; the next oldest is only around 38. Orcas in the wild will live to 50 on average and beyond – one female orca is believed to be more than 100 years old in the wild in the Pacific Northwest. Captivity kills.
- SeaWorld routinely separates orca calves from their mothers. Former trainer John Hargrove knows of 19 instances of such separations, only 2 of which was for medical necessity.
- Virtually all male orcas at SeaWorld and other parks have drooped over dorsal fins, which occurs rarely in the wild.
- Orcas are taught tricks by food deprivation. If an orca does not perform the trick correctly, they are not rewarded by food. Orcas must be kept hungry, or they will not do the tricks. Marine mammals are the only zoo animals that must work daily for their food in parks like SeaWorld.
- Because orca sounds are bounced off the concrete and glass walls of tanks, orcas fall silent in captivity and do not often use their echolocation.
- Dead fish fed to orcas in SeaWorld have been frozen, and therefore lose their water content. Orcas must be fed gallons of gelatin daily to remain hydrated.
- SeaWorld orcas are medicated with anti-depressants, antibiotics, and antacids to maintain their precarious health in captivity.
- Because the orcas come from different sources in captivity, fighting and other forms of aggression are common among captive orcas.
- Most orcas bred in captivity have been born through artificial insemination. It is well known among scientists that such captive born orcas would not do well if ever released into the wild. The only reason to breed orcas in captivity is make more orcas for captive shows and display.

- Captive orcas break their teeth on the side of the tank on concrete and metal gates, resulting in the need to remove the pulp (which must be done while orcas are awake, because orcas, like other marine mammals, will die if they are sedated as they stop breathing). The tooth cavity must then be rinsed out daily to keep small pieces of fish from causing decay and infections, a painful procedure. At least one study has concluded that one of the reasons orca do not live as long in captivity is because of the introduction of infections through the broken teeth
- Orcas have never been known to attack a person in the wild, but orcas in captivity have to date killed three trainers. The stress of captivity can cause orcas to act out against their trainers. There are numerous examples of such aggression, which SeaWorld has attempted to hide.
- Orcas are routinely given anti-depressants to counter-act the effects of captivity
- It makes no sense to provide a larger viewing tank which does little to ease their suffering while continuing to produce more whales
- Orcas suffer from fungal infections due to stress (e.g. Unna- SeaWorld San Antonio)

On the issues of education and research:

Sea World provides absolutely no appropriate education. The keeping of orcas for entertainment purposes sends the wrong message. It in essence states that these whales exist for the pleasure and entertainment of humans, regardless of the impacts to the animals. This clearly is not and should not be something condoned. Protection of the environment and the wildlife that inhabits it is the appropriate message.

Research:

The vast amount of research done by Sea World is on animal husbandry. How to breed orcas and how to maintain them. There is little or no research that applies to orca in the wild.

Scientist Statement Supporting Conditions for the SeaWorld Blue World Project Permit

Sept. 15, 2015

To: The California Coastal Commission

We, the undersigned members of the marine mammal scientific community, wish to express our support for conditioning any permit issued for the construction of Sea World's Blue World Project, to bring an end to the current breeding program and prohibit any acquisition or disposition (i.e., entry to or exit from the facility) of captive killer whales (*Orcinus orca*) for breeding, performance or entertainment purposes.

The Commission's duty is to ensure that marine resources are maintained, enhanced, and where feasible, restored. We believe that killer whales are marine resources, protected under the Coastal Act and that they are inherently unsuited to captivity, due to their intelligence, sociality, acoustic needs, longevity, ranging habits, and size. Captive display does not enhance their survival as a species and, in the past, has actually played a significant role in the current endangered status of one population in the northeastern Pacific, the "southern resident" killer whales. This population is listed under the US Endangered Species Act and essentially had an entire generation of young animals removed during the 1960s and 1970s when the population was targeted by live capture operators for sale to public display facilities such as SeaWorld. Many of the current whales on display in SeaWorld parks are descendants of these captured whales.

The continued practice of displaying this species in captivity in the United States and elsewhere has apparently encouraged a resumption of killer whale captures in Russia, where approximately 10 young whales have been taken for sale to China and Russia since 2012. In order to stop these almost certainly unsustainable captures – in short, to restore this marine resource – killer whale captive display must end worldwide. The California Coastal Commission, with its long record of progressive environmental decisions, should lead the way.

When killer whales were first displayed for the public in the early 1960s, the world knew little about their ecology and behavior. Studies on population dynamics and behavioral ecology of wild killer whales did not begin until a decade later and meaningful data on their social structure were not widely published until 1990. Based on what we now know about this species, we can say that it does not adapt well to captivity.

Given the dimensions of the planned new enclosure, the Blue World Project is an improvement, albeit a limited improvement, in their captive conditions. However, it is still far smaller than any natural home range for killer whales and since it is a "display tank" its construction is primarily designed to enhance the public's viewing experience. As such, the tank will only be available to some of the orca, some of the time, and in no way constitutes enhanced "habitat" for all of the whales.

We support any improvement in captive husbandry conditions, but we also support phasing out the practice of holding killer whales in captivity within the state of California. We therefore urge

the Commission to condition any permit for this project to prohibit captive breeding, artificial insemination, and transfer of whales and their genetic material. We agree that most of the killer whales in California are not candidates for release to the wild, but they can be retired from rigidly scheduled performances.

The science on the nature of killer whales and their compromised welfare in captivity – and common sense – has long since provided evidence that this species is inherently unsuited to confinement. Blue World will still be a concrete tank. We believe that while this increase in space may improve the welfare of the 11 killer whales at SeaWorld San Diego, these permit conditions will allow the orderly phasing out of exhibiting this species, an essential outcome to enhance and restore this marine resource.

Signatures

Jane Goodall; PhD, DBE, Jane Goodall Institute

Jean-Michael Cousteau

Lindy Wielgart; Ph.D., Department Biology, Dalhousie University, Halifax, Nova Scotia

Chris Parsons; PhD, FMBA, FRSB, FRGS, Assoc. Professor Environmental Science
George Mason University, Fairfax

Mark Orams; Professor, Health and Environmental Sciences, AUT University, New Zealand

Giuseppe Notarbartolodi Sciara; Ph.D., Tethy Research Institute, Milano, Italy

Leslie A. Cormick; Ph.D., Chair Department of Environmental Science Department, Alaska
Pacific University

Roger L. Reep; Professor, College of Veterinary Medicine, University of Florida

Karsetn Brensin, Ph.D.; Meeresbiologe & Verhaltensforscher

Deborah A. Giles, Ph.D.; University of California Davis (orca biologist)

Diana Reiss, Ph.D.; Professor, Hunter College, City University of New York (dolphin cognition
expert)

Gerson Cohen, Ph.D.; Great Whale Conservancy

Samuel Hung, Ph.D.; Chariman, Hong Kong Dolphin Conservation Society

Erich Hoyt, WDC; Whale and Dolphin Conservation, United Kingdom (orca biologist)

Toni Frohoff, Ph.D., TerraMar Research, California (dolphin biologist)

Elizabeth Oriel, MSc, SONAR

Dr. Paul Spong Helena Symonds, Pacific Orca Society/Orca Lab, Alert Bay, B.C. Canada

Maddalena Bearzi, Ph.D; Ocean Conservation Society, President, Marina del Rey, CA



the Jane Goodall Institute



Sept. 24, 2015

Re: Agenda Item Thursday 14a: No 6-15-0424 (SeaWorld Orca Enclosure Expansion, San Diego)

Chairman Steve Kinsey
California Coastal Commission

Dear Chairman Kinsey and Coastal Commissioners;

The signatories to this letter represent non-profit NGOs, foundations, and advocacy organizations dedicated to environmental conservation and restoration, animal welfare, social justice and coastal protection. We are profoundly concerned about the plight of captive orcas around the world, including those at Sea World's San Diego facilities. We are writing to express our support for the Commission to condition any permit that you approve for Sea World's Blue World project to prohibit the breeding of killer whales and the transfer of any whales to anywhere but a sea pen.

In order to ensure that the orcas actually get some benefit from the expansion of the tanks, it is critical that the expansion is only allowed for the orcas who are currently housed at Sea World rather than a blanket permit that would allow Sea World to breed and warehouse even more orcas, thereby defeating any benefit of the new tank. The capture, keeping and breeding of killer whales in captivity for the purpose of providing entertainment is totally inconsistent with the Commission's mandate under the Coastal Act to maintain, enhance and restore and protect marine resources and to provide special protection to species of special biological significance, which most certainly killer whales are.

This Commission has a long history of concern for and protection of whales and other marine mammals. On the other hand, Sea World has a long history of confining these highly intelligent, social animals in concrete enclosures, utterly devoid of natural features, and handling them in ways that are detrimental to their health, all the while justifying their exploitation under the guise of public education. However, because these orcas are forced to live in such unnatural conditions and are deprived of the ability to engage in normal, species-specific behaviors, the audiences for whom they perform walk away with no real education about true orca behavior. We believe the Commission must take a hard look at Sea World's proposal and understand it for what it really is. If the Commission does this it can come to only one conclusion, that in the 21st Century we now understand why this practice must end.

This proposal does not improve or enlarge the "habitat" for SeaWorld orcas because a concrete tank, no matter what the size, cannot be considered to be "habitat". The new tank is a viewing tank, connected to the existing Shamu Stadium complex through a small, narrow channel that is gated at either end. . Sea World will retain most of the existing holding tanks and train the whales to transit this channel, into the larger tank for viewing by the public. This means that the new tank will be accessible to the whales only at management's discretion; in short , it will be available to some of the whales only some of the time. Regardless of how often the whales are herded through the channel or how large the tanks are, the proposed tanks will still be orders of magnitude smaller than an orca's natural home range. . Moreover, if the purpose of the SeaWorld expansion is to breed or otherwise acquire additional orcas, it will negate any minimal benefit that might be served by providing a larger viewing tank.

A growing number of marine mammal experts recognize that orcas suffer unconscionably in captivity, and the practice of display for human entertainment should be phased out. That currently most of SeaWorld's orcas were bred in captivity does not mean they suffer any less by being deprived of a natural habitat and the complex social structure to which they are

physiologically and psychologically adapted. Orcas are large, highly intelligent mammals with a complex and very strong family structure and ties in the wild. That social bond, so important to the lives of orca, is non-existent in the environment provided in captivity.

Furthermore, orcas live shortened lives in captivity and suffer stress and physiological damage. Male dorsal fins collapse (which occurs rarely in the wild), but captive orcas also break and wear their teeth by chewing on the concrete tank walls and metal gates, requiring drilling and intensive dental care that still may result in infection, are highly medicated and fed gallons of gelatin daily to keep them hydrated (since frozen fish lose water when thawed), may be administered anti-depressants to help deal with multiple behaviors associated with depression anxiety and possibly psychosis, just to name some of the concerns. Additionally, they exhibit abnormal levels of aggression in captivity not observed in the wild. As an indication of the stress they are under and their underlying resistance to mitigating treatment, orcas in captivity have killed four people. There are no historical records of orcas killing human beings in the wild.

Perpetuating the captive display of orcas for profit drives the continued need to capture more whales from the wild, as new genetic stock is required regularly to prevent inbreeding. Indeed, Russia has taken up the practice of capturing wild orcas for display in that country and China, capturing 10 since 2012. Under the circumstances it is difficult for the United States to denounce this practice.

The Commission has the ability to set an example for the rest of the world. It can state clearly that it is time to stop the unethical practice of using the ocean's greatest predator for entertainment purposes. While not prohibiting Sea World from continuing to display the orcas currently in their possession, prohibiting the breeding and transfer of these whales will mean that eventually the exhibition of captive orcas will be phased out. If you decide to approve and not deny, we urge you to condition your approval to prohibit the captive breeding artificial insemination of orcas in captivity, prohibit the sale or offer for sale, trade or transfer for any reason other than transport to a sea pen any orca intended for performance or entertainment purposes. This will continue the Commission's proud tradition of showing concern for the treatment and conservation of marine mammals.

Sincerely,

Animal Legal Defense Fund; Carney Anne Nassar, Legislative Counsel
Ocean's Future Society: Jean Michael Cousteau
California League of Conservation Voters: Jena Price, Government Affairs Manger
Sierra Club, California; Kathryn Phillips
Jane Goodall Institute: Jane Goodall, Founder
Center for Biological Diversity: Jean Su
In Defense of Animals: Toni Frohoff, Elephant and Cetacean Scientist
Action for Animals: Eric Mills, Coordinator
Environmental Center of San Diego, Pam Heatherington
Whale and Dolphin Conservation: Courtney Vail

Sea Shepherd Conservation Society: Ann E. Prezyna, General Counsel
Western Alliance for Nature: Lawrence Wan, Board Chairman
Earth Island: Mark Palmer, Associate Director, International marine Mammal
SONAR: Elizabeth Oriel
Endangered Habitats League: Dan Silver
Black Surfers Collective: Jeff Williams
Humane Society of U.S.: Nicole Paquette, Vice President, Wildlife Protection
Whaleman Foundation: Jeffrey Pantukhoff
Coastal Environmental Rights Foundation; Sara S. Kent
Shark Stewards: David McGurie, Director
Smith River Alliance- Grant D. Werschkull, Executive Director
Biodiversity First: Linda Seeley
Tolowa Dunes Stewards: Sandra Jerabek
Organization of Regional Coastal Advocates: Patricia Matejcek, Chair
Friends of the Earth: Damon Moglen
Los Cerritos Wetlands Land Trust: Elizabeth Lambe
Grassroots Coalition: Jeanette Vosburg, Outreach Coordinator
Environmental Protection Information Center (EPIC): Natalynne DeLapp
Sea Shepherd Legal: Catherine Pruett, Executive Director
Wildlands Conservancy: Dan York
League for Coastside Protection: Michael Ferreira
ECOSLO: Nancy Graves
Faith Action for Animals: Rabbi Jonathan Klein
West Marin Environmental Action Committee: Amy Trainer
Origami Whales Project: Peggy Oki
OPS: Candace Crespi
North County Watch: Susan Harvey
S. California Watershed Alliance: Conner Everts

From: **Sara Wan**

Date: 28 September 2015 at 16:42

Subject: Info on SeaWorld

To: Mary Luevano

Here is some additional information on SeaWorld's application

SEAWORLD FACT CHECK:

SeaWorld claims that approximately 97% of all *known-age* orcas in free-ranging populations die before they reach age 50. By this simple trick of only considering *known-age* orcas, they effectively drop a significant number of individuals out of this calculation – the whales who were first seen as adults based on size or presence of calf (so at least 14-15 years of age) when the study in the northeastern Pacific (Washington state and British Columbia) began in 1973, several of whom are *still alive* (and are thus at least 66-67 years old).

The AP article cited by SeaWorld in its response and Robeck et al. (2015) (a recent paper written by SeaWorld staff and an employee of the Minneapolis Zoo) both calculated average lifespans from annual survivorship rates (ASR) – the AP reporter calculated 46 years and Robeck et al. 47.7 years. Using ASR to calculate average lifespan is an inaccurate method and should never be used, as it is extremely sensitive to minor changes in ASR (a small percentage change in ASR can add or subtract many years from projected lifespans). In addition, it is only accurate when ASR is the same across age classes, which is not the case with orcas (as with most mammals, orcas have a U-shaped survival curve, where very young and very old animals have lower survivorship than “prime-of-life” adults). DeMaster and Drevenak (1988) cautioned against using this method for calculating lifespans for these reasons. Nevertheless, both the AP reporter and Robeck et al. chose to use this method and then Robeck et al. inexplicably cited DeMaster and Drevenak (1988) to explain their decision.

Using the ASR values derived by the AP reporter and Robeck et al. to calculate average lifespan led to essentially nonsensical average lifespans for captive whales (46-48 years). The oldest captive-born orca ever, Orkid, is about to turn 27 (the next oldest, Kayla, is two months younger than Orkid)¹. There are now 25 living captive-born orcas in SeaWorld's "collection" – about a dozen more have died since the first successful birth in 1985, most much younger than 20. It should be clear even to non-mathematicians that an average lifespan of almost 50 cannot be accurate for a category of whale whose oldest member, living or dead, has yet to reach 30.

SeaWorld's claim that the survival rates for free-ranging and captive orcas are the same is based on a comparison with the northeastern Pacific resident whales, in Washington state and British Columbia. These populations are the best-studied of all free-ranging orca populations and are the basis for most of what we know about this species' life history traits (Ford 2009). Both of these populations have been struggling in the past decades, starting in the 1960s and 1970s, when SeaWorld and others removed an entire generation of whales for display, but then continuing into the 90s and 2000s when food shortages and pollution became major threats. The Washington state population (the southern residents) is listed as

endangered under the US Endangered Species Act²; the British Columbian population (the northern residents) is listed as threatened under the Canadian Species at Risk Act³. Therefore, SeaWorld is basically claiming that its captive orcas are doing only as well as free-ranging orca populations that are at risk of extinction and are struggling with manifold threats. In short, living in captivity appears to be as stressful and dangerous for orcas as living in degraded natural habitat after being depleted by captures a generation ago.

The "studies" SeaWorld references are in fact newspaper stories. Media articles and quotes are not peer-reviewed science. The latest peer-reviewed science, including Robeck et al. (2015), shows that at best captive orcas survive only as well as endangered and threatened orcas and at worst do not survive as well to age "milestones," in this case sexual maturity and the end of reproduction in females (known in humans as menopause) (Jett and Ventre 2015). In the free-ranging populations in the northeastern Pacific, even in the face of many threats, up to 80% of the whales reach sexual maturity (about 14-15 years of age) and up to 45% reach menopause (about 35-40 years of age). In captivity to date, only 45% have made it to sexual maturity and only 7% have reached menopause.

SeaWorld states that "As concluded in some of the most recent peer-reviewed studies, the leading scientific experts find that for the Resident killer whale ecotype in this area, the average life expectancy for males is 19 years and for females is 30 years. For Residents off the Alaskan coast, observations indicate that the maximum longevity for males appears to be into their 30s and for females appears to be into their 50s." This statement is incorrect. The average life expectancy for males of the resident killer whales in the northeastern Pacific is 30 years and for females is 50 (Ford 2009). The values SeaWorld presents are for these whales during a decade of elevated mortality due to catastrophic salmon crashes along the Pacific coast of North America (Olesiuk et al. 2005). Again, SeaWorld is basically claiming that its captive orcas are doing only as well as free-ranging whales facing famine! As for the values SeaWorld presents for the residents off Alaska, it is unclear where it got these numbers. Alaskan whales have even higher survivorship rates than the residents off British Columbia during good salmon years (Matkin et al. 2014).

References:

- DeMaster, D.P. and Drevenak, J.K. 1988. Survivorship patterns in three species of captive cetaceans. *Marine Mammal Science* 4: 297-311.
- Ford, J.K.B. 2009. Killer whale. pp. 650-657. In: W.F. Perrin, B. Wursig, and J.K. Thewissen (eds.) *Encyclopedia of Marine Mammals* (2nd edition), Academic Press: New York, NY. 1316 pp.
- Jett, J. and Ventre, J. 2015. Captive killer whale (*Orcinus orca*) survival. *Marine Mammal Science* DOI: 10.1111/mms.12225
- Matkin, C. O., Testa, J. W., Ellis, G. M., and Saulitis, E. L. 2014. Life history and population dynamics of southern Alaska resident killer whales (*Orcinus orca*). *Marine*

Mammal Science 30: 460-479.

Olesiuk, P.F., Ellis, G.M., and Ford, J.K.B. 2005. Life history and population dynamics of northern resident killer whales (*Orcinus orca*) in British Columbia. Canadian Science Advisory Secretariat Research Document 2005/045, 75 pp.

Robeck, T. R., Willis, K., Scarpuzzi, M. R. and O'Brien, J. K. 2015. Comparison of life-history parameters between free-ranging and captive killer whale (*Orcinus orca*) populations for application toward species management. *Journal of Mammalogy* DOI:10.1093/jmammal/gyv113.

1 <http://www.orcahome.de/orcastat.htm>

2 <http://www.nmfs.noaa.gov/pr/species/mammals/whales/killer-whale.html>

3 http://www.sararegistry.gc.ca/species/speciesDetails_e.cfm?sid=698

SEAWORLD SAYS:

“why has over 90% of your female orcas died before the age of 25? They are supposed to live well into their 80’s?”

Most killer whales don't live to 80. In fact, approximately 97 % of all known age killer whales die before they reach age 50. The Annual Survival Rates for studied wild killer whales and those born at SeaWorld are the same. Our oldest whale, Corky, is almost 50 and we hope she lives to 80 and beyond.

Where did you get your independent research about how long killer whales live?

Click [here](#) for the *Wall Street Journal* article we mention and [here](#) for the Associated Press (AP) story.

Additionally, watch our video on how long killer whale live and read our advertorial on the topic.

“how long do orcas live in the wild?”

The issue of killer whale lifespan is one that is consistently misconstrued and overly

simplified.

A small percentage of the overall population of killer whales, the killer whales of the Pacific Northwest, has been the subject of scientific study since the early 1970s. As concluded in some of the most recent peer-reviewed studies, the leading scientific experts find that for the Resident killer whale ecotype in this area, the average life expectancy for males is 19 years and for females is 30 years. For Residents off the Alaskan coast, observations indicate that the maximum longevity for males appears to be into their 30s and for females appears to be into their 50s. Studies continue, and as additional years of observation are recorded and other populations and ecotypes of killer whales are scrutinized by the scientific community, our understanding of killer whale longevity is expected to become more refined.

SeaWorld has several killer whales in their 30s and one that is close to 50 — right in line with what is seen in the wild. In fact, a July 2014 Associated Press (AP) report analyzing 50 years of data from the federal Marine Mammal Inventory Report found that killer whales born at our parks “had an average life expectancy of 46 years.”

Scientists have confirmed that Annual Survival Rate (an estimate of the percentage of whales in a population expected to survive each year) comparisons are more scientifically accurate than comparing life expectancies between wild and captive whales. Recent research tells us that there is no significant difference between the annual survival rates of our whales and the annual survival rates of wild populations.

SEAWORLD FACT CHECK:

SeaWorld's response begins by saying that J2 is unlikely to be 100 or more. J2 (“Granny”) may be less than 100 years old, but she is almost certainly no younger than 80 years old.

SeaWorld accurately explains how researchers determined that Granny was in fact a much older adult when the study in the northeastern Pacific began (in 1973). While researchers did indeed make a series of assumptions, SeaWorld offers no rationale for why they are “unlikely” assumptions. In fact, based on the decades of research in the northeastern Pacific (see, e.g., Ford 2009), many of these assumptions are *likely*, especially that “Ruffles” (J1) was her son (adult sons travel very closely only with mothers; if their mothers die, they may travel with sisters or aunts, but the bond is much looser – Ruffles traveled closely with Granny) and that Granny was post-reproductive (given that she was never seen with a new calf and that Ruffles was a full-grown adult male when first seen).

SeaWorld's final claim – that “[r]ecent studies of this same wild population has [sic] demonstrated that only about 3 percent of animals live beyond 50” – is incorrect. SeaWorld makes this erroneous claim in several of its AskSeaWorld responses. This claim arises from the recently published paper by Robeck et al. (2015), where the authors conducted a number of analyses that excluded all estimated-aged orcas from the northeastern Pacific populations

(that is, the authors analyzed data only from known-aged animals, born in 1972 or after – all whales that were juveniles or older at the start of the study were excluded from the analysis, because their ages were not *known*). Conclusions about older animals, when all older animals are not actually included in analyses, are clearly invalid.

References:

Ford, J.K.B. 2009. Killer whale. pp. 650-657. *In*: W.F. Perrin, B. Wursig, and J.K. Thewissen (eds.) *Encyclopedia of Marine Mammals* (2nd edition), Academic Press: New York, NY. 1316 pp.

Robeck, T. R., Willis, K., Scarpuzzi, M. R. and O'Brien, J. K. 2015. Comparison of life-history parameters between free-ranging and captive killer whale (*Orcinus orca*) populations for application toward species management. *Journal of Mammalogy* DOI:10.1093/jmammal/gyv113.

SEAWORLD SAYS:

While J2 is an old whale, it is unlikely she is 100 or more. That estimate is based on a whole series of assumptions: When the study of Southern Resident killer whales began in 1973, researchers already had photos of both J1 "Ruffles" and J2 "Granny," which were taken in 1972 when both whales were already full grown. Killer whales reach full size around the age of 20, so researchers guessed that 1951 was the birth year for J1. Since these two whales associated with one another, researchers further assumed that Ruffles might be Granny's offspring. They then assumed that since Granny was never seen with a new calf during the study that she was post-reproductive and perhaps Ruffles was her last calf. Female killer whales generally stop reproducing around 40, so if Granny had Ruffles at that age scientists extrapolated that her birth year would be about 1911.

Recent studies of this same wild population has demonstrated that only about 3 percent of animals live beyond 50.

SEAWORLD FACT CHECK:

SeaWorld claims that its "studies on killer whales showcase SeaWorld's larger commitment to animal welfare¹," yet none of the company's publications deal specifically with animal welfare (husbandry, breeding, and so on are not synonymous with "welfare"). Research on orca welfare would address the physical and mental state of the animals in the context of the "Five Domains" (Mellor and Reid 1994) and therefore would include investigations into the animals' physical and psychological states and take into account issues such as environmental enrichment (or lack thereof), ability (or inability) to make choices, and aggressive interactions (Mellor 2015).

Notably, SeaWorld has not made its orca publications readily available for the public to download (with the exception of articles published in "open access" journals). When a zoology student asked SeaWorld for details about its research publications, the company replied, "Our research, in general, is not available for people outside the zoological society to read and review. Although we do an extensive amount of research there is little we can directly point you to [sic]2." The company directs people to Google Scholar or a college library for its publications, when in fact very few of them are available through these sources.

SeaWorld claims that easy access to its "collection" of animals has resulted in research that helps wild counterparts³. SeaWorld's website lists its orca-specific publications; until July 2014, the list included duplicate listings of the same papers, a book review and erroneously-cited publications⁴. SeaWorld claims this bibliography represented research essential to protecting free-ranging orca populations. Criticism of this bibliography (Schiffman 2014) resulted in SeaWorld removing it and posting a revised version soon after.

The revised list now shows that SeaWorld began publishing peer-reviewed papers on orcas in 1977 and since then its employees have produced only 51 publications⁵ (i.e., 1.3 publications per year over the 38-year period and with more than half of those published before 2000).

Of these 51, seven were not peer-reviewed (a critical aspect for classification as a scientific publication). Three deal directly with the capture of free-ranging orcas (a practice SeaWorld has pledged to discontinue⁶). Eight are only relevant to the keeping of captive orcas (such as artificial insemination or the demographics of captive whales). Another paper uses data collected from captive orcas, but is purely a statistical model and of no relevance to orcas (free-ranging or captive). Thus there are 32 published, peer-reviewed scientific papers related to free-ranging orcas (i.e., less than one per year). This comparatively small output of scientific publications on orcas is not consistent with SeaWorld's claim that its research staff "contribute meaningful, scientific insights" to the research community.

In addition, the relevance to free-ranging orca conservation of several of these 32 papers is questionable. For example, two papers investigate orca platelets (platelets are found in mammalian blood), one of which compares them to human platelets. Another discusses basal metabolism of adult male orcas. SeaWorld has several adult male orcas in its "collection," yet this study examined only one (Tilikum, who is arguably unfit due to low activity levels – see entry under TILIKUM). Therefore, the results of this study are likely anomalous, meaning they would have limited applicability to free-ranging whales.

References:

Mellor, D.J. 2015. Positive animal welfare standards and reference standards for welfare assessment. *New Zealand Veterinary Journal* 63: 17-23.

Mellor, D.J. and Reid, C.S.W. 1994. Concepts of animal well-being and predicting the impact of procedures on experimental animals. pp. 3-18. In: R. Baker, G. Jenkin, and D.J. Mellor (eds.) *Improving the Well-being of Animals in the Research Environment*. Australian and New Zealand Council for the Care of Animals in Research and Teaching, Glen Osmond: South Australia.

Schiffman, D. 2014. SeaWorld exaggerated its research record. *Slate*, June 17.

1 <http://seaworldcares.com/research/killer-whales>

2 <https://www.thedodo.com/community/SamLipman/seaworld-science-strange-in-th-491661897.html>

3 <http://seaworldcares.com/research/research-helps-wild-whales/>

4 <https://web.archive.org/web/20140726065356/http://seaworld.com/en/truth/global-impact/research/publications/>

5 SeaWorld is inconsistent when noting how many papers it has published, as on this section of its website – <http://seaworldcares.com/research/research-helps-wild-whales/> – it states: “SeaWorld scientists have authored or co-authored hundreds of published papers. Of these, 50 contain information specific to killer whales.”

6 <http://ask.seaworldcares.com/?topic=collection>

SEAWORLD SAYS:

Yes. Support for research was established as a priority for SeaWorld by our founders five decades ago. SeaWorld’s animal health professionals contribute meaningful, scientific insights gained in many cases through the care of animals in our parks. We also partner with universities and research organizations, providing access to our animals and habitats for scientists conducting studies on a variety of subjects. We also provide direct support, both material and financial, to field researchers. This support is offered directly by SeaWorld, through grants from the SeaWorld & Busch Gardens Conservation Fund, and by research foundations associated with and supported by SeaWorld, including the Hubbs-SeaWorld Research Institute. Research is a key component of SeaWorld’s larger commitment to conservation and wildlife preservation.

Sea World's Blue World Project

There is no federal preemption

The MMPA deals only with the take of marine mammals. NMFS does not issue permits for the care of animals in captivity or the distribution or sale of marine mammal "parts" and therefore there is no federal pre-emption.

1994 amendments removed the jurisdiction of NMFS to issue permits for the care, maintenance and oversight of marine mammals in captivity and therefore there is no federal pre-emption to prevent the Commission from dealing with these issues.

According to a SeaWorld, statement to Congress, Nov. 13, 2007:

"The 1994 Amendments unequivocally established that NMFS has no role in the care, maintenance and general oversight of marine mammals once they leave the wild and enter into the United States."

Under Section 216.37 : "As is clear under the 1994 amendments to the MMPA and as NMFS publicly conceded in 2001, see 66 Fed. Reg at 3521 1, NMFS does not have the authority to specify the methods of care of marine mammals and marine mammal parts held for public display purposes. Accordingly, SeaWorld objects to any attempt to regulate the transfer, use, development, distribution or sale of gametes and cell lines not being imported or taken from the wild."

Testimony of Eric Schwaab, Assistant Administrator of NMFS to subcommittee on Natural Resources, House of Representatives. April 27, 2010

“ Once a public display facility meets three criteria and has legally obtained and is maintaining a marine mammal at the facility, NMFS has not authority under the MMPA To provide oversight over the holding, breeding and care of the animal”

NOAA General Counsel letter to the S. Carolina Department of Natural Resources

“Since the possession or transport of a marine mammal after the animal has been captured and taken into captivity is not related to the taking of a marine mammal, and an State law or regulation related to the possession of a marine mammal for public display is not clearly a State law or regulation "relating to the taking of any species.. of marine mammal" which would be preempted under MPA section 109(a), **there is no provision of the MMPA that expressly preempts such a state law.**”

If both SeaWorld and NMFS have stated that NMFS does not any have the authority to regulate the transfer, use, development, distribution or sale of gametes and cell lines except for the initial take or importation, and that there is no issue of federal pre-emption when it comes to animals in captivity one must assume there is no federal preemption.

SeaWorld claims that the AWA preempts the CCC from setting standards

The AWA specifically contemplates additional state protections of animals

(See 7 U.S.C. § 2143(a)(8) [The AWA “shall not prohibit any state ([or subdivision]) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1)”].)

(See 7 U.S.C. § 2145(b) [authorizing the implementing USDA “to cooperate with the officials of the various States or political subdivisions thereof in carrying out the purposes of this Act and of any State, local, or municipal legislation on the same subject”]

Federally approved CCMP Specifically authorizes the CCC to regulate all marine resources

The express terms of the Coastal Zone Management Act, written and certified by NOAA and which incorporates the Coastal Act into the CCMP, specifically authorizes the CCC to regulate coastal and marine resources which requires that marine resources shall be maintained, enhanced and where feasible, restored and that special protection shall be given to species of special biological significance, both as species and as individuals and without regard to wild or captive status since there is nothing that expressly differentiates them.

State Law

California DFW does not regulate marine mammals so the Commission is free to do so and has.

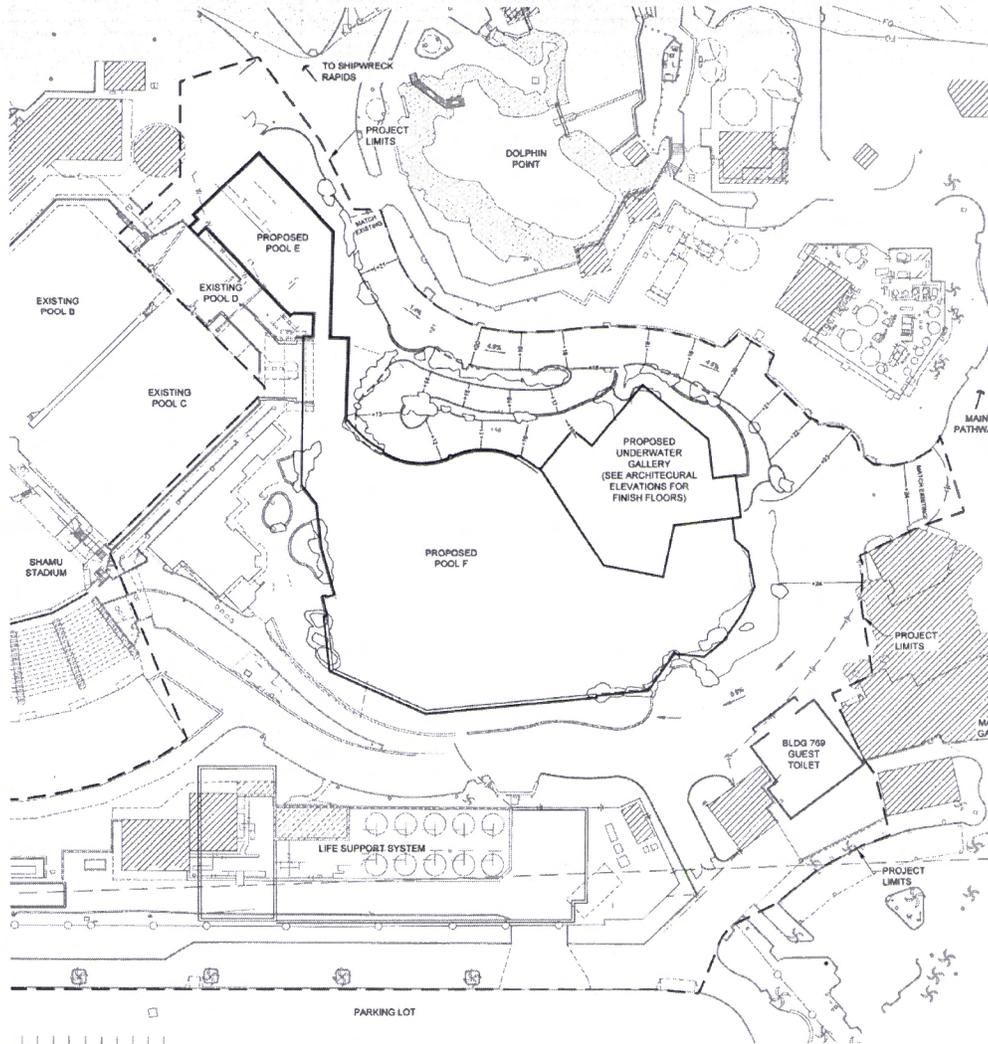
According to state Law, "the Coastal Commission shall not establish or impose any controls with respect thereto that **duplicate or exceed regulatory controls** established by these agencies (CDFW and Fish & Game Commission". CDWF regulates the importation, transportation, breeding, possession and use of animals classified by CDFW as "restricted" However, animals of the family Delphinidae are not listed as restricted by CDFW which means the Commission is free to do so and has dealt with marine mammals in the past. For instance, in the numerous cases dealing with the harbor seals in La Jolla, the commission set aside a sanctuary in the ocean, allowed for the erection of a rope to keep people off part of the beach and closed the beach during breeding season.

Coastal Act Section 30230 gives the Coastal Commission Jurisdiction

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

Orcas do not belong in captivity

- SeaWorld routinely separates orca calves from their mothers even though orcas have life-long family ties in the wild
- Virtually all male orcas at SeaWorld have drooped over dorsal fins
- Orcas die in captivity before reaching their species average age
- Orcas are taught tricks by food deprivation
- Dead fish fed to orcas have been frozen and lose their water content so orcas must be fed gallons of gelatin daily
- Orcas are medicated with anti-depressants, antibiotics and antacids to maintain their precarious health in captivity
- Captive orcas break their teeth on the sides of the concrete tanks and metal gates which results in the need to remove the pulp which must be done while orcas are awake
- Orcas have never been known to attack a person in the wild but to date they have killed 4 people, 2 at SeaWorld. The aggression can be tied back to the stress of captivity
- SeaWorld has been cited for violations of workplace safety



MINIMUM POST-CONSTRUCTION MAINTENANCE PLAN

AT THE COMPLETION OF THE WORK SHOWN, THE FOLLOWING PLAN SHALL BE FOLLOWED TO ENSURE WATER QUALITY CONTROL IS MAINTAINED FOR THE LIFE OF THE PROJECT.

1. STABILIZATION ALL PLANTED SLOPES AND OTHER VEGETATED AREAS SHALL BE INSPECTED PRIOR TO OCTOBER 1ST OF EACH YEAR AND AFTER MAJOR RAINFALL EVENTS (MORE THAN 2 INCH) AND REPAIRED AND REPLANTED AS NEEDED UNTIL A NOTICE OF TERMINATION (NOT) IS FILED.
2. STRUCTURAL PRACTICES DESTABILIZING BASINS, OVERFLOW DITCHES, DOWNDRAINS, WEETS, COLLECT PROTECTION MEASURES AND OTHER PERMANENT BEST QUALITY AND SEDIMENT AND EROSION CONTROLS SHALL BE INSPECTED PRIOR TO OCTOBER 1ST OF EACH YEAR AND AFTER MAJOR RAINFALL EVENTS (MORE THAN 2 INCH) REPAIRS AND REPLACEMENTS SHALL BE MADE AS NEEDED AND RECORDED IN THE MAINTENANCE LOG IN PERMANENCY.

PERMANENT POST-CONSTRUCTION BMP NOTES

1. OPERATION AND MAINTENANCE SHALL BE SECURED BY AN EXCLUSIVE AND RECORDED STORM WATER MANAGEMENT AND DISCHARGE CONTROL MAINTENANCE AGREEMENT (CMBMA) OR ANOTHER MECHANISM APPROVED BY THE CITY ENGINEER. THAT ASSURES ALL PERMANENT BMP'S WILL BE MAINTAINED IN PERPETUITY, FOR THE LAND DEVELOPMENT MANUAL STORM WATER STANDARDS.
2. PERMANENT POST-CONSTRUCTION BMP DEVICES SHOWN ON PLAN SHALL NOT BE MOVED OR MODIFIED WITHOUT THE APPROVAL OF THE CITY ENGINEER OR RESIDENT ENGINEER AND THE ENGINEER OF WORK.
3. ALL SITE SPECIFIC RUNOFF SHALL BE ROUTED TO THE BEST TREATMENT FACILITY. IN ADDITION TO SITE BMP'S, SEPARATED SAN DRAINAGE WITH THE TREATMENT FACILITY WILL SERVE AS ADDITIONAL TREATMENT FOR FIRST FLUSH TREATMENT FLOWS.

STORM WATER PROTECTION NOTES

1. THIS PROJECT IS SUBJECT TO MUNICIPAL STORM WATER PERMIT ORDER NO. _____ AND RISK LEVEL/TYPE. CHECK ONE BELOW:
 - WPCP
 - CSP RISK LEVEL 1
 - CSP RISK LEVEL 2
 - CSP RISK LEVEL 3
 - CSP LUP TYPE 1
 - CSP LUP TYPE 2
 - CSP LUP TYPE 3
2. CHECK ONE:
 - THIS PROJECT WILL EXCEED THE MAXIMUM DISTURBED AREA LIMIT, THEREFORE A WEATHER TRIGGERED ACTION PLAN (WAP) IS REQUIRED.
 - THIS PROJECT WILL FOLLOW PHASED GRADING NOT TO EXCEED FIVE (5) ACRES PER PHASE.
 - NOT APPLICABLE.
3. THE CONTRACTOR SHALL COMPLY WITH THE REQUIREMENTS OF THE WPCP OR SBPPP AS APPLICABLE.

POST-CONSTRUCTION PERMANENT BMP OPERATION & MAINTENANCE PROCEDURE DETAILS					
STORM WATER MANAGEMENT AND DISCHARGE CONTROL MAINTENANCE AGREEMENT APPROVAL NO. _____					
G&W RESPONSIBLE PARTY DESIGNATION: PROJECTS OWNER / PCA / CITY / OTHER _____					
BMP DESCRIPTION	INSPECTION FREQUENCY	MAINTENANCE FREQUENCY	MAINTENANCE METHOD	QUANTITY	SHEET NUMBER(S)
SITE EROSION CONTROL					
STORM WATER TREATMENT					
BMP FACILITY					

NOT FOR CONSTRUCTION

h2h hoffert & hickox

PROJECT NO. _____
 SHEET NO. _____ OF _____
 DATE: _____

SCALE: 1"=20'

DATE: _____

PROJECT NO. _____

SeaWorld
 BLUE WORLD
 San Diego, CA

Owner Review

SITE GRADING PLAN

Scale: 1"=20'

DATE: _____

C002.204

The New Tank Will Not Result In More Room For The Orcas

The new tank is designed with a narrow channel connecting it to the retained existing pools. Orcas will obviously only have access to the larger tank some of the time. In addition, the new tank will be used to breed more orcas which will result in less space for the orcas.

*"The expanded pool will give killer whales more room to swim. However, SeaWorld CEO Jim Atchison tells Local 6 the larger tank will also provide SeaWorld with even **more capacity to breed and house additional killer whales**, although he said that is not the primary purpose of the project."*

SeaWorld has repeatedly stated that they will use this tank for breeding purposes!
Which could result in less room for the orcas.

REQUESTED CONDITIONS

ALDF asks that the Commission approve SeaWorld's 'Blue World' captive orca exhibit expansion **only** under the condition that SeaWorld:

- 1- Hold or display only the following whales currently existing in the San Diego park: Corky, Kasatka, Ulises, Orkid, Keet, Shouka, Nakai, Ikaika, Kalia, Makani, and Amaya.
- 2- Is prohibited from the captive breeding of orcas, either through mating or artificial insemination, including the collection of gametes

Mary,

Please forgive me I sent you a power point prepared prior to the staff report. Please ignore the SeaWorld's Blue World Project and substitute this one, prepared today.

On Mon, Sep 28, 2015 at 4:42 PM, Sara Wan wrote:

Here is some additional information on SeaWorld's application.

Sara

SeaWorld Blue World Project

Application 6-15-0424

STAFF REPORT

Page 16: “ The MMPA’s preemption regarding matters of take does not preclude Commission action to implement any applicable Coastal Act requirement that may apply to marine mammals (including in captivity), except as it may relate to the take of marine mammals. The AWA and Section 30411 also do not limit the Commission’s authority regarding marine mammals”

Although Sea World argued vigorously in its letters to the Commission that The Commission was preempted by both the MMPA and the AWA We agree with staff that the Commission is non preempted

Again, although SeaWorld argued that only State Fish and Wildlife had jurisdiction over marine mammals, we agree with staff that because CDFW has “ not established regulatory controls regarding marine mammals, Section 30411 does not limit the Commission’s authority in this context”

STAFF REPORT

Adequacy of Existing and Proposed Orca Facilities

On pages 17- 19 staff looks at the issue of guidelines regarding how many orcas can be housed in the current pools and the new tank.

These federal standards by the Department of Agriculture relate solely to water volume and surface area. They were industry "best practice" standards at THAT time. They do not consider behavioral, social or physiological issues. They were last updated in 1984. They are not specific to orcas. Since then we have a far better understanding of the impacts of captivity on orcas but none of that is considered in these guidelines. As a result the guidelines allow a total of

94 orcas in the new tank

Note that SeaWorld's CEO stated to the Orlando News Channel 6:

"The expanded pool will give killer whales more room to swim. However, SeaWorld CEO Jim Atchison tells Local 6 the larger tank will also provide SeaWorld with even more capacity to breed and house additional killer whales"

STAFF REPORT

Page 21: "One of the consequences of captive breeding is that it reduces the need for a facility to procure a marine mammal from the wild, which would have an adverse impact on coastal habitats and resources".

Please note the fallacy of this conclusion. In order to continue breeding over the years a facility will have to depend on having access to wild "stock" in order to avoid inbreeding problems.

Staff goes on to say that: " the project will not contribute to the demand for removal of wild orcas from California waters in the future, because SeaWorld will manage the facility consistent with its proposal to avoid the removal of killer" whales from the wild

Again note that there will be a continuing need for genetic material from wild caught orcas and there is no way to predict whether or not any of these will eventually come from California waters. Because the transit pods come and go through California waters, orcas caught in, for instance, Oregon, could actually be California resources.

The "pledge" carries little meaning since the pledge can be circumvented by housing or using the genetic material of the offspring of any orcas taken from the wild.

Thus the continuation of captive breeding **REQUIRES THE CAPTURE OF ORCAS FROM THE WILD**

APPLICATION OF 30230 TO CAPTIVE ORCAS

Staff report page 20:

"The question of whether the orcas currently in SeaWorld San Diego are subject to Section 30230 is an interpretive question."..."However, excepting analysis from construction noise impacts for SeaWorld's splash down ride (CDP 6-01-129), the Commission has not applied section 30230 to captive marine animals, even while considering other tank installations or potential installations at Scripps Institute of Oceanography and UC Santa Cruz"

Note:

These other instances are for research institutes, not entertainment facilities. We are NOT aware of any instances other than the one cited, where the Commission had the opportunity to consider whether or not 30230 applies to captive marine mammals, especially not to orcas. Thus, in the one time where it, did the Commission applied Section 30230 of the Coastal Act to the conditions of the project to protect the welfare of cetaceans. SeaWorld did not challenge this interpretation of 30230.

PROVISIONS OF 30230 THAT APPLY TO CAPTIVE ORCAS

Special protection shall be given to ...species of special biological...significance.

“Orcas are species of special biological significance” (staff report page 19).

Their continued use as captives for the purpose of amusement is not consistent with protection of this species. Protection of the species, by prohibiting breeding and transfer from facility to facility will ensure that there will be no need to collect these whales from the wild or subject any members of their species to the suffering they endure in captivity.

Marine resources shall be maintained, enhanced, and, where feasible, restored.

Orcas are Marine Resources

Removing them from the wild or breeding them in captivity does not change the fact that orcas are **marine** resources. Nothing in 30230 explicitly applies this to only wild resources.

Maintained: The commission can consider whether or not maintaining orcas in captivity is consistent with this mandate. In its CD for PG&E Seismic Survey the basis for denial was the adverse effects of “behavioral harassment and potentially injurious effects on large number of marine mammals”. There is sufficient scientific evidence to understand that keeping orcas in captivity, using them for amusement purposes and breeding them, separating the offspring, is behavioral harassment and has an Injurious physiological effect. Therefore the commission may determine Sea World’s project is not consistent with 30230

Provisions of 30230 (continued)

Enhance: Captive display for entertainment purposes does not enhance the survival of this species. Regardless of the one study paid for by SeaWorld, all evidence shows that orcas do not live as long in captivity as in the wild.

(<http://www.seaworldfactcheck.com/lifespan.htm>)

Restored: The continued practice of breeding orca in captivity will, if it has not already done so, create a problem from inbreeding. Placing a prohibition on captive breeding will serve to prevent the take of orcas from the wild and thus protect future impacts to wild populations and therefore help to restore the species by allowing the wild populations to recover.

CONDITION 1 DOES NOT PROTECT ORCAS

Allows SeaWorld to turn it into a breeding tank reducing the area for existing orcas

Condition one states, in part:

The project killer whale population will not significantly increase except as may occur incrementally through sustainable population growth consistent with reproductive guidelines of one or more nationally recognized marine mammal accreditation organizations.

What does “significantly increase” mean? This is vague and open to interpretation later on.

Unfortunately there is a major “except” that means that SeaWorld is free to breed and house as many orcas as they choose because there are no meaningful “reproductive guidelines” of any nationally recognized marine mammal accreditation organizations.

This means that Condition 1 gives SeaWorld the right to breed and house up to 94 killer whales at this facility.

Only two major professional accreditation programs for cetacean facilities exist in the U.S, neither of which has reproductive guidelines for orcas

The AZA (Association of Zoos and Aquariums) and the Alliance of Marine Mammal Parks and Aquariums

The AZA has several Animal Care Manuals however there is no cetacean manual. Thus there are **no “reproductive guidelines” for cetaceans, let alone orcas.**

The AMMP has the following in its 2008 Standards and Guidelines:

6.4. Standards and Guidelines for Cetacean Propagation

6.4.1. Members must develop a comprehensive plan maximizing the potential for success before actively pursuing cetacean propagation.

- * Personnel should possess or have access to expertise concerning cetacean reproduction.
- * Members should provide maternity pools that are of a size and configuration to facilitate nursing, calf rearing, and separation from other animals if necessary.
- * A plan to monitor calf delivery and rearing should be in place.
- * Consideration should be given to the daily activity level of pregnant and nursing females.
- * Breeding programs should consider the reproductive and physical condition of participating animals.
- * Breeding, pre-parturient and lactating animals should be maintained in social environments encouraging successful rearing of offspring.
- * Contingency plans should be developed, protocols recorded, and resources for implementation should be in place for: emergency intervention before, during, and after delivery; weaning; illness; pathological examination of mortalities.
- * Consideration should be given to species-specific needs.

These guidelines are very generic with little detail. Basically they say a facility **could** develop a plan for various issues but again there are

Again, no reproduction guidelines for orcas.

WHAT DOES This PROVISION OF CONDITON 1 MEAN

It means that the Commission will have given SeaWorld its official stamp of approval to breed and house up to 94 killer whales at this facility. This is inconsistent with even the basic benefit the tank presumably has and will undermine any reasonable consideration of the welfare of the present and future orcas at this facility.

OTHER PROVISION OF CONDITION 1

“Based on the Virgin Pledge, to which SeaWorld is a signatory, the Project will not be home to any killer whales taken from the wild after February 12, 2014 and no genetic material from any killer whale taken from the wild after February 12, 2014 will be utilized”

This provision of Condition 1 is extremely worrisome. It allows SeaWorld the right to use killer whales taken from the wild prior to 2014. In 2012/2013 Russia took 10 whales for use at these types of facilities. While it is unlikely that NMFS would have issued a permit for SeaWorld to house or use any of these killer whales, SeaWorld can now take this condition to NMFS and claim that the State of California has blessed their right to use them.

Also, as stated previously, this “pledge” does not prevent SeaWorld from attempting to obtain new genetic material from wild orcas.

WE ASK THAT THE COMMISSION DELETE CONDITION 1 AND INSERT IN ITS PLACE:

New Condition 1:

SeaWorld may only hold or display the currently existing whales in its San Diego park: Corky, Kasatka, Ulises, Orkid, Keet, Shouka, Nakai, Ikaika, Kalia, Makani, and Amaya. SeaWorld is prohibited from the captive breeding of orcas, either through mating or artificial insemination, including the collection of gamets.

This will make the project consistent with the provisions of Section 30230 and will allow SeaWorld to continue to use the current orcas but gradually phase out the practice of using captive orcas for entertainment purposes.

If new Condition 1 is not substituted for the present Condition 1 the we ask that the Commission deny the permit as inconsistent with the provisions of Section 30230.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mark Vargas

- 1) Name or description of project: 6-15-0424 (Blue World Habitat, SeaWorld)
- 2) Date and time of receipt of communication: Sept. 24, 2015 at 9:30am
- 3) Location of communication: SeaWorld, San Diego
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Anne Blemker
- 5) Identity of person(s) on whose behalf communication was made:
Corrine Brindley, SeaWorld
- 6) Identity of persons(s) receiving communication:
Mark Vargas
- 7) Identity of all person(s) present during the communication:
John Reilly, Corrine Brindley, Darlene Walter, Dr. Hendrik Nollens, Dr. Ann Bowles, Keith Yip, Susan McCabe, Anne Blemker

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I participated in a tour of the Hubbs Research Institute and SeaWorld facilities, including various research laboratories, veterinary hospital, and orca habitat. During the tour, I received an update from SeaWorld representatives regarding the Blue World project for expansion of the existing orca habitat with a new marine aquarium, themed exhibit, and immersive orca habitat experience.

We discussed the project's consistency with the SeaWorld Master Plan (part of the San Diego LUP) and applicable policies of the Coastal Act, including those related to public access, views and water quality. At the time of our meeting, the applicant was awaiting the release of the staff report. The applicant requests approval of the Blue World project by the Commission at the October hearing.

September 29, 2015



Date

Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mark Vargas

1) Name or description of project: Th8(f) Application No. 6-15-0424 (SeaWorld Orca Enclosure Expansion, San Diego)

2) Date and time of receipt of communication: **September 28, 2015 9:45 am**

3) Location of communication: 580 Mateo St, Los Angeles, CA 90013

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: **Stephanie Shaw, PETA**

5) Identity of person(s) on whose behalf communication was made: PETA

6) Identity of persons(s) receiving communication: Mark Vargas

7) Identity of all person(s) present during the communication: Jared Goodman, PETA

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Met with Jared Goodman, director of PETA, who expressed the organizations disappointment with the recommendation of staff.

The points made by Jared were:

- animals not going to be better off
- expansion not going to make meaningful difference to the animals
- depth of the new facility is only two times the length of the animal
- approval of this application is an acknowledgement of our approval of orca captivity
- There is no limit on how many animals can be in the tank at one time, so if they breed more the tank will get cramped.
- Orcas are being bred from different populations making for aggressive encounters
- Even though the habitat was expanded in San Diego in the 80s it did nothing to solve the aggression issues, evidenced by the rake marks that can still be seen on the animals.
- Worn teeth are an example of the stress caused by captivity
- Major construction adjacent to the existing tank will place stress on the animals – the noise freaks them out

I asked whether Coastal Sancturaries existed where Orcas could be transferred and, if so, how would those be any better for Orcas. The response was:

- There are no “coastal sancturaries” in existence currently.
 - A natural cove could be netted off, etc
 - Not sure what a minimum size threshold would be for a coastal sancturary
 - Would present opportunity for orcas to interact with the ocean environment, which they think is better

As to the jurisdiction of Coastal Commission to intervene in the welfare of the Orcas:

- Coastal Commission has the authority to consider the welfare of these animals:
 - 2002 case where there was concern that under Section 30230 animals would be harmed
 - Section 30001.5
 - Seaworld argues that we are “preempted” by federal marine mammal protection act and animal welfare act.

- AWA says shall not prohibit any state to create standards in addition...
- Marine Mammal act applies only to the taking of animals, doesn't oversee the maintenance and ongoing welfare of animals in captivity
- Previous legislation stripped marine fisheries service of jurisdiction over captive marine mammals, now USDA oversees them.
- South Carolina banned the public display of cetaceans in the early 2000's
- Natl Marine Fisheries Service responded with a memo saying that the ban is NOT preempted by federal law

PETA argues that by approving the expansion of this tank the coastal commission is indirectly implying that they believe that the new tank size is adequate habitat size for the 11 orcas currently in captivity, or possibly more based on the special condition 1 regarding breeding.



September 29, 2015

Date

Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

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April 13, 2015

Mr. Alexander Llerandi
Coastal Program Analyst
California Coastal Commission
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Regulation of Marine Mammals Exhibits

Dear Mr. Llerandi:

We represent SeaWorld San Diego ("SeaWorld"). As you are aware, SeaWorld has planned an extensive expansion of SeaWorld's orca habitat within SeaWorld's current park boundaries (the "Habitat Expansion"). The Habitat Expansion represents just one effort in SeaWorld's continued commitment to educate the public about marine mammals and ocean and coastal preservation. To accomplish the Habitat Expansion, SeaWorld has applied for a coastal development permit ("CDP") from the California Coastal Commission (the "Coastal Commission") for the Habitat Expansion.

In the past, there have been some questions regarding the role of the Coastal Commission in the regulation of SeaWorld's marine mammal exhibits and attractions. This letter clarifies the state and federal regulatory framework for marine mammal exhibits and attractions such as those at SeaWorld.

As explained in detail below, federal law pre-empts all state laws involving any aspect of public display and exhibition of marine mammals. The state Fish and Game Code and Coastal Act recognize this pre-emption.

EXHIBIT NO. 15

APPLICATION NO.

6-15-0424

Applicant's response

FEDERAL JURISDICTION

Regulatory control over the health, welfare and safety of marine mammals is the exclusive domain of the federal government. In 1966, the United States Congress passed the Animal Welfare Act (the “AWA”) and in 1972, the United States Congress passed the Marine Mammal Protection Act (the “MMPA”). The AWA and MMPA and their associated regulations specifically provide for federal oversight of the conservation and handling of marine mammals and have been broadly interpreted to include the regulation of marine mammal exhibits and attractions within the United States.

For example, Section 109(a) of the MMPA, explicitly prohibits a state from “enforc[ing], or attempt[ing] to enforce, any State law or regulation *relating to the taking of any species . . . of marine mammal within the State* unless the Secretary has transferred authority for the conservation and management of that species (hereinafter referred to in this section as ‘management authority’) to the State . . .” and such transfer of management authority has been made pursuant to MMPA requirements (16 U.S.C. § 1379(a)) (emphasis added). As a result, the “[MMPA] . . . establishes plenary federal authority for the conservation of marine mammals and pre-empts entirely state laws pertaining to their taking” (*Mountain States Legal Foundation v. Hodel*, 799 F.2d 1423, 1427 (10th Cir. 1986) citing 16 U.S.C. § 1379(a)) (*See also People of Togiak v. United States*, 470 F. Supp. 423, 425 (D.D.C. 1979) (the MMPA contains “a broad and detailed pre[-]emption provision”)).

Furthermore, in *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374 (1992), the United States Supreme Court found that a statutory provision which pre-empts state laws “relating to” a particular subject “express[es] a broad pre-emptive purpose” (*Id.* at 383). The Court held that a “relating to” pre-emption provision encompasses not only those laws “specifically addressed to” the subject, but also ‘laws of general applicability’ that relate to the subject” (*Id.* at 386). Moreover, unless particular language in a pre-emption clause suggests otherwise, a “relating to” pre-emption is “[not] limited to *inconsistent* state regulation” (*Id.* at 386-7) (italics in original). Rather, a “relating to” pre-emption provision “displace[s] **all** state laws that fall within its sphere . . .” (*Id.* at 387) (emphasis added).

Applying the above analysis, the “relating to” pre-emption clause of Section 109 of the MMPA must be read broadly to pre-empt all state laws involving any aspects of public display and captive maintenance of marine mammals (*See generally Morales v. Trans World Airlines, Inc.*). Under the *Morales* “relating to” pre-emption standard, laws involving the public display of marine mammals or their care and maintenance, certainly “relate to” (i.e. have a connection with or reference to) the “taking” of marine mammals for the purposes of public display under the MMPA. This is so even though such laws may not specifically address the public display and captive maintenance of marine mammals, because the laws cited above are viewed as “‘laws of general applicability’ that relate to the subject” of marine mammals.

No management authority has ever been transferred to the State of California (or any other state for that matter) under Section 109 of the MMPA. Accordingly, consistent with the MMPA, the

AWA and the Court's decision in *Morales*, California is broadly pre-empted from acting in this area. Governance over marine mammals remains under the exclusive control of the federal government. In light of such federal pre-emption, the State of California has no authority to regulate SeaWorld's marine mammal exhibits and attractions.

CALIFORNIA LAW

In accordance with the federal pre-emption doctrine described above, the State of California recognizes that the MMPA specifically pre-empts California agencies from regulating marine mammals.

Pursuant to California Fish & Game Code Section 200, the State of California has delegated to the California Fish and Game Commission the "power to regulate the taking or possession of birds, *mammals*, fish, amphibia, and reptiles to the extent and in the manner prescribed in this article" (Cal. Fish & Game Code § 200) (emphasis added). However, with respect to marine mammals and in recognition of the MMPA federal pre-emption provisions, California Fish & Game Code Section 4500 specifically prohibits the California Fish and Game Commission from regulating marine mammals unless the federal government transfers such management authority to the State of California:

- (a) It is unlawful to take any marine mammal except in accordance with provisions of the Marine Mammal Protection Act of 1972 (Chapter 31 (commencing with Section 1361) of Title 16 of the United States Code) or provisions of Title 50 of the Code of Federal Regulations or pursuant to subdivision (b) of this section.
- (b) At such time as federal laws or regulations permit the state to assume jurisdiction over marine mammals, the commission may adopt regulations governing marine mammals and the taking thereof.
- (c) For purposes of this chapter, "marine mammals" means sea otters, whales, dolphins, porpoises, seals, and sea lions.¹

Pursuant to Subsection (b) above, the California Fish and Game Commission is barred by California law from adopting regulations governing marine mammals until such time that federal laws or regulations permit such action. No such federal law or regulation exists.

Accordingly, the California Coastal Act ("CCA") limits the Coastal Commission's jurisdiction over marine mammal regulations. The CCA notes that the Department of Fish and Wildlife and the California Fish and Game Commission are the "principal state agencies responsible for the

¹ The "commission" for the purposes of California Fish & Game Code refers to the California Fish and Game Commission (See Cal. Fish & Game Code § 30)

establishment and control of wildlife and fishery management programs” (Cal. Pub. Res. Code § 30411). Consequently, California state agencies, other than the Department and Fish and Game and the California Fish and Game Commission, “shall not establish or impose any controls with respect to [the establishment and control of wildlife and fishery management programs] that duplicate or exceed regulatory controls established by [the Department and Fish and Game and the California Fish and Game Commission] pursuant to specific statutory requirements or authorization.” (*Id.*)²

As acknowledged in California Fish & Game Code Section 4500, the MMPA governs the “taking” of marine mammals, which includes, pursuant to federal case law described above, actions related thereto. Therefore, the California Fish and Game Commission cannot regulate or govern marine mammals and, *a fortiori*, the Coastal Commission is also prohibited under California Public Resource Code Section 30411.

OVERVIEW OF FEDERAL REGULATIONS

The National Oceanic and Atmospheric Administration Fisheries (“NOAA Fisheries”), which is the successor agency to the National Marine Fisheries Service (“NMFS”), the Fish and Wildlife Service (“FWS”) and the Animal Plant Health Inspection Service (“APHIS”) have promulgated very specific and comprehensive regulations relating to marine mammals pursuant to the authority granted by the MMPA and the AWA (*See generally* 50 CFR Subchapter C, Parts 216-229, NMFS/NOAA Fisheries regulations: “Marine Mammals”) (*See generally* 50 CFR Subchapter 8, Part 18, FWS regulations: “Marine Mammals”) (*See generally* 9 C.F.R. §§ 3.100-3.118, APHIS regulations: “Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals”). These agencies have ample opportunity to, and actually do, investigate and conduct numerous inspections to enforce their regulations, and have the additional authority to suspend or revoke granted permits and licenses, as well as subject those under the agencies’ jurisdiction to civil and criminal penalties for statutory or regulatory violations (*See. e.g.*, 16 U.S.C. §§ 1374-76 and 7 U.S.C. § 2149).

Under the MMPA, a person may not possess a marine mammal for purposes of “public display” without also qualifying for an exhibitor’s license under the AWA (*See* 16 U.S.C. § 1374(c)(2)(A)(ii)). A copy of SeaWorld’s current and valid AWA exhibitor’s license is attached hereto as Exhibit A. Additionally, SeaWorld’s accreditation by the American Zoo and Aquarium Association (“AZA”) and the Alliance of Marine Mammal Parks and Aquariums (“Alliance”), two well respected organizations possessing professional expertise and knowledge regarding marine mammal husbandry, evidences SeaWorld’s adherence to stringent standards and guidelines for public display.

² In this regard, Section 30411 is consistent with two California Attorney General opinions holding that, under California’s Constitution, the California Legislature does not have the authority to delegate power to any person or agency other than the Fish and Game Commission with respect to the protection, propagation and preservation of fish and game within California (17 Ops. Att’y Gen. 72 and 98 (1951)).

Mr. Alexander Llerandi
April 13, 2015
Page 5

A copy of the AZA certificate and the Alliance letter certifying SeaWorld's accreditation are attached hereto as Exhibit B and Exhibit C, respectively. Also, a copy of the standards and guidelines established by the AZA (*See generally The Guide to Accreditation of Zoological Parks and Aquariums*, 2015 Edition, Association of Zoos & Aquariums) and the Alliance (*See generally Standards and Guidelines*, Alliance of Marine Mammal Parks and Aquariums) are attached hereto as Exhibit D and Exhibit E, respectively.

The AZA's standards and guidelines call for responsible animal management and husbandry, ensuring excellence in, and commitment to, collection management, veterinary care and ethics (*The Guide to Accreditation of Zoological Parks and Aquariums*, pp. 5-8). The Alliance's standards and guidelines emphasize the psychological and physical health of, and environmental conditions for, marine mammals (*Standards and Guidelines*, p. 1).³ To assess compliance with such standards and guidelines, the AZA and the Alliance undertake their own rigorous evaluation and review of individual applicants seeking membership into their organizations and only identify those institutions demonstrating excellence in animal husbandry.

For example, the AZA accreditation provides a "thorough, unbiased, measured, and documented audit that establishes whether an institution meets or exceeds current professional standards" (*The Guide to Accreditation of Zoological Parks and Aquariums*, p. 7). Attached hereto as Exhibit F is a copy of AZA's accreditation questionnaire, which illustrates the intensive evaluation process for accreditation. Also, attached hereto as Exhibit G is a copy AZA's "Accreditation Rack Cards for Visitors", which explains the importance of an AZA accreditation to the visitors of an accredited park or aquarium. The standards and guidelines required by the Alliance "optimize the physical health of and environmental conditions for the individual marine mammals in [Alliance] member's care and maximize the educational and scientific value of" marine mammals within a park or aquarium accredited by the Alliance (*Standards and Guidelines*, p. 1). Attached hereto as Exhibit H is a copy of the Alliance's Accreditation Program Application.

SeaWorld has excelled in meeting the requirements of the AZA and the Alliance and has, therefore, received AZA and Alliance accreditation for all of SeaWorld's parks. Because of such accreditations and SeaWorld's adherence to professionally recognized standards of animal husbandry, SeaWorld is qualified to hold an exhibitor's license pursuant to the AWA and therefore, meets the requirements of the MMPA for possessing a marine mammal for the purposes of public display.

However, to maintain a valid exhibitor's license, each licensee must undergo routine inspections to ensure ongoing compliance with the requirements of the AWA and the MMPA. Failure to comply with AWA and MMPA requirements may result in the revocation of an exhibitor's license. Pursuant to the authority given to APHIS under the AWA, APHIS routinely inspects

³ For example, the Alliance mandates that whales and dolphins have daily access to a complex of pools that vary in configuration. (*Standards and Guidelines*, p. 11).

Mr, Alexander Llerandi
April 13, 2015
Page 6

SeaWorld's facilities. SeaWorld's status as a current and valid licensee evidences SeaWorld's ongoing commitment to compliance with federal law. A copy of the most recent APHIS inspection report for SeaWorld's facilities in San Diego is attached hereto as Exhibit I.

If APHIS were to find violations of its care and maintenance regulations and revoke an exhibitor's license, the exhibitor would lose its ability to publicly display marine mammals under the AWA and MMPA. Given the consequences of the loss of an exhibitor's license to display marine mammals, marine mammal owners and exhibitors must ensure total compliance with federal regulations or face the potential of a business shut down (in addition to civil and criminal penalties). The Coastal Commission can certainly rest assured that federal law sufficiently protects marine mammals. Federal agencies maintain the resources and expertise to regulate the highly technical demands of marine mammal exhibits and attractions and the Coastal Commission should rely on those agencies to do so. It is not necessary for the Coastal Commission to expend its own limited resources to duplicate the efforts of federal agencies to oversee marine mammal exhibits and attractions in California.

CONCLUSION

In conclusion, there is no practical or legal basis for the Coastal Commission to condition the approval of a CDP on the Coastal Commission's independent determination whether marine mammals are affected by any proposed attraction. That regulatory determination is reserved for the federal government and the Coastal Commission is pre-empted from action in that regard. Furthermore, the federal government maintains the authority, resources and expertise to ensure the health, welfare and safety of marine mammals in exhibits and attractions in the United States, including those at SeaWorld.

Very truly yours,



David E. Watson

DEW

DM2\5149959.2

cc: John Reilly
Darlene Walter
Corrine Brindley

EXHIBIT A

AWA EXHIBITOR'S LICENSE



United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care

EXPIRATION DATE: AUGUST 20, 2015

This is to certify that

SEA WORLD LLC

is a licensed
under the

CLASS C EXHIBITOR

Animal Welfare Act

(7 U.S.C. 2131 et seq.)

Certificate No.

93-C-0069

Customer No.

3549

Deputy Administrator

EXHIBIT B

AZA ACCREDITATION CERTIFICATE

**ASSOCIATION
OF ZOO &
AQUARIUMS**

This certifies that



SEA WORLD SAN DIEGO

Has been granted Accreditation

This 21st day of March 2015

Institution Number: IN - 6256990

Chair of the Board, AZA

Chair, Accreditation Commission

Expires 3/31/2020

EXHIBIT C

ALLIANCE ACCREDITATION LETTER



An international organization dedicated to conservation through public display, education, and research

July 2, 2013

Mr. Keith Yip
SeaWorld Sand Diego
500 Sea World Drive
San Diego, CA 92109

Dear Keith:

This letter confirms that SeaWorld San Diego has been reaccredited by the Alliance of Marine Mammal Parks & Aquariums following the March 5-6, 2013 inspection completed by Mike Muraco and Don Tremel.

The review team's evaluation report, which takes into consideration all criteria set forth in the Alliance's Accreditation Program and Standards & Guidelines, has been accepted by the Accreditation Commission and the Alliance Board of Directors. With respect to the depth issues identified with several sea lion and Pacific Point exhibit pools and the miscellaneous repair issues, we appreciate your detailed report on SeaWorld San Diego's plans to address these issues. Please keep the Accreditation Committee informed of your decisions and the scheduling of any planned work on these items.

The Board very much appreciates your commitment to the Alliance and your long-term support of the association. Our strength is in our members.

As you know, Alliance member facilities are required to participate in a re-accreditation of their facility five years from the date of their previous inspection. If you have any questions, please contact me. Congratulations, Keith, and thanks for all you do to support the Alliance and its mission.

Best regards,

A handwritten signature in black ink, appearing to read "Billy Hurley", written in a cursive style.

Billy Hurley
President

EXHIBIT D

GUIDE TO ACCREDITATION OF ZOOLOGICAL PARKS AND AQUARIUMS

ASSOCIATION
OF ZOOS &
AQUARIUMS

the
guide to accreditation of
zoological parks and aquariums
2015 edition

PLEASE NOTE: THE 2015 EDITION OF "*GUIDE TO ACCREDITATION OF ZOOLOGICAL PARKS AND AQUARIUMS*" MAY ONLY BE USED FOR SUBMISSION OF MATERIALS FOR DEADLINES OCCURRING IN THE YEAR 2015. SUBMISSIONS FOR DEADLINES IN THE YEAR 2016 REQUIRE THE 2016 EDITION, AVAILABLE IN OCTOBER, 2015.

2015 GUIDE TO ACCREDITATION OF ZOOLOGICAL PARKS AND AQUARIUMS

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ACCREDITATION COMMISSION

Mission Statement

The mission statement of the AZA Accreditation Commission is to establish, uphold, and raise the highest zoological and aquarium industry standards through self-evaluation, on-site inspection, and peer review.

Goals

Establish Standards For AZA Zoos And Aquariums

AZA standards will be a dynamic document of the current acceptable standards for zoos and aquariums. Through continual review and policy setting, it will remain contemporary.

Credential AZA's Standards As The Industry's Standard

The Commission establishes criteria for AZA-accredited institutions through input from those in and outside our profession considered as recognized leaders; through continuing review to strengthen standards; through training for consistent inspection; and through guidance provided to the profession and those we serve. It is imperative that regulatory agencies, governing authorities, international allied groups, etc. have the trust and confidence in our efforts to establish high standards and be assured that those awarded AZA accreditation comply.

Encourage Member Institutions To Develop Superior Facilities

The holding of AZA-accreditation obligates institutions to continuously strive for superior facilities. On occasion, the Commission is called upon to use its professional clout to encourage improvements. Our objective, third party position has been an effective tool to lobby local authorities to support member facilities. We encourage development of superior facilities through enforcement of accreditation standards, publication of professional information highlighting current best practices, documenting trends, and raising professional expectations.

Support Nonmember Institutions To Achieve AZA-Accredited Status

AZA mentors interested organizations that are not AZA-accredited to aspire to improve their facilities, philosophies, and practices, in hope of achieving AZA-accreditation in future years, providing whatever professional assistance is available.

DESCRIPTION OF THE PROGRAM, OBJECTIVES, AND SCOPE

The Association of Zoos & Aquariums (AZA) is a professional organization representing zoological parks and aquariums, the majority of which are located in the Americas. Among its objectives, the Association strives to raise professional standards and to influence continuing development of superior zoological parks and aquariums.

Throughout their history, zoological parks and aquariums in the Americas have been governed according to varying objectives. Nevertheless, AZA believes that institutions maintaining exotic wildlife must recognize and accept their common goals and seek to advance them by adhering to professional standards for maintaining quality and performance [See “Preamble” appearing on page 5 of the 2015 edition of the *Accreditation Standards and Related Policies*.]

SPECTRUM OF AZA-ACCREDITED INSTITUTIONS

To achieve AZA accreditation, each institution must, at minimum, *meet* AZA standards. Many institutions that receive AZA accreditation *exceed* AZA standards. Thus, there is a range in the level of achievement among institutions accredited by AZA.

ACCREDITATION DEFINED

Accreditation is the establishment and maintenance of professional standards and the qualitative evaluation of organizations in the light of those standards. Through this process a profession is judged based on criteria selected by its own members, rather than an outside agency. In developing its accreditation program, AZA has been especially concerned with the need for assuring the highest standards of animal management and husbandry, while also focusing on animal management for conservation, education, scientific studies, and recreational purposes.

Performance Standards. Primarily, AZA standards are *performance* standards (i.e., measuring the level of achievement considered acceptable to fulfill a performance characteristic, and choice in method for meeting the goal). This differs from *engineering* standards, where exact and precisely measured steps are required to fulfill an engineering characteristic, with little or no variation in method for meeting the goal.

AZA maintains two credentialing programs: Accreditation (for *Institutional* members), and Certification (for *Related Facility* members).

THE ACCREDITATION COMMISSION

The Accreditation Commission consists of a Chairperson and eleven Commissioners who serve three-year terms. The terms are staggered to ensure continuity of service. The Chair and Commissioners are eligible to serve two consecutive full terms if appointed to do so. In addition to the Chair and Commissioners, several (usually three) Advisors are appointed to serve without vote. Advisors serve one three-year term and expand the overall body of expertise of the Commission. The AZA President-Elect makes appointments to the Accreditation Commission and selects the Chair and Vice-Chair. Only Professional Fellows are eligible for appointment to the Commission. Appointees must have actively served as accreditation inspectors on, at

minimum, three inspections, and must hold leadership roles at their institutions, and be considered as experts in their fields. Appointees must hold positions that focus on operations, animal management, or veterinary medicine.

The Commission and its programs are managed by the AZA Vice President of Accreditation Programs. The Vice President, Accreditation Programs shall conduct all administrative business of the Commission, provide guidance on policy, maintain accreditation records, advise and consult with the Commission, Visiting Committees, and applicant institutions, and provide training as required. The Vice President, Accreditation Programs may accompany the Visiting Committee on inspections, and shall also assist the Commission Chair with Commission meetings, which are conducted twice a year.

The Accreditation Commission relies upon volunteer inspectors who possess professional expertise in zoo and aquarium operations, animal management, and veterinary medicine to serve as members of Visiting Committees. The Visiting Committees are organized to provide for appropriate representation and expertise according to the size and type of the applicant institution.

HISTORY OF AZA ACCREDITATION

In 1966 the passage of the Animal Welfare Act reflected the nation's growing concern for animal care in the United States. State legislation was subsequently passed in several states which included a system of inspection and licensing that embodied the public's rightful concern for the well-being of animals in zoos and aquariums.

There was strong encouragement from federal agencies that the zoological park and aquarium profession, through AZA, should attempt self-evaluation through a program created for that purpose. In September 1971 incoming AZA President Gary Clarke appointed a committee to study methods of establishing best practices and collectively improving professional operations. After three years of intense research and preparation, the first institution was accredited by AZA in 1974—at that time a voluntary process. A decade later, in 1985, AZA made the decision to place the importance of *quality* ahead of *quantity*, and made accreditation a *mandatory* requirement for AZA membership. This decision resulted in a 75% decrease in membership by the end of 1985 as most institutions were not yet able to meet all of AZA's accreditation standards. Despite the drop in membership, AZA held firm in its decision to make accreditation mandatory as a means of encouraging continued improvement in animal care and management. AZA's willingness to take that step in 1985 led to a rise in animal husbandry and care among serious zoological parks and aquariums in the U.S. as they began striving to reach the standards *required* for AZA membership and accreditation. AZA believes just as strongly today that assuring high standards of animal management and husbandry is paramount to the overall welfare of living creatures, *and good conscience permits no higher priority.*

AZA is grateful to the American Association of Museums (AAM) for the permission it granted in the early 1970s to allow AZA to model its accreditation program upon the copyrighted AAM program, and for the helpful counsel and advice it provided.

BENEFITS OF ACCREDITATION

Accreditation, no matter what field, is most important as an assurance to the public that an organization, institution, or program meets or exceeds the standards established by its profession.

In this manner, accreditation helps •develop public confidence by means of a thorough, unbiased, measured, and documented audit that establishes whether an institution meets or exceeds current professional standards as established by AZA. This is accomplished by a periodic comprehensive review and site inspection conducted by zoological experts in operations, animal management, and veterinary medicine. Once granted, AZA accreditation is a •publicly recognized badge signifying excellence in, and commitment to, animal management and welfare, veterinary care, ethics, physical facilities, staffing, conservation, education, safety and security, finance, and supportive bodies. Conversely, •denial of accreditation should lead to improvements in identified areas and a concurrent increase in cooperation and support from governing bodies and other organizations.

Accreditation is also important in •guiding private and governmental agencies that frequently need expert opinion as a basis for qualitative judgment in connection with contributions, grants, and contracts, and other areas.

Other benefits include: •eligibility for grants (makes institutions eligible for consideration for funding and grants from certain foundations, corporations and other sources); •cuts red tape (exempts institutions from certain government requirements [primarily at the state level]); •promotes professional recognition from the top zoological parks and aquariums in the U.S. that current industry standards are being met; •provides impartial evaluation on a periodic basis by professional colleagues; •promotes excellence within the institution by causing an institution to continuously evaluate itself in light of ever-rising zoological industry standards; •helps distinguish institutions from “roadside zoos”; •provides staff an invaluable opportunity to learn from other institutions *and* to better understand the importance of accreditation through training and subsequent participation as accreditation inspectors; •fosters staff and community pride; •significantly improves the ability to attract and retain a high quality, professional staff.

Another important benefit of accreditation is membership in AZA. Membership in AZA includes: •animal exchange (access to animals from other AZA accredited facilities for loan and/or breeding); •information/knowledge exchange (access to top experts and colleagues within the zoological and aquarium professions, for aid as needed and sharing of information); •access to AZA’s resource center; •reciprocity with membership of other AZA accredited institutions, and much more.

POLICIES, RULES, AND GENERAL PROCEDURES FOR APPLYING

PRINCIPLES OF ACCREDITATION

1. Institutions are accredited based on what exists *at the time of the inspection and review*—not on future plans.
2. The accreditation process provides a format for the applicant institution to undertake a rigorous self-examination.
3. AZA-accreditation certifies that an institution is currently meeting accepted standards

of the profession as established by AZA. The accreditation program notes, but does not evaluate or measure, the institution's level of achievement *beyond* that of established standards.

4. Accreditation is based upon the informed *collective* judgment of highly experienced individuals within the professional fields of zoo/aquarium operations, animal management/husbandry, and veterinary medicine. Individuals are appointed by the incoming Chair of the AZA Board of Directors.
5. The accreditation program is conducted in strict confidence.
6. The principles and procedures of the accreditation program apply equally to all institutions.
7. The accreditation process is the same for all institutions, regardless of whether an institution holds accreditation at the time of application or is applying for the first time.
8. The granting of accreditation is for five years, and expires at the end of that period. To avoid a lapse in accreditation, institutions must successfully complete the full process again prior to the end of the five-year period.
9. When an institution's application is tabled, a follow-up inspection must be conducted within one year, and prior to final consideration for accreditation. Upon final consideration, accreditation must be granted or denied—continued tabling is not an option. [*Note: accredited institutions retain accreditation during the tabled year.*]
10. An accredited institution may be reviewed or inspected at any time within the five-year accreditation period, at the discretion of the Accreditation Commission or the AZA Board of Directors. (see *Interim and Follow-up Inspections*, page 27).
11. Once accredited, an institution is expected to continuously advance its professional operation and stay abreast of constantly rising standards in all areas. An AZA-accredited institution must incorporate modern zoological practices and philosophies as basic tenets, and maintain standards throughout the period of accreditation. The Accreditation Commission can rescind accreditation at any time if it concludes that standards are not being met.
12. AZA standards are primarily *performance* standards (i.e., measuring the level of achievement considered acceptable to fulfill a performance characteristic, and choice in method for meeting the goal).

BASIC DEFINITION

The accreditation program is based on a fundamental definition of a zoological park or aquarium. **To apply for accreditation, institutions must:** (1) operate based on philosophies and practices considered by AZA as being *modern best zoological practices* of the profession, (2) meet or exceed all AZA accreditation standards and adhere to all AZA policies, and (3) meet all aspects of the definition of a zoological park or aquarium.

For the purposes of AZA's accreditation program, a zoological park or aquarium is defined as: *a permanent institution which owns and maintains wildlife, under the direction of a professional staff, provides its animals with appropriate care and exhibits them in an*

aesthetic manner to the public on a regular basis. The institution, division, or section shall further be defined as having as their primary mission the exhibition, conservation, and preservation of the earth's fauna in an educational and scientific manner.

For clarification, the key words used in the definition are further defined as follows:

1. **PERMANENT** (cultural institution): an institution founded by an authority which intends it to continue indefinitely.
2. **WILDLIFE**: non-domesticated animal life.
3. **PROFESSIONAL STAFF**: at least one paid full-time employee who commands an appropriate body of husbandry knowledge, has a related professional degree or commensurate experience in the zoological and/or aquarium professions, has the ability to make zoological park or aquarium management decisions consonant with the experience of peers, and who has access to and knowledge of the literature of the field.
4. **AESTHETIC**: pertaining to the beautiful.
5. **REGULAR BASIS**: regular hours so that access is reasonably convenient to the public.

NOTE: The Accreditation Commission, and its agents, shall determine if an institution is meeting standards, and incorporating modern zoological practices and philosophies. If in question, the Commission, and its agents, shall further determine whether an institution meets the definition of a zoological park or aquarium, as provided in this booklet.

OTHER DEFINITIONS

Aquarium: Usually one public building which contains aquatic animals. However, the animals are usually split into numerous exhibits.

Currently Accredited Applicants: Currently accredited applicants are those institutions that are accredited *at the time the application is submitted and processed*.

New Applicants: "New" applicants are those institutions applying for accreditation for the first time, *or* any institution that is *not currently accredited*, regardless of whether it has been accredited in the past. (Institutions applying for the first-time, see *Applying For The First Time*, pages 12-14).

Mentor (Peer Consultant): An individual deemed qualified by the Accreditation Commission to assist an institution in preparing for the AZA accreditation process. The individual is assigned by the Commission to help the institution identify areas that need to be addressed, to review and help update policies and procedures, internal documents, record keeping, and all areas involved in the accreditation process. The mentor can advise as to the institution's readiness, and can also provide guidance on assembling the application, if desired (see *Mentoring Program* pages 27-28).

International Institutions: Institutions located outside the United States may apply for accreditation under the same rules as those located within the United States. In some cases, processing of applications for international institutions may not be possible within the standard six-month time frame, and may require a year or more before the Commission hearing can be scheduled. In addition, the amount of the Visiting Committee deposit may be higher due to

increased travel costs associated with inspecting institutions located outside of the United States (see *Fees*, page 12). All materials submitted must be in English. Brochures and other pre-printed materials must be accompanied by a translation.

Oceanarium: Usually aquatic animals housed in several public buildings contained in a park setting. The exhibit scale is very large with other attractions/services scattered among the exhibits.

Wildlife Park: Animals maintained in a public park setting, usually in very large exhibits that include animals which are free-ranging within the exhibit.

Zoological Park: Animals which are housed in many public exhibits, both indoors and outdoors [for full definition see *Basic Definitions*, see above.]

SUMMARY OF THE APPLICATION PROCESS

It takes approximately six months from the time an application is submitted until the Commission holds a hearing and makes its decision. If an application is tabled an additional inspection is required, and it may take up to twelve months or more before the Commission makes a final decision.

The application process begins with the submission, at an established deadline, of a completed questionnaire/application. The completed questionnaire/application must be accompanied by a variety of supporting materials and is submitted in quintuplicate. *A sixth copy of the completed questionnaire/application should be maintained indefinitely on site for the institution's future reference and for the use of the Visiting Committee during the inspection.* An on-site inspection will occur approximately three to five months after submission of the application. At the conclusion of the inspection, the institution will be presented with a list of items that must be addressed to be considered in compliance with standards. The inspection is followed by a hearing before the Accreditation Commission, scheduled at its next meeting. At that time, the institution's case will be discussed and a determination made whether to grant, table, or deny accreditation. *The Commission's decision will be based on what exists at the time of the inspection and final review—not on future plans.*

A detailed explanation of this process appears in the pages that follow.

BASIC INFORMATION

Application Deadlines. March 1 and September 1. The Commission meets twice yearly [in March and September] to consider pending cases. Institutions wishing to have their cases heard in March must submit application packages *by September 1*. Institutions wishing to have their cases heard in September must submit application packages *by March 1*. If the deadline falls on a weekend or holiday, the next regular business day immediately following shall be considered as the deadline. Please note that late applications will not be accepted. Contact AZA if a problem with a deadline exists. NOTE (currently accredited institutions): *Missing an application deadline will not be considered an acceptable reason for extension of accreditation, and will result in a lapse of current accreditation and AZA membership.*

Accredited institutions are expected to keep track of their own expiration dates (available on the AZA web site at <https://www.aza.org/current-accreditation-list/> [aza.org → accreditation → institution status → currently accredited zoos and aquariums], or by

contacting AZA). Institutions will be reminded six months in advance of the deadline for submission of materials (twelve months in advance of accreditation expiration), but should *not* rely on this reminder as a method of tracking an expiration date.

Early Submittals. Application packages may not be submitted any earlier than one month in advance of the deadline for which they are intended.

Fees. A filing fee and a Visiting Committee deposit are both due at the beginning of the process, and *must be included with the application*. **Filing Fee:** The accreditation Filing Fee is \$1,750.00, and is non-refundable*. The Filing Fee helps defray a portion of the costs involved in accreditation processing. **Visiting Committee Deposit:** Applicants are responsible for all costs associated with the inspection. A deposit of \$1,500.00 towards inspection expenses must be submitted. The deposit for *international* applicants located in countries other than Canada and Mexico is \$2,500.00. Payment must be in U.S. dollars. If Visiting Committee expenses exceed the deposit, the institution will be invoiced for the balance; if less, a refund will be issued. **Filing fees are non-refundable once the official review process has started, and costs have been incurred. Specifically, the official review begins with initial reviews conducted by the Vice President, Accreditation Programs and the Primary Reviewer. If an institution withdraws its application before the official review has started, the fee may be refunded.*

Confidentiality. Information submitted to the Accreditation Commission by institutions as part of their accreditation application is held in *strict confidence*, and is made available to the following individuals only: •Accreditation Commissioners, •Commission Advisors, •Inspectors (Visiting Committee), •Vice President, Accreditation Programs (and accreditation staff), •AZA Executive Director. The following also have access, but typically do not view the materials: •AZA President & CEO, •AZA Board of Directors.

Conversely, the Commission will not disclose the names of any person(s) requesting confidentiality when providing information, verbally or in writing, about the institution. This includes staff, colleagues, and/or members of the public.

Distribution of the Final Report. *The Final Report of the Visiting Committee to the Accreditation Commission* shall be provided by the Accreditation Commission to the institution's CEO/Director, and to the institution's governing authority, only. Further distribution of that report is left to the sole discretion of the institution and/or its governing authority. The institution's CEO/Director will receive a copy of the complete report at the conclusion of the institution's hearing.

APPLYING FOR THE FIRST-TIME

It is advisable for first-time applicants (those institutions that have never gone through the accreditation process before) to be familiar with fundamental AZA philosophies before applying for accreditation, and to determine if an assessment of suitability by AZA is needed prior to submitting an application (see below).

Assessment of Suitability. A basic requirement for submitting an application for AZA accreditation is that the applicant institution must meet the definition of a zoological park or aquarium *appearing on pages 9-10*. If an applicant is unsure it meets this definition, it is advisable to contact AZA for an assessment in advance of submitting an application. Applications from organizations that do not meet this definition will not be accepted.

Request A Mentor. [NOTE: AZA is in the process of creating a formalized mentoring program to be called “Candidate for Membership”. The “Candidate for Membership” program is anticipated to launch in 2015. Please check with the AZA office for details.]

While not a requirement, first-time applicants are *strongly encouraged* to request an official mentor approved by the Accreditation Commission prior to submitting an application. Even those institutions that believe AZA standards are being met should consider obtaining a Commission-approved mentor for an independent opinion before applying. Commission-approved mentors should be requested at least one year prior to submitting an application. Mentors cannot be provided at the time of application or after an application is submitted. Mentors serve as guides for an institution as it works towards eventually applying for AZA accreditation. Mentors review agreements, contracts, procedures, physical facilities in light of accreditation standards, and identify areas and/or practices or policies that may not meet AZA standards and need to be addressed before an inspection takes place. Mentors provide an independent opinion as to whether an institution is ready to undergo an accreditation review, and can even advise an institution in preparing its application. There is no fee for mentoring. (See *Mentoring Program*, pages 27-28).

Some helpful things to remember, for first-time applicants:

- [Optional, but recommended] Contact the Accreditation Department for an official mentor approved by the Accreditation Commission at least a year in advance of submitting the application (mentors cannot be provided at the time of application or after an application is submitted).
- Thoroughly read the **current** edition of the “*Accreditation Standards and Related Policies*” booklet.
- Thoroughly read the **current** edition of the “*Guide To Accreditation of Zoological Parks and Aquariums*” booklet (most questions about the process are answered within).
- Make sure that the annual edition of the materials you use to make application *matches* the year in which you submit your application.
- Follow the instructions for assembling the application as contained in this booklet (pages 14-16).
- When completing the application be sure to answer every question and attach required items.
- If you have any questions about assembling the application or other related topics please contact us.
- The Commissioner (or Commission Advisor) assigned to your institution as Primary Reviewer will automatically serve as Chair of the inspection team.
- Participate in AZA through individual membership, attendance at conferences, training and/or professional development courses, and reading publications so as to thoroughly familiarize your institution with fundamental AZA philosophies, policies, and best practices. Added focus should be given to those pertaining to animal management, exhibits (size, habitat, furniture, and aesthetics), and safety.
- While future plans are important and are considered in the overall picture, the final decision to grant accreditation will be based on what exists *at the time of the inspection and final review— not on future plans.*
- Make sure to address all items on the List of Concerns received at the end of the inspection. Address as many as possible *prior to the hearing*, and be prepared to show timelines, contracts, etc. for those items that are not complete.
- If accreditation is denied, it should *not* be viewed as failure. In preparing for the process many improvements have been achieved, and your institution should continue on that path, though the goal has not yet been reached. Use the process as a map for moving forward. Keep working on the List of Concerns with your mentor. If you did not utilize a mentor the first time, request one. AZA wants your institution to succeed and will help as much as possible, but continuing

the positive forward momentum towards meeting all standards is up to you.

•Remember, all institutions that receive accreditation are expected to maintain accreditation standards every day *throughout the five-year period* of accreditation. While AZA inspections take place every five years, colleagues who visit (formally or informally), and members of the public *do* notify us if problems are perceived. If deemed appropriate, the Commission may conduct an interim inspection. Accreditation can be rescinded at any time if the Commission concludes that accreditation standards are not being consistently met and maintained. (See *Complaints* page 26, and *Interim and Follow-up Inspections* page 27)

ASSEMBLING THE APPLICATION PACKAGE

Please contact the AZA accreditation staff if unclear about any of these instructions.

Improperly Assembled Applications: Please *read these instructions* and follow them carefully. *Improperly assembled or incomplete applications will be returned to the applicant and may result in an inability to continue on the processing schedule needed to avoid a lapse in accreditation and AZA membership.*

Preparing The Application On Flash Drive Or Compact Disc. All applications must be submitted in electronic format on a USB flash drive or compact disc in accordance with instructions contained in this section of the booklet.

Five sets of the completed application must be submitted to AZA by the required deadline. It is recommended that an additional copy of the completed compact disc or flash drive be maintained by the institution for reference in coming years.

Assembly. When finished, each institution should submit five copies of the CD or flash drive in small three-ring binders, or report covers labeled with the institution's name. Each folder should contain the following: (1) a paper or plastic sleeve into which is placed the CD or flash drive; (2) a printed hardcopy of the completed and signed application questionnaire *without attachments*; (3) samples of a few brochures, newsletters, etc. (if unavailable electronically); and (4) a sealed envelope containing salary information in hardcopy, if desired [*note: this option is available if an institution does not wish to place salary information on the electronic flash drive or CD.*]

In addition to including a hardcopy of the 27 page application questionnaire inside the report covers as described above, the application questionnaire must also be contained in electronic form on the flash drive or CD, and must be linked to attachments in accordance with instructions below. [NOTE: if you are unable to link the questionnaire to attachments after following the instructions below, please contact accreditation staff.]

Answering Questions On The Application Questionnaire. When completing the application questionnaire, applicants are required to include carefully considered statements of purpose to provide the Commission with a clear understanding of each institution's objectives. For example, the mere statement that an institution was established to exhibit animals to the general public will not be sufficient. It is also helpful to the Commission to know the reason(s) a new applicant institution is seeking accreditation.

Naming Files. All required attachments *must* be included. Materials must be provided electronically, and linked to the application questionnaire. Files should be named according to the question to which they pertain, for example, the electronic file of an institution's *Institutional Collection Plan* should be named "AC-3 ICP". Other examples include "VC-6.a.

Restraint Protocol”, “C-2 Conservation Plan”, and “EI-10 Interpretive Program”.

Acceptable Formats. Acceptable formats for submittals on CD or flash drive are *Microsoft Word, Microsoft Excel, Adobe Acrobat (PDF)*, Power Point, and JPEG*. If you desire to use a format not listed here, please check with AZA accreditation staff first to be certain it is acceptable.

Instructions For Creating Hyperlinks Within Your Application Questionnaire Using Windows Explorer. [NOTE: if you are unable to link the questionnaire to attachments after following these instructions, please contact accreditation staff.] The flash drive or CD must contain the application questionnaire and all attachments. Institutions must link each attachment to the “See CD or flash drive” box appearing on the application questionnaire itself. Instructions for doing so follow.

[NOTE: It is recommended that the questionnaire be filled out in its entirety before adding the hyperlinks. The check boxes within the questionnaire can only be filled out when the document is protected/locked, whereas hyperlinks can only be added when the document is unprotected/unlocked (see step 3 below for instructions to do so). Therefore it is easiest to fill in all check boxes and then go back and create all hyperlinks.]

1. Create a folder on your computer that contains the completed application questionnaire and all attachments (named according to the question to which they pertain; see “Naming Files” above).
2. Open the completed application questionnaire.
3. Unprotect/unlock the document using the word: **Tornado** (case sensitive)
 - a. Microsoft Word 2003: Click on the **Tools** tab at the top of the page. Scroll down to “Unprotect Document.” Enter password. Click **OK**. Document is now unlocked and hyperlinks can be added.
 - b. Microsoft Word 2007, 2010: Click on the **Review** tab at the top of the page. Click on **Restrict Editing**. Click **Stop Protection**, located at the bottom of the shaded box. Enter password. Click **OK**. Document is now unlocked and hyperlinks can be added.
4. When you come to the first question in which you need to create a hyperlink (for example **GI-5**), highlight the words **See CD or flash drive** at the appropriate question, then right click and choose **Hyperlink**.
5. Choose the attachment that corresponds to the question.
 - a. Microsoft Word 2003: Choose **File** on the right hand side of the dialogue box. A second box should open that shows the files available on your computer. Double click on the file that you would like to link.
 - b. Microsoft Word 2007, 2010: Use the **Look In** box to find the file that you would like to link. Once found, highlight the file and click **OK**.
6. Once linked the item should be underlined and in a different color. Click on the link to be sure it works. You may need to hold down the Control button on your keyboard as you click the link.
7. You can also link an entire folder that contains several individual documents, which are needed to answer a single question. For example, **F-9** under the **Finance** section asks for information regarding capital improvement projects that have taken place over the past 5 years. Perhaps you have one folder titled **Improvement Projects** and within that folder you have separate documents for each year. In this situation, rather than selecting a single file to link, highlight the entire folder and click **OK**.
8. After testing the hyperlink you can choose to either leave the language associated with the link on the questionnaire as “See CD or Flash Drive” or rename the link. To rename the link simply highlight the words “See CD or Flash Drive” and type the new name (for instance Institutional Collection Plan).
9. Once you have gone through the entire application questionnaire, linked all the necessary documentation, and checked that the links open, be sure to save the document. You can then close the document.

10. Now it is time to copy and paste the entire application folder (including questionnaire *and* all attachments) to a CD or flash drive. We recommend trying out the burned CD or flash drive on a different computer from the one you tested it on to be sure that all of the links still open, before proceeding with making the four other copies.
11. **See “Assembly” (page 14) for final compilation of application binders.**

Photos. Please include on the flash drive or CD with your application at least 10 photos that best depict your institution on a typical day of operation, and at least 3 photos that depict your institution in winter or cold-weather, if applicable.

Shipping. Upon completion, five copies of the fully assembled² application should be sent to AZA, addressed as follows: Accreditation Programs, AZA, 8403 Colesville Road, Suite 710, Silver Spring, Maryland 20910.

ACCREDITATION PROCESSING [listed in order of occurrence following receipt of application; times of occurrence are approximate]

AT A GLANCE

Weeks 1 & 2:

- **Visiting Committee Selection Process Begins.** The institution’s CEO/Director will receive a list of 8-12 *potential* Visiting Committee members for review and approval from accreditation staff. The CEO/Director is expected to review the list and may eliminate the names of any individuals. The list must then be signed and faxed to AZA **within 15 days of its receipt**. If a significant number of names are eliminated by the CEO/Director, additional names will be substituted until there is a viable list of at least 8 potential inspectors. Team members will then be assigned by the Commission from the names remaining on the list. An institution may not select the members of its Visiting Committee.

- **Primary Reviewer Is Assigned.** The Primary Reviewer is a member of the Accreditation Commission, or a Commission Advisor, who is assigned to the case and receives a complete set of the institution’s application materials. This individual serves as chief examiner on behalf of the Commission and also works in conjunction with the Visiting Committee. As a member of the Accreditation Commission the Primary Reviewer is present at the institution’s hearing. In the case of *new* applicants the Primary Reviewer automatically serves as Chair of the Visiting Committee, and may occasionally do so for *currently accredited* institutions as well.

Weeks 2-4:

- **The Visiting Committee Is Assembled.** Assembling the inspection team may take 10 or more working days to complete, depending upon how quickly we receive the selection sheet back from the institution’s CEO/Director, and how quickly the selected individuals respond when contacted. If all team members cannot be confirmed from the initial list, a second list will be provided. For institutions that have been inspected in the past, an inspector from a previous team will be selected, *if available*. For *new* applicants the Primary Reviewer automatically serves as Chair of the Visiting Committee. As soon as a complete team is confirmed, the institution’s CEO/Director will be notified by email. [NOTE: for more information on how inspectors are selected see *Criteria For Selection Of The Visiting Committee*, pages 29-30.]

- **The Inspection Is Scheduled.** Upon confirmation of the team, the inspection will be scheduled by the Chair of the inspection team in consultation with the institution's CEO/Director and the members of the inspection team. Once dates are selected, the institution should provide the team Chair with information for accommodations at a nearby hotel. Team members may then contact the hotel to make reservations, or the institution may choose to make these arrangements for the team. That decision is left to the preference of the institution, and the CEO/Director should inform the team Chair as to the institution's preference at the time the dates are finalized.

Months 2 & 3:

- **Application and Materials are Reviewed.** Accreditation staff will distribute application materials from the institution to individual inspection team members and to the Primary Reviewer. These individuals will begin a thorough study of the application in preparation for the inspection and as part of the overall evaluation of the institution.

Months 3 – 5:

- **The Inspection Occurs.** Typically, most inspections take place during the third, fourth, or fifth month of the process.
- **The List of Concerns is Generated.** At the conclusion of the inspection the inspection team generates the List of Concerns and delivers it to the institution's CEO/Director during the exit interview at the conclusion of the inspection.
- **The Institution Begins Addressing the List.** The institution should begin addressing the List of Concerns as soon as it is delivered.

Months 5 & 6:

- **The Inspection Report Is Submitted.** As soon as the inspection team finishes its inspection, it begins writing its full report to the Accreditation Commission. That report is submitted to accreditation staff for initial review, and then distributed to the Accreditation Commission.
- **The Institution's Progress Report Is Submitted.** The institution must submit a report informing the Accreditation Commission of progress made addressing the List of Concerns, including documentation. That report is submitted to accreditation staff and is then distributed to the Accreditation Commission.
- **The Accreditation Commission Conducts Initial Review and Evaluation.** The Commission evaluates all information received from the inspection teams, the institutions, and accreditation staff.

Month 7:

- **The Institution's Hearing Takes Place.** The institution appears at its scheduled hearing before the Accreditation Commission to discuss further progress made addressing the

List of Concerns and to provide the Commission an opportunity to ask any questions it may have. Following the hearing the Commission makes its decision and the institution is informed.

- **The Institution Receives A Copy Of Inspection Report.** The institution will receive a copy of the inspection report following the hearing when it meets with the Chair of the Accreditation Commission to discuss the Commission's decision.

Month 8:

- **The Institution Receives An Official Letter Reiterating Outcome.** AZA will provide a letter, as quickly as possible after the hearing, reiterating the outcome, and outlining additional action required, if any.

- **Accredited Institutions Receive Plaque.** A plaque denoting the institution's accreditation is delivered, and presentations are made or scheduled if requested by the institution.

THE INSPECTION

Overview: During the inspection, the Visiting Committee is acting on behalf of the Accreditation Commission and the Board of Directors. Inspectors will usually tour the grounds and facilities as a group, and individually return to areas of particular interest or expertise thereafter. During this time they interview staff members, view records, and make note of positive and negative impressions. During the site visit, the team will also meet with members of the governing authority and key personnel. The full cooperation of the institution's staff will greatly assist the process. Inspections are generally conducted in two to five days.

NOTE, currently or previously accredited applicants: it is important to understand that any concerns identified in past AZA inspections that remain present will be considered particularly serious and indicative of potential issues such as lack of progress, slippage, failure to maintain standards, and/or lack of commitment and/or funding to address concerns. The outcome of the case may be affected.

NOTE, all applicants: should the inspection team have a concern regarding the comfort or welfare of any animal at the institution, it will be considered a *major* issue.

Advance Notice: Ask the inspection team chair to communicate any concerns noted during the inspection that could potentially be addressed while the team is still on grounds. Address those concerns if possible, and present documentation at the exit interview.

Gifts. Members of the Visiting Committee may not accept any gifts or privileges offered by the institution.

Inspectors' Expenses. The applicant institution bears the expenses of the Visiting Committee. Every effort will be made to hold expenses to a reasonable minimum. AZA reimburses the inspectors directly and, as soon as all inspectors have submitted expense reports, the applicant institution will either be invoiced by AZA for the total amount due, or refunded the unused balance from the \$1,500 deposit. Reimbursable expenses are food, lodging, transportation, parking, postage, film, film processing, and any reasonable expense directly associated with the inspection.

Interviews. An opportunity for the Visiting Committee to interview staff *in confidence*, without *supervisors or management present*, should be provided. The Committee will also interview members of the institution's governing authority at some point during the visit.

Media Coverage. It is inappropriate to schedule media coverage during the inspection. If local media wishes to interview inspectors, the institution should arrange an appropriate time *outside of the scheduled inspection process* for a member of the team to serve as spokesperson. Inspectors may speak only of the accreditation process *in general*, and *not* about the specific case.

Private Work Area. A dedicated workspace should be made available to the Committee while it is on site. The Visiting Committee members need ample time and space to discuss, in private, various aspects of the institution's operation, review their reports, and to compile the final List of Concerns prior to the exit interview with the CEO/Director.

Records. All records of the institution must be readily available and staff members must be on hand to answer any questions posed by the inspectors.

Social Events. While it is helpful for the applicant to arrange for a luncheon or dinner so that the Visiting Committee can meet staff members and members of the governing authority, the Visiting Committee should not be expected to participate in social functions beyond those required for the orderly discharge of its duties and responsibilities.

Visiting Committee's Written Report to the Commission. In the weeks following the inspection, the Visiting Committee (inspection team), under the direction of the Chair, shall prepare a full written report for the Commission. That report, as well as the List of Concerns presented to the institution during the exit interview, shall be submitted to the Commission for review and formal action at the institution's scheduled hearing. The report provides insight regarding the Visiting Committee's impression of the facility, its operations, and the care provided its animals. Applicant institutions shall receive a copy of the full Visiting Committee Report at the conclusion of the scheduled hearing before the Commission (see also *The Hearing*, page 21).

CONCLUSION OF INSPECTION

Exit Interview. The inspection shall conclude in an exit interview with the institution's Director or CEO. [NOTE: It is *strongly recommended* that the institution's Director or CEO be present for the exit interview. However, should unavoidable circumstances dictate, the CEO/Director may designate a representative to meet with the Visiting Committee.] The CEO/Director may have staff present at the exit interview. During the exit interview, the Visiting Committee will discuss the general impressions (positive and negative) formed by the team during the inspection. The institution's accomplishments will be discussed along with the list of *major* and *lesser* concerns that must be addressed for the institution to be considered in compliance with standards.

List of Concerns. During the exit interview, the Committee shall provide the CEO/Director with a written list of any items found to be of concern (this list shall also be provided to the Commission as part of the written report). The list will include both *major* concerns and *lesser* concerns, and those carrying forward from previous inspections (if any). [NOTE: It is *important to understand that should there be items carrying forward from previous inspections, these will be of*

particular concern to the Accreditation Commission.] An institution should strive to address as many items on the list of concerns as possible prior to the hearing before the Commission. However, consideration will be given to the amount of time an institution has between the exit interview and the hearing, and the amount of time believed reasonable to complete each concern. Items that cannot be completed prior to the hearing should be covered by an action plan with estimated completion dates.

NOTE: The Visiting Committee (inspection team) is an arm of the Accreditation Commission. However, the Accreditation Commission is the final authority. *The Accreditation Commission may have concerns that do not appear on the List of Concerns and, if so, may ask questions accordingly during the hearing.*

Appealing A Concern. If an institution disagrees with any of the items cited by inspectors on the List of Concerns, the CEO/Director should discuss this with the Visiting Committee (inspection team) during the inspection and/or exit interview. If the matter is resolved at that time to the satisfaction of the Committee the concern may be modified or removed altogether.

If the matter cannot be resolved at that time, or if the CEO/Director decides later to question an item on the List of Concerns, the CEO/Director should address the issue in the written Response to the List of Concerns (see “Written Response to the List of Concerns” below) as follows: under the item in question, the CEO/Director should explain in detail why the item is being questioned and how the institution is meeting the standard at issue, being sure to include documentation. The Accreditation Commission will thoroughly review the institution’s Response to the List of Concerns prior to the institution’s hearing, and will make a decision as to whether the item may be removed from the List of Concerns or must remain a concern to be addressed by the institution. The Commission will make its final determination at the time of the hearing.

Written Response To the List of Concerns. Upon receipt, the institution should begin immediately addressing the List of Concerns. In addition, the institution must supply the Accreditation Commission with a written response to the List of Concerns prior to the hearing. The response must be submitted by the deadline set by (typically 4-6 weeks before the hearing). The purpose of the written response to the list of concerns is to provide information to the Commission in advance so that, at the hearing, the institution’s CEO/Director *need only report on additional progress made since the response was submitted*. The response should list each concern, followed by a description of how that concern is being addressed. **The response must include documentation (photos, copies of contracts, agreements, policies, etc.).** The response should be submitted by e-mail in electronic format, *including all attachments and photographs*, and followed-up thereafter with a signed hardcopy sent by regular mail. Photos may be submitted on flash drive or CD if too numerous to submit by e-mail. NOTE: *Failure to have taken corrective measures, or to present solid plans for doing so, will affect the outcome of the case.*

Updates to the Written Response To the List of Concerns. It is not necessary to send updates to the written response once it has been submitted to AZA. As the members of the Accreditation Commission prepare for upcoming hearings, they will likely not have time to read updates. Instead, when the institution’s hearing begins, the Commission Chair will ask the CEO/Director to provide *verbal* updates on additional progress made since the written response was submitted. If he/she wishes to bring photographs documenting the additional progress, these should be limited to essential only (bring two copies: one for each side of the table). Please do not bring notebooks or large numbers of reports, photographs, and other documents to the hearing. Written updates and documentation *should be mailed or emailed to AZA staff* and will be placed into the institution’s file once the hearings are completed.

Inspection Evaluation Form. Each applicant is provided an opportunity to evaluate the overall process and the Visiting Committee's effectiveness immediately after the inspection. The Accreditation Department will provide the institution's CEO/Director a short e-mail evaluation form requesting input regarding the overall process and the performance of the Visiting Committee. Returning the form is optional, but helps the Commission to better evaluate the effectiveness of the overall process. Information contained in the form shall be shared with the Commission and may be shared with the Visiting Committee to assist them in enhancing their performance in future inspections.

HOW TO PREPARE FOR THE ACCREDITATION HEARING

Preparing For The Hearing. Approximately *eight weeks* prior to the Commission's meeting, the institution's CEO/Director will be notified regarding the exact date, time, and location of the institution's hearing. The CEO/Director should be prepared to verbally update the Commission on any additional progress made *since the written response to the List of Concerns was submitted*. The collective information from both the written and verbal reports will be considered, along with application materials, the inspection report, and other current information, in determining the outcome. *Failure to have taken corrective measures, or to present solid plans for doing so, will affect the outcome of the case.*

Who May Attend. The CEO/Director is encouraged to bring to the hearing any staff, governing authority representatives, governmental officials, or individuals considered pertinent to the anticipated discussion, or as observers.

CEO/Director's Attendance At The Hearing. It is important that the institution's CEO/Director attend the hearing to answer questions, authorize action, and to make any statements desired. If the institution's CEO/Director cannot attend, a written notification must be provided to AZA as soon as possible. The notification must include an explanation, and provide the name of who will attend in place of the CEO/Director. The written notification must also give full authority to the CEO/Director's selected representative to act on behalf of the institution.

The Hearing. A waiting room (the "pre-hearing room") will be provided near the hearing room. Immediately prior to the hearing, the Commission will conduct its final review of the case. When the Commission is ready to begin the hearing, a Commission member will come to the pre-hearing room to notify the institution's representatives. The hearing portion of the review typically lasts 15-20 minutes. Hearings are closed sessions, and are attended by all Commissioners, Commission Advisors, the Vice President, Accreditation Programs, the Manager, Accreditation Programs, and the AZA Executive Director. Hearings may also be attended, on occasion, by members of the AZA Board of Directors, the AZA President & CEO, and members of the Visiting Committee.

After the hearing, the applicant's representatives will retire to a second waiting room (the "post-hearing room"), and the Commission will resume in private session to deliberate and make a decision. Once a decision is reached, the institution's representatives will be joined in the post-hearing room by the Commission Chair, the institution's Primary Reviewer, AZA's Executive Director, and the Vice President of Accreditation Programs to discuss the Commission's decision and to provide the institution with a copy of the full Visiting Committee Report. An official letter noting the decision and points of discussion will be sent to the institution in the weeks following the hearing.

Final Decision of the Commission. The Commission's decision will be based on what exists at the time of the inspection and the review at the hearing—not on future plans. In reaching its decision, the Accreditation Commission also considers the following:

- Six months of reviewing and evaluating the documents, records, policies, and practices of the institution
- The previous inspection report (if one exists)
- The 2-5 day on-site inspection
- The current inspection report
- The recommendation of the inspection team
- The investigation of comments from colleagues and outside sources (if any)
- The *number* and *nature* of concerns
- The institution's response in addressing the identified concerns
- The institution's hearing
- The state of the institution, its facilities, its management, and its overall operations *at present*

The Commission may take one of the following actions:

- A. **Grant Accreditation:** The Commission will grant accreditation when it is reasonably satisfied that the applicant institution meets the requirements of an accredited institution. The Commission may, however, request progress reports on any items it wishes the institution to address, require an interim or special inspection, and revisit the decision as often as necessary to assure itself that the institution continues to meet all conditions and requirements of accreditation during the five-year accreditation period.
- B. **Table Accreditation:** The Commission may table an institution's application if it determines that certain conditions must be met or additional information submitted before the institution can be considered as meeting accreditation standards. In addition, the Commission must believe that the institution is capable of meeting those standards within one year, and a follow-up inspection is required at the end of that year. *If an accredited institution is tabled, it remains accredited during the period of tabling, although tabling indicates that concerns exist.* The Chair shall write the institution's CEO/Director, providing a copy to the principal officer of the institution's governing authority, advising of the Commission's action and concerns. The institution is then given one year to meet the standards, undergo a follow-up inspection (a new application is *not* required), and return for a second hearing to demonstrate how the concerns of the Visiting Committee and Commission have been addressed. At the conclusion of one year, the Commission must act to accredit or deny (continuing to table is *not* an option). Processing shall terminate for applicants not responding in the time allotted, and it shall become necessary to submit a new application and materials should accreditation be desired again in the future.

If an institution is tabled, the year of tabling shall be deducted from the institution's subsequent five-year accreditation cycle should the institution receive accreditation at the end of the tabled year. Institutions that are successfully accredited following the year of tabling must undergo a follow-up inspection at the halfway point of the four years of accreditation remaining in the accreditation cycle (an application and related fees are not required, but the cost of the mid-cycle inspection shall be borne by the institution).

- C. **Deny Accreditation:** The Commission will deny accreditation when an institution does not meet accreditation standards at the time and, in its opinion, requires in excess of one year to successfully do so. The Chair shall write the institution's CEO/Director, providing

a copy to the principal officer of the institution's governing authority and noting the reason(s) for denial. The earliest time that institutions denied accreditation may reapply is one year *after the date of denial* (assuming all identified concerns have been sufficiently addressed). Submission of a new application and materials shall be necessary.

Receiving Accreditation. Once accreditation is achieved, the institution's CEO/Director will receive, at the hearing, a certificate acknowledging the institution's accreditation (for use in applying for permits, grants, exemptions, etc.) In addition, within approximately four weeks, the institution will receive an official letter from the Commission acknowledging the accreditation, and outlining any requirements specific to the case. The institution will also receive an engraved wall plaque within a few months of receiving accreditation. *New* institutions will additionally receive from the AZA Membership Department a pro-rated invoice for AZA annual dues and a welcome package containing useful membership information, "Accredited by the Association of Zoos & Aquariums" window decals, and access to the AZA logo for use on letterhead and in publications, in addition to other membership items.

Appeals. If accreditation is denied, a request for appeal may be made in writing to the AZA Executive Committee within thirty (30) days of the date of the written notification of denial. The AZA Executive Committee must decide in forty-five (45) days whether to grant an appeal hearing. If the AZA Executive Committee grants an appeal hearing, it will be conducted by the AZA Board of Directors at its next regularly scheduled meeting. The determination of the Board is final. Institutions whose appeals are denied may reapply one year after the date of the Commission's original denial (assuming all identified concerns have been sufficiently addressed). Submission of a new application and materials will be necessary. Denial of accreditation also results in loss of AZA membership for institutions that are accredited at the time denial is imposed. Appeals should be mailed to: AZA Executive Committee, Appeals Process, AZA, 8403 Colesville Road, Suite 710, Silver Spring, Maryland 20910.

WHEN IT'S TIME TO PROCESS AGAIN

The granting of accreditation is for five years, and expires at the end of that period. Accredited institutions must successfully complete the entire process again before the end of that period to avoid a lapse in accreditation and AZA membership (see *Long Term Expectations* immediately following). ***Accredited institutions are expected to keep track of their own expiration dates*** (available on the AZA web site at <http://www.aza.org/current-accreditation-list/>, or by contacting AZA.) Institutions will be reminded six months in advance of the deadline for submission of materials (twelve months in advance of accreditation expiration), but should not rely on this reminder as a method of tracking an expiration date. *It is important that the yearly edition of the accreditation materials being used by an institution match the year in which the application is to be submitted.*

LONG TERM EXPECTATIONS

Accreditation is mandatory for Institutional membership in AZA. Similarly, membership and participation in AZA must be maintained as a condition of accreditation. All institutions must process at least once every five years and are subject to any new or higher standards, policies, guidelines, or resolutions adopted by the Association of Zoos & Aquariums. Even though an institution may have been accredited previously, there is no guarantee that accreditation will be granted during subsequent inspections. Standards are subject to continuous review and enhancement. Once accredited, an institution is expected to continuously advance its

professional operation and constantly maintain, or surpass, all professional standards. [See also "Preamble" appearing on page 5 of the 2015 edition of the *Accreditation Standards and Related Policies*.]

GENERAL ADMINISTRATIVE POLICIES

Accidents Involving Injury or Welfare. Should an accident occur at an accredited institution involving serious injury or affecting the welfare of a visitor, staff, or institution animal, a written report must be submitted to the Accreditation Commission within thirty (30) days explaining what happened and noting what actions are being taken by the institution as a result. The Commission will determine if a special inspection or other action is necessary and will notify the institution in writing once a decision has been made.

Considerations for submitting such reports include:

Staff Injuries – site and/or animal-related injury to staff, causing death or significant trauma resulting in extended hospital stay and/or sustained disability.

Public Injuries – site and/or animal-related injury to people other than staff, causing death or significant trauma resulting in extended hospital stay and/or sustained disability.

Animal Incidents – these include unusual circumstances involving a single animal or group of animals, and/or incidents of mass mortality; escape of a dangerous animal or mass escapes of any species within the zoo or during transport; or death/grievous trauma to individuals of an endangered or other notable species within the zoo or during transport.

Accidents Resulting In Human Fatality: An on-site inspection shall be automatic after any accident *involving an animal* that results in a human fatality. The inspection shall focus on the incident and shall be scheduled to take place as soon after the incident as can be reasonably scheduled. Site related human fatalities not involving an animal shall be immediately assessed by AZA relative to the AZA Accreditation Standards. The Commission shall determine if a special inspection is necessary in those cases and will notify the institution in writing once a decision has been made. Institutions are responsible for submitting a written report to the Accreditation Commission as noted under "*Accidents Involving Injury or Welfare*", above.

Accreditation Cycle: The cycle of accreditation shall be five years, after which an institution must undergo the full accreditation process again. *Exceptions:* •In cases where an applicant processes and is granted accreditation on a cycle in conflict with the geographic rule, its *initial* accreditation cycle will be shortened to four and a half years to place it on the proper seasonal cycle for future inspections (see *Geographic Location*, pages 26-27). •If an extension is granted, the year of extension shall be deducted from the institution's subsequent five-year accreditation cycle if the institution receives accreditation at the end of the year of extension (see *Extensions of Accreditation*, page 26). •If an institution is tabled, the year of tabling shall be deducted from the institution's subsequent five-year accreditation cycle if the institution receives accreditation at the end of the tabled year (see *Table Accreditation*, page 22).

Addition of an Elephant Inspector. For institutions with elephants, an inspector who specializes in elephants will be added to the regular team and will focus on the institution's elephant program.

Addition of a Specialist Inspector. It is occasionally necessary for a specialist inspector to be added to an inspection team. The Commission will determine, on a case by case basis, when this is justified and will notify the institution. Examples would be zoological parks with aquarium facilities of a sufficient size and nature to require an inspection team member

specializing in aquatics. The same would be true of aquariums with exhibits containing land-based animals, etc.

Attendance At The Hearing (Who Should Be There). The institution's CEO/Director must attend the hearing to answer questions, authorize action, and to make any statements desired. The CEO/Director may bring to the hearing any individual(s) he or she would like to have present. This may include members of the institution's staff, governing authority, support organization, or local government officials. If the CEO/Director cannot attend, a written notification must be provided to AZA as soon as possible. The notification must include an explanation, and give full authority to an individual selected by the CEO/Director to represent the institution in place of the CEO/Director.

CEO/Director Requirement For Applicants Not Currently Accredited. Any institution not currently accredited may not apply for accreditation if it is without a *permanent*, full-time CEO/Director. Materials may not be submitted under the leadership of an *Interim* or *Acting* Director.

CEO/Director Vacancy. When a vacancy occurs in the position of CEO/Director an accredited institution must notify the Accreditation Commission in writing, and a follow-up letter must be submitted to the Commission every six months thereafter reporting the status of the search until such time as the position is filled. An accredited institution that is without the services of a permanent, full-time, compensated CEO/Director for longer than one year may be subject to loss of accreditation and membership.

CEO/Director Vacancy Occurring Immediately After Receiving Accreditation. If a CEO/Director vacates his or her position at the institution within ninety days of receiving accreditation, the Commission may, in its discretion, require written biannual progress reports, or may require that the institution reprocess again at the earliest opportunity to do so once a new CEO/Director is in place.

Change of Governance. A change in governance refers to a change of the governing authority, such as from a governmental agency to society or vice versa. If a change in governance occurs, a letter or affidavit from the CEO or chairperson of the new governing authority is required pledging to uphold and abide by accreditation standards, including the AZA Charter & Bylaws, Code of Ethics, Acquisitions, Transfers, and Transitions Policy, and other related policies. The letter must be sent to the Commission within 30 days of the governance change.

Change of Location. In the event of a relocation of an accredited institution, the institution must reprocess for accreditation as soon as the new location is officially open. An application must be received by the submission deadline that falls immediately prior to, or following, the opening.

Change of Ownership. A change in ownership refers to the sale or formal transfer of ownership of an institution. In the event of a change in ownership of an accredited institution, the institution must reprocess for accreditation within 12 months, regardless of when its accreditation is scheduled to expire. A letter or affidavit from the CEO or chairperson of the purchasing or receiving organization is also required pledging to uphold and abide by accreditation standards, including the AZA Charter & Bylaws, Code of Ethics, Acquisitions, Transfers, and Transitions Policy, and other related policies. The letter must also indicate the new owner's intent to submit materials applying for accreditation within the required time period. The letter must be sent to the Commission within 30 days of final sale or transfer.

Change of Scope. Accredited institutions must notify the Commission in writing in the event that a change in the scope of its facility occurs (for example, the opening of a new exhibit of significant proportions, or an exhibit that changes the overall scope of the institution, such as an aquarium in a zoo, or land-based animals in an aquarium, etc.). The Commission may assign a team, or individual, to conduct an inspection. Cost of such inspection shall be borne by the accredited institution concerned. (See *Interim and Follow-up Inspections*, page 27.)

Complaints. If a documented, written complaint is received from a member of the general public, the institution's staff, or a professional colleague regarding an AZA-accredited institution, the Commission will take steps to determine the situation and, based upon its findings, will make recommendations to the institution, or take appropriate action. In some cases the Commission may assign a team to conduct an inspection. (See *Interim and Follow-up Inspections*, page 27.)

Elephant Management and Care – Requesting A Temporary Variance Under the AZA Standards. Institutions requesting a temporary variance under the AZA Standards For Elephant Management and Care should submit that request to the Accreditation Commission at the time it becomes apparent that a temporary variance may be needed. The request should be in the form of a letter detailing the temporary variance being requested, and should include all necessary documentation. The Commission will consider the requested temporary variance and will thereafter notify the institution of its decision. Variances may be granted for one-year, and must be re-applied for annually. **NOTE:** institutions not currently AZA-accredited must be in full compliance with AZA standards at the time application is made.

Extensions of Accreditation. Under extenuating or special circumstances extensions of accreditation may be granted to extend current accreditation by one year. An institution desiring an extension must submit a request in writing to the Accreditation Commission, including a full explanation as to why the extension is being requested, as soon as possible to avoid a potential lapse in accreditation and AZA membership. Before considering the request, the Commission may require a site visit to assess the institution's ability to maintain accreditation standards during the period of extension. If a site visit is deemed necessary, it must take place prior to any decision being made by the Commission. The Commission will thereafter make a determination, and the institution will be notified. A second extension will be considered only in extreme cases, and will require a site visit. If an extension is granted, the year of extension shall be deducted from the institution's subsequent five-year accreditation cycle should the institution receive accreditation at the end of the year of extension. [NOTE: *Missing a deadline will not be considered an acceptable reason for extension of accreditation. Extenuating or special circumstances shall not include a vacancy in the position of CEO/Director.*]

Geographic Location and Accreditation Cycle. To optimize weather conditions for inspectors and to create a more even distribution of the case load for the Commission, institutions located in geographic areas that typically experience a mild winter season will be placed on a five-year accreditation cycle that affords a fall-winter inspection (i.e., will have their accreditation expire in March). Institutions located in geographic areas that typically experience a harsh winter season will be placed on a five-year accreditation cycle that affords a spring-summer inspection (i.e., will have their accreditation expire in September). In cases where an applicant processes and is granted accreditation on a cycle in conflict with the geographic rule, its *initial* accreditation cycle will be shortened to four and a half years to place it on the proper seasonal cycle for future inspections. **NOTE:** Because aquariums, by their nature, are primarily indoor facilities, they will be placed on a five-year accreditation cycle that affords a fall-winter inspection (i.e., will have their accreditation expire in March).

Institutional Membership In AZA: Institutional membership and participation in AZA must be maintained as a condition of accreditation.

Institutions Under Construction. Institutions currently being constructed may apply for accreditation prior to the opening date; however, the on-site inspection will not take place until the institution is officially open to the general public and a permanent, full-time CEO/Director has been on board for at least six months. (See *Deadlines* and *Early Submittals* pages 11-12).

Institutions Within Institutions. In order to be accredited, a zoological park or aquarium which is a part of a larger institution (such as a university, museum, or botanical garden) must be distinct enough to be separately identified and must adequately fulfill the definition of a zoological park or aquarium as earlier defined. When accreditation is granted in such cases, it will apply only to the zoological park or aquarium concerned and not to the non-zoological activities of the larger organization in fields in which AZA has no expertise.

Interim and Follow-up Inspections. The Accreditation Commission or AZA Board of Directors may, at its discretion, assign a team to conduct an interim or follow-up inspection of any AZA-accredited institution at any time during the five-year accreditation period. A follow-up inspection shall be conducted for all tabled institutions at the end of the tabled period, as a condition of proceeding forward in the process. While on site, the individual or team may, at their discretion, inspect all or portions of the institution. Cost of such inspection shall be borne by the institution as a requirement of maintaining and/or achieving accreditation. (See *Mid-Cycle Inspections*, page 28).

****Mentoring Program.** The Commission, itself, does not conduct “pre-accreditation” inspections. Although it is not a requirement, the Commission strongly encourages institutions that are not AZA-accredited to have their operations evaluated by an official mentor approved and assigned by the Accreditation Commission prior to submitting an application. The Commission recommends that currently-accredited institutions consider doing the same prior to undergoing the process again when accreditation expires at the end of five-years (see *Long Term Expectations* page 24). To request assignment of a Commission-approved mentor, the institution should contact AZA accreditation staff. A Commission-approved mentor is a professional from an accredited institution who serves regularly as an inspector, is a past or present member of the Accreditation Commission, or an Accreditation Commission Advisor. The Commission-approved mentor is considered by the Accreditation Commission as being particularly well versed in current accreditation standards, expectations, and fundamental AZA philosophies and best practices, and can be consulted throughout the preparation phase. The mentor will be available to the institution by phone throughout the preparation process to provide guidance regarding policies, procedures, agreements, situations, philosophies, and the assembly of the application materials as needed. In addition, it is considered important that the mentor visit the applicant institution for an unofficial inspection at least once, and thereafter as desired by the institution. Following the inspection, the mentor will provide a list identifying all things (including physical facilities and related issues, as well as practices and/or documents) that need work prior to making application, or before the official inspection, as the case may be. Additionally, in the case of *first-time* applicants, the mentor will provide a professional opinion as to whether the institution is best advised to make application later rather than sooner and, if later, may continue to work with the institution long-term in guiding it to full readiness. Any costs incurred by the mentor (including related travel, accommodations, and meals) are to be reimbursed directly to the mentor by the applicant institution.

Mentors should be requested *at least one year prior to submitting an application*, and no earlier than five years prior to submitting an application. Mentors cannot be provided at the time of application or after an application is submitted. *Having a mentor does not guarantee*

that an institution will be granted accreditation. Accreditation can only be achieved by a judgment from the AZA Accreditation Commission that the applicant institution meets or exceeds all AZA standards, and supports and employs AZA practices and philosophies.

**[NOTE: AZA is in the process of creating a formalized mentoring program to be called “Candidate for Membership”. The “Candidate for Membership” program is anticipated to launch in 2015. Please check with the AZA office for details.]

Mid-Cycle Inspections. The Accreditation Commission may, at its discretion, require a mid-cycle inspection as a condition of maintaining accreditation. When such an inspection is required, the visiting team will focus on key areas identified when accreditation was issued, and will also review the institution as a whole. Cost of such inspection shall be borne by the institution as a condition of maintaining accreditation. An application and application fees are not required.

Mid-cycle inspections may apply to the following:

- Institutions that are tabled and receive accreditation one year later.
- Institutions that meet minimum standards when accreditation is granted but that the Commission believes may be challenged in successfully maintaining AZA standards throughout the full five-year cycle of accreditation.

Multiple Facilities Under One Authority. If two or more institutions are under the same ownership and governing authority, administration, or control, are located adjacent to each other, and public admittance for all institutions is covered by a single entrance fee, they will be considered as a single institution. In such cases, the institution(s) should first submit a request in writing for the consideration of the Commission. All facilities are subject to inspection. Should the Commission determine that the institutions do not meet the above criteria, processing as separate facilities will be necessary.

Offsite Facilities. The inspection will include an institution’s offsite facilities. An offsite facility is one that is owned and operated by the institution, is not open to the public, and operates in support of the institution. Institutions must list all offsite facilities. Examples of offsite facilities include, but are not limited to: food storage areas, maintenance, quarantine, and animal holding areas. The Primary Reviewer, in consultation with the inspection team chair, will determine which of these areas need to be inspected.

Rescinding Accreditation. The Commission may rescind accreditation at any time if it concludes that accreditation standards are not being consistently met and maintained.

Temporary Closings. Institutions temporarily closed to the public will retain their accreditation and their AZA membership. Should an institution’s cycle of accreditation review fall within the period of temporary closure, an extension must be requested in writing prior to the institution’s regular deadline for submission of accreditation materials. During the period of closure, a written Progress Report must be submitted every six months until such time as the institution has re-opened. Upon re-opening, the institution must submit materials for full accreditation review by the first deadline that falls after re-opening. In the case of institutions closed for less than six (6) months, a waiver may be requested in writing.

CRITERIA FOR SELECTION OF THE VISITING COMMITTEE

In conjunction with the initial review, each institution will be provided with a list of potential Visiting Committee inspectors, listing qualified persons with expertise in *three* primary categories: •operations, •curatorial/husbandry (animal management), and •veterinary medicine. The institution's CEO/Director is expected to review the list and may eliminate the names of any individuals. If a large number of eliminations are made, additional names will be substituted by AZA until there is a viable list of at least 8 potential inspectors. Team members will then be assigned by AZA from the names remaining on the list. An institution may not select the members of its Visiting Committee. For *new* applicants the Primary Reviewer automatically serves as Chair of the Visiting Committee. Once the team is selected and confirmed, the team Chair will consult with the applicant institution's CEO/Director and with team members to determine the dates of the inspection (see also *Visiting Committee Selection Process Begins* and *The Inspection Is Scheduled*, page 16-17).

[NOTE: exceptions to criteria listed below may be made occasionally on an individual basis by the Accreditation Commission Chair, Vice Chair, or by the Vice President, Accreditation Programs, unless otherwise indicated.]

Basic Criteria For Service As An Accreditation Inspector

- Individual membership in AZA (Professional Fellow or Professional Affiliate members preferred)
- Current employment at an AZA-accredited institution
- Minimum of 5 years of high level experience at an AZA-accredited institution
- Support of current supervisor
- Must stay current with AZA accreditation training and standards
- Ability to maintain complete impartiality
- Good communication and writing skills
- Must have relevant professional experience (previous and/or current position) and expertise sufficient to fulfill responsibilities in one of the three primary roles on the inspection team (Operations, Animal Management, Veterinary Medicine)

Criteria for Service As Team Chair

- Basic criteria for service as an accreditation inspector (see above)
- Participation as member of an inspection team at a minimum of two different institutions
- Involvement in AZA accreditation process at own institution (preferred, not required)
- Strong leadership, organizational, and interpersonal skills
- Ability to write and organize reports
- Willingness to organize visit, and facilitate discussion with team members and with staff of the host institution
- Ability to meet required deadlines and follow instructions for compiling the final report to the Commission

Criteria For Retired Fellows' Service As An Accreditation Inspector

[no exceptions may be made]:

- Basic criteria for service as an accreditation inspector *[except for employment status]* (see above)
- Be retired, or in transition, from an AZA-accredited institution
- Must be approved by the Accreditation Commission prior to service
- Must attend AZA annual conferences
- Must remain current with AZA policies and practices
- Must thoroughly review the inspector's handbook and the accreditation standards annually
- Must stay abreast of current practices within the profession

Criteria for Determination of Team Size

- Size of the institution and complexity of operations; teams range from two to five

Criteria for Determination of Team Composition

- One team member should be from the institution's previous inspection team, *if available*
- Team members' experience and expertise should parallel the general scope of the institution to be inspected (i.e., an aquarium should have a team with strong aquatic experience)
- Teams should include at least one member from an institution similar in size and budget to the institution to be inspected
- Two Person Teams** should include one member with extensive experience in both operations and animal management, and one with extensive experience in veterinary medicine
- Three Person Teams** should include one member with extensive experience in operations, one with extensive experience in husbandry and animal management, and one with extensive experience in veterinary medicine
- Four+ Person Teams** should include one member with extensive experience in operations, one with extensive experience in husbandry and animal management, one with extensive experience in veterinary medicine, and one or more with expertise particularly relevant to the institution being inspected (such as aquatics, elephants, birds, etc.)

Team Tools

Resources available to the team include:

- The Visiting Committee Inspector's Handbook** which fully explains the parameters for an institution to be considered accredited and also provides information regarding an inspector's participation in the process.
- The Accreditation Standards and Related Policies** containing standards and policies related to the accreditation process.
- The Primary Reviewer** (a member of the Commission or a Commission Advisor) who serves as the Visiting Committee's direct line to the Commission.
- AZA Accreditation Staff** who can answer policy questions and concerns, provide support, and consult with the team regarding issues that may surface during the inspection.
- Inspector Training** sessions are offered annually at AZA's annual conference. Inspectors should attend the general session at least once every 3 years, and specific-topic sessions as offered. The general session covers best management practices, safety requirements, related specialty concerns or specialty areas of knowledge, practical inspection techniques, evaluations of past inspections, and the opportunity to ask members of the Accreditation Commission questions, and to discuss experiences with other inspectors.

COMMONLY FOUND CONCERNS & PRIMARY CONSIDERATIONS

Following are concerns commonly found during inspections:

Examples of commonly found *major* concerns:

- Unresolved governance issues
- Unsigned/unconsummated agreements
- Low staffing levels
- Incomplete or lack of written safety procedures/manuals/protocols
- Inadequate policies, or failure to follow them
- Failure to conduct drills in accordance with standards

- Insufficient safety barriers
- No duplication of records or failure to store duplicate set in separate location
- GFI circuits in wet areas

Examples of commonly found *lesser* concerns:

- Peeling Paint
- Rusty doors and fencing
- "Permanent" extension cords
- Cluttered yards and storage areas
- Rotted (wet and dry) wood and fencing
- Potholes in asphalt
- Cracks in concrete visitor walkways
- Dark work areas
- Perimeter fence issues
- Missing or improperly mounted fire extinguishers
- Inaccessible SDS sheets

Of significant concern, if present:

- Issues affecting animal welfare
- Recurring issues from previous inspections
- Evidence of poor preparation
- Lack of modern zoological practices and philosophies
- Director does not have final authority over animals, staff, or programs
- Unstable or unclear governing structure
- Unstable or unclear financial support
- Lack of forward momentum or progress

Primary considerations include:

•**Acquisitions, Transfers, and Transitions (ATT).** The Visiting Committee shall ascertain the institution's acquisitions, transfers, and transitions policy (ATT policy) adheres, at minimum, to AZA's Acquisitions, Transfers, and Transitions Policy, and that the policy is being followed.

•**The Animals.** The Visiting Committee shall consider the size *and* nature of the living environments provided for the animals, and whether the physical *and* psychological well-being of the animals is being met. The scope of the institution's enrichment program will be closely reviewed. The Visiting Committee will also check to be sure that the institution's collection plan adheres, at minimum, to accreditation requirements.

•**Animal Health Care.** An institution's animal health care program must be under the direction of a licensed veterinarian, an appropriate number of persons must be employed in the animal health care program, and the extent of professional services provided to the animals must be considered adequate for the number and nature of the species at the institution.

•**Animal Security.** The security program employed by the applicant institution shall be sufficient to provide appropriate protection to the animals. The Commission shall base its judgment with respect to security on the operation, location, size, and physical facilities.

•**Conservation and Education.** The scope of the institution's conservation and education programs will be closely reviewed. Both of these programs require a written plan. Consideration is given by the inspectors and the Commission on the size, budget, and other areas affecting these programs. However, an institution must participate in every SSP program that pertains to an animal belonging to the institution. Institutions may indicate at what level they desire to participate in each SSP. The institution's Annual Report on Conservation and Science (ARCS reports) will be reviewed for each of the five years since the institution's previous inspection.

•**Potentially Dangerous or Venomous Wildlife.** Institutions maintaining venomous animals must have an appropriate supply of sera available and policies/procedures in place for the safe handling of those animals. Likewise, procedures must be in place to reduce the risk of injury by potentially dangerous animals. The alarm system and emergency procedures will be closely reviewed by the Visiting Committee.

•**Finance.** The institution's financial health will be reviewed and considered in terms of meeting the needs of the institution for the five-year period of accreditation. Contingency plans will also be reviewed.

•**Master Plans, Policies, & Procedures.** Master plans, written policies, and procedures should be reviewed on a regular basis and updated as necessary, and should be of a quality on par with other accredited institutions of similar size and nature.

•**Physical Facilities:** The physical condition of the institution will be closely observed in both public and restricted areas, and maintenance programs reviewed. Exhibits and holding areas will be considered in terms of modern zoological design, philosophy, and practices (see "Preamble" to accreditation standards").

•**Record Keeping.** The institution's animal record-keeping system is of primary concern to the Accreditation Commission and will be carefully reviewed by the Visiting Committee.

•**Safety.** The Visiting Committee shall review the institution's safety programs employed for the protection of its employees, the visiting public, and the animals. Inspectors will look for potential safety hazards in both public and restricted areas.

AREAS OF PRIMARY FOCUS

Following are some of the areas of primary focus for the inspection team and the Accreditation Commission when evaluating an institution. Issues are broken into the main section headings covered by the Accreditation Standards. Institutions are encouraged to go beyond these focus areas.

Animal Care, Welfare, & Management: An institution must comply with all wildlife laws. In developing its accreditation program, AZA has been especially concerned with the need for assuring the highest standards of animal care, welfare, and management. It is our belief that this objective is paramount to the overall welfare of living creatures and that good conscience permits no higher priority. Among the things we will closely examine are:

1. The animals
2. Institutional Collection Plan

3. All animal facilities, including those that may be located off-site
4. Whether the animals are protected from excessive heat and cold
5. Whether the animals are provided sufficient shade in outdoor exhibits
6. Whether the animals have access to potable water both on and off exhibit
7. Whether each animal is maintained in numbers sufficient to meet their social and behavioral needs (display of single animals should be avoided unless biologically correct for that species)
8. Whether the institution has a sufficient *written* enrichment program
9. Whether all of the institution's animals are being provided with appropriate enrichment on a regular and frequent basis
10. Whether exhibit enclosures are of sufficient size and nature to provide for the psychological *and* physical well-being of each animal
11. The written policy for animal and public safety in animal contact areas
12. The animals used in public contact areas
13. The animals used in education programs
14. The animals used in off-premises programs
15. Whether animal records are current and accurate
16. Records for animals *not* on ISIS (i.e., fish, insects, etc.)
17. Animal diets, food coolers, freezers, etc.
18. Whether there are noticeable signs of pests, and pest control solutions being utilized
19. SSP and endangered species designations on graphics and signs
20. Whether staff is aware of the institution's euthanasia policy
21. Whether the facility's ATT policy incorporates, at minimum, *all* requirements contained in AZA's ATT Policy
22. Whether acquisition, transfer, and transition records are up-to-date
23. How verification is made that collection procedures used by the collector do not cause environmental abuse [for institutions utilizing aquatic collectors and dealers]
24. How verification is made that commercial collectors are properly permitted to legally collect animals from the wild [for institutions dealing with commercial collectors taking animals from the wild]

Institutions Maintaining Elephants: Among the things we will closely examine are:

1. Whether there is compliance with the AZA Standards For Elephant Management And Care
2. The written elephant management protocol, which must include: ·management policies, ·staff responsibilities, ·proper training techniques if in a protected contact style of management or proper use of an ankus if in a free contact system, ·behavioral profiles on each elephant, ·incident reports, ·acceptable discipline methods, ·chaining practices, ·staff training protocols for new elephant handlers, ·foot care schedules, etc.
3. The responsibilities of the Elephant Manager
4. Whether the Elephant Manager has completed the AZA Principals of Elephant Management training course
5. Whether there are a minimum of two *qualified* elephant keepers present during any contact with elephants.
6. Whether continuing education and training are supported by management
7. Whether elephant staff are aware of, or involved in, AZA, EMA, AAZK or the elephant TAG
8. Whether the elephants have access to natural substrate for dusting
9. Whether the elephants have shade provided during the heat of the day in a sufficient amount to accommodate *every* animal
10. The most recent incident report

Veterinary Care: The institution's animal health care program must be under the direction of a licensed veterinarian. Among the things we will closely examine are:

1. Whether the institution follows the *Guidelines For Zoo and Aquarium Veterinary Medical Programs and Veterinary Hospitals* of the American Association of Zoo Veterinarians
2. The animal record-keeping system
3. Whether medical records are up-to-date
4. Whether an adequate number of persons are employed in the animal health care program
5. Whether the extent of veterinary services provided to the animals is adequate
6. USDA reports, and what is being done to correct concerns
7. Quarantine procedures and their implementation
8. The alarm system and emergency procedures
9. Drug emergency protocols
10. Whether the veterinarian's response time from home is adequate in an emergency
11. Whether adequate policies and procedures are in place for the safe handling of venomous animals
12. Whether adequate sera is available
13. Whether drugs used in aquariums or aquatic exhibits comply with FDA guidelines
14. Whether animal food, especially seafood products, are purchased from sustainable or well managed sources
15. How the institution ensures that the animals are not exposed to toxic plants from browse material and/or plants growing naturally on the grounds of the institution

Conservation: The scope of the institution's participation in conservation programs is important. Consideration will be given to the size, budget, and other areas affecting these programs. Each institution is required to participate in every SSP that pertains to an animal belonging to the institution, although it may decide at what level. Among the things we will closely examine are:

1. The number of staff dedicated to conservation programming
2. Whether the facility is contributing sufficiently to AZA conservation programs based upon budget and/or staff size
3. Whether there are any Studbooks published by the institution
4. Whether all SSP animals are registered with the appropriate SSP
5. Participation in field conservation programs
6. Staff attendance at AZA conferences, SSP, and TAG meetings, etc.
7. Efforts undertaken for energy and natural resource conservation (i.e., recycling, water conservation initiatives, etc.)
8. Local and national program literature
9. Level of participation in conservation programs with colleges and universities
10. The institution's Annual Report on Conservation and Science (ARCS reports) for the previous five years.

Education and Interpretation: Education must be an element in the mission statement of the institution, and all institutions must have a written education plan that matches current industry standards. Among the things we will closely examine are:

1. The number of staff dedicated to education programming
2. That one paid staff member is dedicated to education on (at least) a part-time basis
3. How the education message is conveyed to the casual visitor
4. Publications, brochures, or other printed material

5. Classrooms and teaching areas
6. The availability of funds allocated for education programs
7. Whether exhibit signage contains appropriate information
8. The level of education department contact with local schools, colleges, and other academia
9. The volunteer, docent, and outreach programs
10. The level of outreach programming and whether appropriate animals are being used
11. How graphics are developed and designed

Research: Consideration will be given to the size, budget, and other areas affecting these programs. Among the things we will closely examine are:

1. The protocol for evaluating potential research projects
2. How research projects are coordinated
3. How research is viewed by staff
4. Whether research information is published in appropriate journals
5. The level of involvement with local and regional academia

Governing Authority: The governing authority must be supportive of the institution's decision to abide by the AZA Code of Ethics, Acquisitions, Transfers, and Transitions Policy, Accreditation Standards, and Charter & Bylaws, and must recognize and support the institution's goals and objectives. Among the things we will closely examine are:

1. The governing authority's perception of what the Director's role is in the decision making process
2. The process of hiring and firing personnel
3. The lines of authority for acquisition, transfer, and transition of animals
4. The relationship between the governing authority and the Director
5. The levels of control on the part of the governing authority, and whether they are appropriate or inappropriate
6. The governing authority's role in the day-to-day management of the institution, including animals, staff and programs

Staff: A key element of an institution's successful operation is maintaining a staff sufficient in qualification and number. Effective communication, working relationship, and training are also important. Among the things we will closely examine are:

1. Job descriptions and the qualifications of staff in those positions
2. How familiar staff are with their responsibilities
3. Management's relationship with staff, including problems and proposed solutions
4. Staff's relationship with management, including problems and proposed solutions
5. Keeper's roles and responsibilities, and relationship with management, including problems and proposed solutions
6. Clarity of lines of authority for staff
7. Staff training frequency, appropriateness, detail, etc.
8. Staff involvement with AZA, SSPs, TAGs, etc.
9. Funding for staff travel and participation in meetings, and which staff members are eligible to participate
10. Staff salaries to determine if levels are appropriate

Support Organization: A support organization must share an institution's goals and objectives, and have a good working relationship with the institution. Among the things we will closely examine are:

1. The society representatives' roles at the zoo or aquarium
2. The society's support and fund-raising efforts
3. How funds are allocated and distributed
4. Financial reports and how funds benefit the zoo or aquarium
5. The relationship between the society board and staff
6. Whether having a support organization might be helpful, if one does not exist

Finance: An institution must provide sufficient evidence of its financial stability, including contingency plans, and funding for capital improvements and maintenance. Among the things we will closely examine are:

1. Whether the facility will be solvent for the five-year accreditation cycle, including long-term funding, contingency plans, emergency funds, etc.
2. Whether budget cuts or other financial problems are anticipated in the future
3. All financial records
4. The budgeting process, including who has control, how do requests originate, what is the role of the governing authority in the process, what are your in-house controls on spending, and is there an audit process, etc.

Physical Facilities: While the Commission is interested in an institution's future plans, *accreditation will be based upon its operations and facilities at the time of inspection and review.* Among the things we will closely examine are:

1. Facilities and conditions that exist at the time of the inspection and review
2. Appearance and condition of the buildings and grounds
3. Adequacy of maintenance program
4. Adequacy, appropriateness, and condition of exhibits and holding areas
5. Adequacy of furniture in exhibits
6. Appropriateness of exhibit groupings
7. Adequacy of ventilation in buildings and holding areas
8. Whether the animal facilities meet or exceed all relevant federal and state requirements
9. Whether all service areas have sufficient space for safety
10. Program of water quality monitoring for *all* animals, including written records

Safety/Security: The security program employed by an institution should be sufficient to provide appropriate protection for the animals, its employees, and the visiting public. Adequacy will be based on the operation, location, size, and physical facilities. Among the things we will closely examine are:

1. Whether the institution is conducting required drills in accordance with standards
2. Location of escape procedures throughout the institution
3. Files on safety incidents over the past five years (i.e., escapes, accidents, injuries, attacks, public problems)
4. Whether staff knows the process of treating an injury to a visitor, and where the nearest first-aid station is located

5. Whether exhibits are safe for the animals, the staff, and the public
6. Whether walkways, steps, and other public areas are free of debris and in good repair
7. Whether work areas are free of clutter and safe work environments for employees
8. How flammables and other hazardous solutions are stored
9. Whether adequate safety procedures are in place for potentially dangerous animals
10. The alarm systems and emergency procedures
11. Whether minimum operational safety standards for diving are being met [for institutions using underwater diving with compressed air]
12. Whether adequate security is provided for the animals both day and night
13. Whether incidents of vandalism have occurred, how prevalent the problem is, and how it is being addressed
14. Security personnel routines for nightly rounds, emergencies, etc.
15. Firearms storage
16. Whether the perimeter fence is of sufficient height and construction, and is separate from all exhibit fencing

Guest Services: While the Commission is interested in an institution's future plans, *accreditation will be based upon its operations and facilities at the time of inspection and review.* Among the things we will closely examine are:

1. Facilities and conditions that exist at the time of the inspection and review
2. The public's overall experience [examples: the entrance; parking; the restrooms (cleanliness and convenience); drinking fountains (cleanliness and convenience); refreshment stations (number and convenience); quality of food being sold; benches and rest areas (number and convenience); ADA compliance; etc.]
3. Way-finding; availability of maps and signs
4. Overall aesthetics of the exhibits, buildings, and grounds
5. Adequacy of maintenance and trash collection
6. Adequacy of ventilation in public buildings

Other Programs/Activities: An institution should have a strategic and/or master plan to guide the institution in its development. Among the things we will closely examine are:

1. The master plan and whether it is on schedule
2. The strategic plan
3. Other programs being developed or already in place

AN IMPORTANT NOTE:

The criteria and procedures of the accreditation program are under continuous review by the Commission and Board of Directors. Constructive comments and suggestions are welcome and will receive careful attention.

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EXHIBIT E

**ALLIANCE OF MARINE MAMMAL PARKS AND AQUARIUMS
STANDARDS AND GUIDELINES**

STANDARDS AND GUIDELINES

ALLIANCE OF MARINE MAMMAL PARKS AND AQUARIUMS

These Standards and Guidelines are the very core of the Alliance accreditation program, required for membership in the organization.

PREAMBLE

The members of the Alliance of Marine Mammal Parks and Aquariums, who collectively represent the greatest body of professional expertise and knowledge regarding marine mammal husbandry, must meet Standards and Guidelines to become accredited by the organization. These standards optimize the physical health of and environmental conditions for the individual marine mammals in members' care and maximize the educational and scientific value of their collections as a whole. The following is a discussion of the standards, how they guide species management, and the role they play in assuring exceptional care for marine mammals in Alliance member facilities.

Alliance Standards and Guidelines reflect present-day practices, which are based on current scientific data and the cumulative experience of the membership. They are updated and improved annually as the knowledge base expands to assure that Alliance members lead the marine mammal display community in the integration of advancing science and technologies.

Only those aquariums, zoos, oceanariums, research facilities and marine life parks that aspire to these high ideals and are willing to participate in this evolving process will be accepted as accredited members of the Alliance. The Standards and Guidelines demonstrate Alliance members' continuing, progressive commitment to marine mammal conservation through public display, population management, education, rescue and rehabilitation of stranded animals, and research.

Acquisition and Disposition of Marine Mammals

Acquisition

The Alliance works collectively with the marine mammal community to assure that the populations of marine mammals in our members' care remain healthy and genetically diverse. Alliance members' successful population management programs are evidenced by the fact that over 65 percent of the dolphins in our care were born in a zoological park or aquarium. The cornerstone of this success is the Alliance acquisition standards. They require that Alliance members prioritize acquisition of marine mammals for their collections through managed breeding programs involving other zoological institutions. This emphasis on propagation and commitment to partnerships with other institutions ensures that members maintain healthy collections of marine mammals into the future, while minimizing the need for collection from the wild.

Acquisition standards also require that all applicable local, state/provincial, regional, national, and international laws and regulations be followed when acquiring and exhibiting marine mammals. CITES requirements, for example, must always be met when moving animals internationally.

The Alliance supports responsible collection from the wild to support management of robust, healthy and genetically diverse populations in human care. Alliance standards require that any wild collection be conducted using safe and humane methods consistent with professionally accepted practices. Importantly, members must have scientific information to demonstrate that any removal of an animal from the wild will not compromise the sustainability of the stock or population from which the animal is taken.

Disposition

Alliance members care deeply about each and every animal in their marine life park, aquarium, or zoo. Occasionally animals are moved from one facility to another to improve social groupings or provide breeding opportunities. Alliance members confirm that the level of care at the new facility is consistent with the standards and guidelines adopted by the Alliance.

In our facilities, marine mammals are attended to by qualified veterinarians, trainers and professional animal care specialists, ensuring the highest quality of animal care. Research shows that dolphins, for example, live longer in Alliance member facilities than they typically do in the wild. When an animal loss does occur, Alliance members must conduct a professional animal autopsy, called a necropsy. The results of necropsies are essential in advancing our understanding of the physiology of the animals and their natural vulnerabilities to illness and disease, information that is also important to conserving marine mammals in the wild and nursing back to health animals that strand on beaches around the world. Disposition

standards also include guidelines for humane euthanasia of animals, limiting it only to circumstances when recommended by the attending veterinarian to end an animal's suffering from illness or injury. In these ways, Alliance standards support the advancement of our understanding of species biology and the continuing development of marine mammal medical practices.

It is the Alliance's position that marine mammals cared for in zoological parks and aquariums for extended periods are not suitable candidates for release to the wild. This position was affirmed in a scientific report on efforts to release Keiko, the killer whale in the movie *Free Willy*. For these animals in long term human care, no scientifically-based release program has been successfully attempted. Whales and dolphins born in our facilities have no experience in the wild and would not survive. To protect our animals, Alliance standards require that release to the wild of a marine mammal from a member's facility can only be done if it is part of an authorized and scientifically-based experimental reintroduction program. Such a program must be anchored in the principles of conservation biology and have the ultimate goal of sustaining a threatened or endangered marine mammal stock and/or population. Since the whales and dolphins exhibited in Alliance facilities are not in danger of extinction, scientists have not initiated conservation programs that include breeding them in Alliance facilities and reintroducing them to the wild.

Training

The training of marine mammals in Alliance member facilities is much more than meets the eye. For these highly social animals, training includes enrichment and exercise programs that keep our animals stimulated both mentally and physically. Husbandry training — teaching animals to participate in routine physical examinations — is essential to their health and assists animal care staff in managing successful preventative health programs as well as performing necessary medical procedures.

Training practices are designed to provide a positive experience for the marine mammals in our care. This positive approach strengthens the strong bonds between our animals and their trainers — a bond based on mutual respect and trust. The animals are provided food rewards, which are part of the healthy, balanced diet they receive each day. They also enjoy being rubbed, playing with toys, and showing off their favorite behaviors.

Alliance standards require every member to have an animal training policy that includes the facility's philosophy, principles, and management oversight, as well as a behavior

development and management plan. The latter must describe training program objectives, methods of accomplishments, and criteria for success.

The standards require that animal training staff be appropriately sized and qualified to meet program requirements. Alliance members must assure that their trainers have the support and opportunities to learn and grow professionally, a formal program based on the guidelines of the International Marine Animal Trainers' Association. The IMATA guidelines recommend a library of educational materials for trainers including professional journals, teaching programs for new trainers that provides hands-on experience and learning theories, internships, training information exchange activities, and membership in professional organizations.

Education

Seeing living, breathing marine mammals is important. These unique and fascinating animals foster educational opportunities at Alliance member facilities that instill an awareness of environmental and ocean issues and inspire a strong, active commitment to conservation of marine mammals and their habitats in the wild. An informed public is more likely to support research benefiting the conservation of marine mammal populations and their ecosystems worldwide.

Alliance public display facilities are the primary source of educational programming about marine mammals for the public. We are grateful that the public appreciates our education efforts. According to a 2005 Harris Interaction poll, a full 97 percent of respondents agree that marine life parks, aquariums, and zoos play an important role in educating the public about marine mammals they might not otherwise have the chance to see. Ninety-one percent agreed that seeing a living marine mammal at a marine life park, aquarium or zoo fosters a connection to the animal.

We take our responsibility to educate the public about marine mammals and their environments very seriously and our education standards reflect that. They require members to offer multiple levels of learning opportunities, which include advanced education programming for all ages as well as teacher training. Information for the public must be based on the best current scientific knowledge and programs must be overseen by a qualified professional. The variety of techniques used to educate children and adults at Alliance member facilities range from interpretive graphics to guided tours to audio visual materials to formal education programs. Our standards recommend that member educators join professional organizations, attend educational conferences, and maintain an up-to-date library of reference materials on the marine mammals housed at the facility.

Each member must have a written education plan that clearly delineates the facility's education goals, mission statement, and an evaluation strategy. The standards also recommend that education programs use the professionals and experts on staff, such as animal behaviorists, veterinarians, research scientists, trainers, and educators, as a marine science resource to local, community professional groups and teachers when appropriate and practicable.

Husbandry

Alliance husbandry standards are aimed at assuring all marine mammals in Alliance marine life parks, aquariums, and zoos receive healthy and nutritious food and state-of-the-art veterinary care. These standards are based on the decades of professional experience and knowledge that Alliance members have gained in marine mammal biology, physiology, behavioral science, anatomy, reproduction, and veterinary medical care. They ensure that the animals in Alliance members' care live high quality, healthful lives.

Food/Nutrition

Alliance members feed their marine mammals high quality seafood designed to meet the dietary preferences of individual species. Nutritional adjustments are made for pregnant, aging, and young animals.

Alliance standards require that all members have a quality control system in place and test the animals' food on a routine basis to assure it is wholesome. As with food for people, there is an "eat-by-date" approach to feeding marine mammals in Alliance member facilities. Standards require that fish and other foods be kept at proper temperatures and stored in a manner that maintains full nutrient values and prevents contamination. Each animal has a vitamin regimen. Food is tested for caloric values, with evaluations similar to what one would find on human food labels. Under the Alliance husbandry standards, food preparation areas must be kept clean and sanitized. Food and nutrition records are required for every animal in a members' collection. These essential records inventory the quantity and type of food fed to each animal every day.

Veterinary-Medical Programs

Every Alliance member must employ a qualified, experienced attending veterinarian who supervises the preventive medicine and clinical care programs for the animals, and who is involved in all programs relevant to the health of each and every marine mammal in the

marine life park, aquarium, or zoo. Countries have laws governing the practice of veterinary medicine by which Alliance veterinarians must abide.

The attending veterinarian establishes and oversees a program of ongoing animal health assessment that includes regular veterinary rounds, daily monitoring by husbandry staff of each animals' physical appearance, activity, temperament and /or changes in behavior. Trainers and animal care staff are much attuned to the animals in their care, and quickly identify even minor changes in the animals' behavior. Reporting these changes to the attending veterinarian assures that, if necessary, an examination will be done quickly and effectively, and laboratory testing conducted as needed.

Complete physical examinations must be performed at regular intervals on each marine mammal in an Alliance member collection. Normal physiological values and serum banks for retrospective studies are established for each marine mammal in the collection. Individual health records are detailed and important duplicate records are kept in a safe place.

Clinical Medicine

The required program of clinical medicine includes a protocol for communication within the animal care staff, a treatment regimen, and an emergency medical protocol — all administered by the attending veterinarian. Members must maintain an up-to-date inventory of pharmaceuticals and medical equipment. In addition, this section of Alliance standards requires a protocol for disinfection and maintenance of animal handling equipment and areas and a program of facility design and maintenance that includes monitoring and prevention of any potential animal injury.

In-Water Interactive Programs

Interacting with marine mammals at Alliance member facilities is very popular with the public. These peak lifetime experiences with dolphins and other marine mammals foster a unique connectedness between the visitor and the animal that helps shape personal responsibility for protecting wild marine mammals and their ocean habitats.

Because these programs bring guests in close proximity to animals, safety is a top priority. Alliance member programs have a 99.99 percent positive safety record. This record reflects the experience of animal trainers at member facilities and the importance placed on maintaining an active awareness of the animals, and the guests, during an interaction.

These concepts are emphasized in the U.S. government's review and approval of interactive programs. (Quantitative Behavior Study of Bottlenose Dolphins in Swim-with-the-Dolphin Programs in the United States, Final Report to the National Marine Fisheries Service Office of Protected Resources, A. Samuels and T. Spradlin, 25 April 1994)

Alliance standards for interactive programs require that animals be fully and properly trained, that staff be experienced, and that appropriate action be taken to maintain a safe interaction. Standards also require that any member of the public who refuses to participate responsibly in a program be removed immediately. Members' behavior development and management plans detail every aspect of interactive activity offered to the public, describing the animal training program, its objectives, and methods of accomplishment. For example, the plan includes the amount of time a marine mammal is asked to participate in interactive activities based on behavioral criteria compiled for the individual animal.

Participation in an interactive program is the choice of each and every animal; members delineate an area of the pool the public may not enter, where the animal may choose to go. Educational programs must include information about the marine mammal the guest is about to meet. Pre-interaction instructions must also include rules outlining appropriate guest behavior for the protection of both the animals and the participants.

Propagation

Alliance members are committed to maintaining their marine mammal collections with minimal, if any, collection of animals from the wild, making successful reproduction programs for the animals currently in Alliance marine life parks, aquariums, and zoos an essential priority. And, these propagation efforts are very successful. As previously noted, over two-thirds of the dolphins now in Alliance member zoological parks and aquariums were born in our care.

Alliance standards for propagation detail the requirements for producing and caring for healthy calves and pups. Members utilize human medical technology and techniques to assure healthy babies and to enhance reproduction. Veterinarians use sonograms to monitor pregnancies and in-vitro techniques to diversify the genetics of particular families of animals.

Every member must have a comprehensive propagation plan for each species in its facility. These plans assure that experienced professionals are on staff, that enclosures are conducive to rearing the calves and pups, that the mother's health is closely monitored during the pregnancy, and that the animals are assured of social environments beneficial to the successful rearing of offspring. It is important that the plans include heightened monitoring

during delivery and the early stages of rearing calves and pups, and that nutritional requirements unique to pregnant females are determined for the individual mother.

Also, propagation standards require that contingency plans stipulate responses to any emergencies that might arise, document protocols well in advance of pregnancies, and require detailed records on each birth.

Quarantine

Alliance members are deeply attached to the animals they care for daily. Therefore, any new animal arrivals must be evaluated by the attending veterinarian, and separated (quarantined) if necessary for at least 30 days if there is concern the new arrival might harbor an illness that could affect the health of the marine mammals in the current collection. This is especially important if the facility rescues and nurses back to health stranded wild animals, as stranded animals are often health-compromised, and have been exposed to parasites and diseases which could be transmitted to other species. These animals are treated in separate pools.

Alliance quarantine standards require close veterinary supervision of the animals, protocols for assuring all equipment is disinfected and kept clean, a dedicated animal care staff to monitor the animal, and the use of appropriate protective clothing. The standards also delineate medical testing that should be done for commonly-found conditions and recommend vaccinations, where appropriate.

Complete medical records must be kept on all quarantined animals.

Record Keeping

Maintenance of detailed, comprehensive records on the husbandry and health care provided every animal in Alliance member facilities is not only essential for the well-being of the individual marine mammal, but enables members to share this knowledge for the collective benefit of the species. These records are invaluable over time, providing continuity of quality care for animals at Alliance member locations, as well as comparative baseline indicators important to scientists who study the health of marine mammal populations in our oceans. The information is also beneficial to facilities that treat stranded marine mammals from the wild.

Recordkeeping requirements specific to a discreet activity are included in the appropriate section of the Alliance standards. This general section addresses the information that must be

recorded, the timeframe during which records are to be kept, and the maintenance of duplicate records to protect from potential loss from fire, flooding, and other hazards. All Alliance members are urged to participate in regional, national and/or international studbooks and breeding management programs, which are so important to animal management of each species.

Scientific Research and Conservation

Advancing the scientific knowledge about marine mammals in the wild and in human care, and learning how best to preserve the animals' ocean environments is a priority for Alliance members. Members continuously strive for new and effective ways to provide their dolphins, whales, sea lions, seals, manatees and other marine mammals with long, healthy lives. Passionate concern and caring for their animals extends to those in the wild. They understand that our challenging environment demands fresh and informed data if we are to conserve species, habitats, and biodiversity.

Members' research falls into distinct categories: comparative biology, which includes field and basic research; conservation biology; and animal stewardship. For example, infant formula developed for a specific marine mammal species, which might supplement the nutritional needs of newborns in Alliance parks, proves essential to saving the life of an orphaned wild animal that is found stranded on a beach. Alliance research is responsible for vaccines for diseases found in wild populations and for medical treatments for diseases or conditions common to various species of marine mammals. Human impacts on the ocean environment — such as contamination and pollution of our waters and harmful fishing practices — can take a devastating toll on marine mammals in the wild. Alliance members contribute to assessments of wild populations and fund studies of their feeding habits, social lives, distribution patterns, and threats they face from human activities such as those listed above.

Alliance member parks and their conservation actions, in collaboration with research organizations, universities, and government partners, have contributed millions of dollars in direct funding and in-kind services to support a vast array of scientific studies to benefit marine mammals in the wild and in human care. This significant support for marine mammal research is made possible by the 40 million children and adults who visit Alliance member parks each year.

Alliance research standards encourage ongoing, active research programs that benefit the conservation of marine mammals in the wild and further enrich the lives of the animals in our care. Members must conduct research at their facility; provide biological specimens, staff,

animals, and/or records to support research; or financially contribute to outside, bona fide studies such as conservation research with marine mammals in the wild. The animals in our facilities provide researchers unique opportunities to work with marine mammals, which cannot be duplicated in their natural environments. Therefore, members are encouraged to cooperate with the scientific community and make these animal resources available for study, when practicable and with consideration of the animals' well-being. Importantly, the standards recognize the significance of sharing research results with the worldwide marine mammal community by promoting attendance at scientific meetings and publishing in peer-reviewed scientific journals.

The best interests of the animals are served by animal care committees that review any proposed research at their member parks, a requirement of Alliance standards. Members must establish research policies for the organization with individual animal welfare as the highest priority. Research objectives must take into consideration the goals for animal management and the benefits to the species as a whole.

Alliance standards also urge members to support and collaborate with outside marine mammal researchers by providing operational support, biological samples, recordkeeping data, and staff time.

Spatial Requirements For Marine Mammal Enclosures

Marine mammals are very special animals that live in unique aquatic environments. As leaders in marine mammal husbandry and care, Alliance members provide their animals with environments that promote good health, longevity, and the opportunity to display behaviors they exhibit in our oceans and rivers. Alliance space standards afford members the flexibility to meet specific needs of each species, as well as design innovative enclosures and naturalistic settings that are in the best interests of the animals.

Using life-expectancies and successful births as measures of good homes, Alliance members have succeeded in providing exceptional environments for their animals. Dolphins live longer in Alliance members' parks and aquariums and over two-thirds of those in members' care today were born in our facilities.

Building on this success, Alliance space standards encourage members to continue optimizing the size, shape, number, and design features of their enclosures. Enclosure design should promote social interaction between the animals. The display of a solitary animal is prohibited by Alliance standards except under direct supervision of the attending veterinarian and when essential to the animal's health and well-being.

Whales and dolphins in member facilities may have daily access to a complex of pools that vary in configuration. These may include a main pool, commonly used for educational presentations to the public, one or more ancillary pools, and a medical pool. For marine mammals such as sea lions, walrus, polar bears, and seals, dry resting and social activity areas must be close enough to the surface of the water to allow easy access for entering and leaving the water.

Members are committed to their animals' safety. Alliance standards require that enclosures be structurally sound, durable, nontoxic, and maintained in good repair. They also require members to develop detailed contingency plans to protect animals in the face of a disaster or emergency situation.

If a member is worried about an animal's health or is preparing an animal for transport, the animal may be moved to a holding or medical pool. Alliance standards require that the veterinarian include a written note in the animal's health records justifying the action if the animal is to be separated from his or her conspecifics for more than 14 days.

Member facilities with breeding programs must have adequate provisions for separating pregnant females or mothers with calves, if necessary. For whales and dolphins, enclosures holding mothers with calves should have sufficient straight-line glide paths for nursing.

Alliance standards also specifically address the special needs of seals, sea lions, otters, and other pinnipeds, requiring dry resting areas as well as access to water for their comfort. These standards call for separate areas should the facility's collection include two or more mature males.

Alliance members are located throughout the world; members are required to comply with any relevant government regulations in their respective countries, including spatial requirements.

Transportation

Alliance members are expert at transporting marine mammals. Animals are generally moved between facilities for optimum social groupings or to provide opportunities to increase successful breeding of a particular species. The Alliance transportation standards are based on decades of experience. They assure that marine mammals are conveyed in a manner that is both safe and comfortable, and that meets the unique requirements of each of these aquatic or semi-aquatic species. Alliance members' transport safety record is exemplary.

Importantly, the first, required step is a health assessment of the animal by the attending veterinarian prior to the transport to ascertain the animal is in a good physical condition appropriate to travel. Next, the facility must develop a thorough, written transport plan that ensures a safe and efficient move of the animal from one location to another. A final transport planning meeting, held within 24 hours of the move, allows for a final review of the animal's health and transport contingency plans. A veterinarian accompanies cetacean transports. All marine mammals are monitored by professionals throughout the transport; the required number of attendants monitoring the animals is determined by the number of animals being moved.

Alliance transportation standards specifically consider each individual animal's behavior, freedom for normal postural adjustments, anatomy, nutritional needs, and metabolic rate, and the need for protection from extremes of temperature. All transports meet or exceed government standards for marine mammals.

Alliance members have specially designed, comfortable "transport containers" that are appropriate for each species. Because of Alliance members' knowledge of and expertise with the transport of sirenians, our experts were asked to assist in developing new international guidelines for the transport of this species.

Water and Environmental Quality

The health of the marine mammals in Alliance member facilities is always the top priority. Since these animals live in aquatic and semi-aquatic environments, Alliance standards for these parameters are detailed, emphasizing the importance of optimum water quality and environmental conditions to assure the animals' health and comfort.

Standards and Guidelines for Water Quality

The water in marine mammal aquarium homes replicates their environments in the wild. Some Alliance members located in coastal communities care for their animals in ocean water environments. For other Alliance members, the water in their animals' aquarium homes is supplemented with natural minerals and salts to approximate the normal levels found in natural sea waters, which also provides buoyancy similar to that of the ocean.

Alliance standards address water recycling and filtration, the establishment of optimum water parameters, and the efficiency of the water processing techniques. They require specific parameters known to ensure animals' well-being and require specific monitoring schedules.

The standards also address cleaning and maintenance of habitats as well as appropriate construction materials. Members with facilities incorporating water that is open to the ambient sea environment must monitor their water source and discharge to be sure that conditions remain compatible with sound animal management as well as federal, state, and local water quality standards.

Water quality records must include: test parameters for water quality, tests for and documentation of any appropriate substance added to the water, bacterial culture test results, and the facility's maintenance and filtration operation log.

Standards and Guidelines for Environmental Quality

Alliance members are very knowledgeable and attentive to environmental needs essential to the species for which they care. These include acoustics/sound, ventilation, and temperatures. Requirements can sometimes differ for animals housed in facilities and in natural lagoons.

Alliance standards reflect these environmental needs. Members must provide adequate heating or chilling for marine mammal pool systems to maintain water temperatures appropriate to the species cared for. Indoor facilities must take into consideration vertical air space, the area between the pool and the overhead ceiling or canopy, and provide a flow of fresh air. Monitoring is required for acoustics, to detect and minimize any sounds audible to marine mammals.

EXHIBIT F

AZA ACCREDITATION QUESTIONNAIRE



the
accreditation questionnaire
(application)

2015 electronic edition
Formatted for Word

**INSTRUCTIONS FOR ELECTRONIC FORM
COMPLETION**

Scroll to the top of page 2. The cursor should already be located at the first field of entry, "*Name of Institution*". Use the "Tab" key to move from field to field ["tab" = forward, "tab + shift" = backward]. Movement from one field to another can also be achieved by placing the cursor on the selected field and clicking the left mouse button. Use the space bar to place [or remove] an "X" in a field box.

ACCREDITATION APPLICATION QUESTIONNAIRE (2015 Edition)**INSTRUCTIONS ~ PLEASE READ CAREFULLY**

The 2015 edition of this application may only be used when submitting for deadlines occurring in the year 2015. The 2016 edition will be available in October 2015.

READ THE CURRENT STANDARDS AND THE GUIDE BOOK: To obtain more information on program and policy requirements, or to clarify expectations regarding any subjects or questions contained in this application/questionnaire, please consult the 2015 Edition of the "Accreditation Standards and Related Policies" booklet, and the 2015 Edition of the "Guide to the Accreditation of Zoological Parks and Aquariums".

NEW IN THE LAST FIVE YEARS: Items added *or revised* in the last five years are as follows: **2015: New:** AC-30; **Revised:** AC-14. **2014: New:** GI-9, GI-11; **Revised:** AC-7. **2013: New:** AC-14, VC-26, SS-19, SS-40 – 42; **Revised:** SS-22, SS-27, SS-33 – 39. **2012: New:** S-19, SO-9; **Revised:** EI-6, F-9, F-10, PF-3, SS-9, SS-32.a, SS-45. **2011:** S-20, M-6, *notation of standards (see bottom of page).

IMPORTANT: To apply for accreditation, institutions **must:** (1) operate based on philosophies and practices considered by AZA as being *modern best practices* of the profession, (2) meet or exceed all AZA accreditation standards and adhere to all AZA policies, and (3) meet **all** aspects of the definition of a zoological park or aquarium (see page 9 of the 2015 Edition of the "Guide to Accreditation of Zoological Parks and Aquariums").

"Appearing on VC Report form only" NOTATION: This application/questionnaire is numbered to sequentially correspond with the Visiting Committee Report Form provided to the inspection team. However, a single question appearing in this application may have *several* additional, related questions in the Visiting Committee Report Form for inspectors. To avoid the impression that questions in a sequence are erroneously missing from this application, those related questions for inspectors are noted as "Appearing on Visiting Committee Report form only".

BASIC INSTRUCTIONS: (1) Please make sure that the yearly edition of this form (indicated above) matches the year in which you submit your accreditation materials. (2) After assembling this application **keep a copy for your future reference** (supporting materials included) and send **five complete sets** to: Accreditation Programs, AZA, 8403 Colesville Road, Suite 710, Silver Spring, Maryland 20910. (3) When assembling your application **be sure to precisely follow the instructions contained in the section entitled "Assembling The Application Package" appearing on pages 13-15 of the 2015 Edition of the "Guide to Accreditation of Zoological Parks and Aquariums" booklet. Improperly assembled or incomplete applications will be returned to the applicant.** Related delays could result in an inability to continue on the processing schedule desired by the applicant.

COMPACT DISC/FLASH DRIVE: This application and its accompanying materials must be submitted on compact disc or flash drive. Please see detailed instructions in the 2015 Edition of the "Guide to Accreditation of Zoological Parks and Aquariums". **Contact the AZA office if you have any questions about this requirement.**

DEADLINES: Those desiring review at the Spring (March) meeting must submit their application materials for receipt by September 1. Those desiring review at the Fall (September) meeting must submit their application materials for receipt by March 1. **Late applications will not be** accepted and will *automatically* be scheduled for review at the regularly scheduled meeting *following* the one submitted for. *Missing a deadline will not be considered an acceptable reason for extension of accreditation, and will result in a lapse in accreditation and AZA membership. [NOTE: If the deadline falls on a weekend or holiday, the next regular business day immediately following shall be considered the deadline.]*

FEES: Fees **must** be enclosed with this application as follows: \$3,250 (\$1,750 to cover the non-refundable* filing fee, and an additional \$1,500 as a *deposit* towards Visiting Committee expenses). *International* applicants located in countries other than Canada and Mexico should enclose \$4,250 (\$1,750 filing fee, and a \$2,500 deposit towards Visiting Committee expenses). *Filing fees are non-refundable once the official review process has started. *If an institution withdraws its application before the official review has started, the fee may be refunded. Checks should be made payable to AZA. A single check is sufficient. See page 27 for more details.*

***NOTATION OF STANDARDS:** As applicable, the relevant standard(s) is noted immediately following the question. Please note that every question is not necessarily tied to a standard and, conversely, every standard is not necessarily represented by a question. Applicants should be well familiar with standards to ensure full compliance.

Name of Institution Applying For Accreditation: _____

Street Address: _____

City: _____ State: _____ Zip+4: _____

Mailing Address, if different: _____

Institution's Telephone Number: _____ Area Code + Fax Number: _____

Director's Name: _____

Director's Title (Director, President, etc.): _____

Director's Phone # or Extension: _____ Director's E-mail Address: _____

GENERAL INFORMATION (GI)

GI-1. Approximate size and name of Metropolitan Statistical Area in which your institution is located: _____

GI-2. Which of the following categories best describes your institution?

- Zoological Park
- Aquarium
- Wildlife Park
- Oceanarium
- Combination, specify: _____
- Other, specify: _____

GI-3. Year institution was founded: _____ Year first opened to the public: _____

GI-4. NEW APPLICANTS ONLY: Submit a statement indicating why your institution desires AZA accreditation.

- See CD or flash drive N/A, currently accredited _____

GI-5. Submit a one- or two-page summary of your institution's history, including dates of major events, renovations, and other important changes.

- See CD or flash drive

GI-6. Provide your institution's mission statement. See CD or flash drive _____

GI-7. Is your institution approved by USDA for importing ruminants (PPEQ)? Yes No

GI-8. Provide your institution's USDA Exhibitor License # _____

GI-9. Submit at least 10 photographs that best depict your institution on a typical day of operation.

- See CD or flash drive

GI-10. Submit at least 3 photographs that best depict your institution during a typical winter or cold-weather season.

- See CD or flash drive N/A, no significant winter or cold-weather season

ANIMAL CARE, WELFARE, & MANAGEMENT (AC)

AC-1. Is your institution currently in compliance with all relevant local, state, and federal wildlife laws and regulations (e.g., USDA, AWA, etc.)? [1.1.1]

Yes No

a. If "no", explain in detail: _____

See CD or flash drive

AC-2. Does your institution provide access for all animal care staff to approved AZA Animal Care Manuals (ACMs) specific to animals within your institution? [1.2.1] Yes No

a. If "yes", please list the names of the approved ACMs that are being referenced by your staff: _____

See CD or flash drive

N/A, at this time there are no approved ACMs specific to animals within our institution

AC-3. Submit a copy of your Institutional Collection Plan (ICP). [1.3.1] See CD or flash drive

AC-4. How often is your ICP reviewed and updated? [1.3.1] _____

AC-5. Describe the process used in creating your ICP. [1.3.1]

See CD or flash drive Statement Provided Here: _____

AC-6. *Appearing on Visiting Committee Report form only.*

AC-7. Submit your institution's most recent animal inventory in taxonomic order, including scientific name and sex. The inventory should cover a 12 month period. (Use the attached format at the end of this document, or an ISIS printout.) [1.4.1, 1.4.2]

See CD or flash drive

a. How many animals at your institution are on loan from other institutions? _____

b. How many animals at your institution are on loan to other institutions? _____

c. Who owns your institution's animals? _____

AC-8. Does your institution participate with ISIS? [1.4.8] Yes No

a. What percentage of your institution's animals are registered with ISIS? _____%

b. Are all of your institution's holdings of endangered, CITES I, SSP®, and studbook species registered with ISIS?

Yes No, see list on CD or flash drive

c. Is your institution currently participating in ARKS?

Yes No Other: _____

AC-9. Submit a detailed explanation of the record-keeping system utilized for those animals not registered with ISIS. [1.4.8]

See CD or flash drive N/A (all animals registered with ISIS)

AC-10. Submit details on your institution's animal marking system utilized to correspond with animal records. [1.4.3]

See CD or flash drive

AC-11. Other than those specimens registered with ISIS, are animal records duplicated? [1.4.4]

Yes No

AC-12. Describe how, and where, records (originals and duplicate sets) are stored [1.4.4]: _____

AC-13. Are duplicate records stored in a separate location? [1.4.4]

Yes No, explain: _____

AC-14. Has someone been designated as being responsible for your institution's animal record-keeping system? [1.4.6]

Yes, provide name and title: _____ No

a. Does at least one member of your institution's staff involved with record-keeping have the proper training (AZA's Institutional Records-Keeping course is one option)? [1.4.9]

Yes, provide name and title: _____ No

AC-15. Are records current with up-to-date information? [1.4.7] Yes No

AC-16. Submit a copy of your institution's animal acquisitions, transfers, and transitions policy (ATT Policy), including a copy of your institution's animal loan agreement, and animal recipient profile form. [1.3.2]

See CD or flash drive

AC-17/AC-18. *Appearing on Visiting Committee Report form only.*

AC-19. Does your institution surplus animals to non-AZA accredited facilities? [AZA's ATT Policy] Yes No

a. If "yes", provide a detailed description of how your institution assesses the willingness and ability of the facility to provide adequate care for the animals.

See CD or flash drive Statement Provided Here: _____

AC-20. If your institution maintains elephants, are your facilities and program in compliance with AZA's Standards For Elephant Management and Care (see pages 27 - 54 of the 2015 "Accreditation Standards and Related Policies" booklet)? [1.5.6]

Yes No, explain: _____ N/A

AC-21. If your institution maintains elephants, submit a copy of your elephant management protocols and policy, as outlined in AZA's Standards For Elephant Management and Care (see pages 27 - 54 of the 2015 "Accreditation Standards and Related Policies" booklet). [1.5.6] See CD or Flash Drive N/A

AC-22. Does your institution have an elephant restraining device? [AZA's Standards for Elephant Management and Care]

Yes No N/A

a. If "no", explain in detail how your institution meets AZA standards of elephant husbandry and management regarding veterinary care and examination, method of restraint, and the ability to safely manage dominance and aggression, or the introduction of a new animal. See CD or flash drive

AC-23. If your institution maintains elephants, submit a copy of your protocols for training new staff in your elephant management program. [AZA's Standards for Elephant Management and Care]

See CD or flash drive N/A

AC-24. If your institution maintains elephants, submit a copy of your elephant behavior profiles for the past 24-months. [AZA's Standards for Elephant Management and Care]

See CD or flash drive N/A

AC-25. If your institution maintains elephants, do you have a designated elephant manager? [AZA's Standards for Elephant Management and Care]

Yes No N/A

a. If yes, submit C.V. See CD or flash drive

b. If no, submit a written explanation of who is charged with direct elephant management and list their responsibilities. See CD or flash drive Statement Provided Here: _____

AC-26. Submit a copy of your institution's USDA inspection report forms (or the equivalent for those not inspected by USDA) for the last five years.

See CD or flash drive N/A

a. If deficiencies were noted during the last inspection, submit a written report on how those items are being/have been corrected.

See CD or flash drive N/A

AC-27. Are any of your institution's animals part of an animal training and behavioral display program? [1.5.3, 1.5.4, 1.5.5, 1.6.1]

Yes No

a. If yes, submit a description of the animal training program that outlines your training philosophy and protocols.

See CD or flash drive

AC-28. Do any animals in your institution spend time in a "touch pool" or "petting" environment? [1.5.4, 1.5.5, 11.3.3]

Yes No

a. If yes, submit your operations protocol detailing recommended exposure times, animal handling policy (pick-up, touch only, etc.), and animal rotation and/or replacement policy.

See CD or flash drive

AC-29. Are hand-washing stations and appropriate signage available and visible in all public animal contact areas? [11.1.2, AZA's Policy on Animal Contact with the General Public]

Yes No, explain: _____ N/A

AC-30. Submit your institution's written animal handling training protocol required for staff and/or volunteers. [1.5.12]

See CD or flash drive

AC-31. Does your institution use program animals (animals that are used outside their normal exhibit or holding areas or are intended to have regular, physical contact with the public within their normal exhibits, e.g., contact area with domestic animals, browse feeding programs with giraffes, lorikeet feeding, etc.)? [1.5.3, 1.5.4, 1.5.5]

Yes No

- a. If yes, submit detailed explanation and your institution's program animal policy (including program animal philosophy and contact policy) detailing recommended exposure times, animal handling policy (pick-up, touch only, etc.), training for animal handlers, and animal rotation and/or replacement policy. This policy should clearly adhere to the AZA approved Program Animal Policy.

See CD or flash drive N/A

AC-32. Provide a description of how your institution maintains program animals separately from the rest of the animals (include how housing conditions, and social, physical, behavioral, and nutritional opportunities provided are similar to those provided for exhibit animals). [1.5.4, 1.5.5]

See CD or flash drive N/A

AC-33. Does your institution utilize program animals in off-premises situations (i.e. shopping malls, sporting events, school programs, theatrical productions and/or television appearances, etc)? [1.5.5]

Yes No

- a. If yes, submit detailed explanation, including list of animals used, a description of who handles the animals and how they are trained, your institution's operations and safety protocols, and institutional procedures to protect the rest of the animals from exposure to infectious agents. See CD or flash drive

AC-34. Does your institution utilize animals for photo opportunities with the public where they have direct contact or could have contact with the animals? [1.5.3, 1.5.4, 1.5.5]

Yes No

- a. If yes, submit detailed explanation, including list of animals used, a description of who handles the animals and how they are trained, and your institution's operations and safety protocols, and institutional procedures to protect the rest of the animals from exposure to infectious agents. See CD or flash drive

AC-35 to AC-44. *Appearing on Visiting Committee Report form only*

AC-45. Describe the significant seasonal changes (hot, cold, etc.) your institution is subject to, and how operations are altered as a result. Include special challenges with particular animals, exhibits, and holding areas (if any), and copies of any related protocol. [1.5.7]

See CD or flash drive N/A, no significant seasonal change in climate

AC-46 to AC-48. *Appearing on Visiting Committee Report form only*

AC-49. Submit a copy of your institution's animal enrichment and training program. [1.6.1]

See CD or flash drive

AC-50. Provide the name and title of the person responsible for interdepartmental coordination of the enrichment program. [1.6.2]

Name: _____ Title: _____

AC-51. If your institution is an aquarium or has significant aquarium facilities, submit a detailed description of the water quality monitoring program that outlines parameters tested, allowable tolerances, frequency of testing, methods of testing, and data interpretation protocol for each major aquatic system. [1.5.9]

See CD or flash drive N/A (no significant aquarium facilities)

AC-52. If your institution is an aquarium or has significant aquarium facilities, include a detailed description of how your institution determines that the collection procedures used by outside collectors are not causing environmental

damage (reef blasting, cyanide poisoning, etc.), and are done in a sustainable manner. [1.7.1]

See CD or flash drive N/A (no significant aquarium facilities) Statement Provided Here: _____

AC-53. If your institution utilizes commercial animal collectors (including aquatic animals), do you have current and complete copies of all of their applicable local, state, federal and/or international permits required to collect the animals purchased? [1.7.2]

Yes, see CD or flash drive No N/A

AC-54. In the last five years, have any animals being shipped to or from your institution died or been seriously injured in transport? [1.5.11]

Yes No

a. If yes, submit a detailed explanation of each event, actions taken during/after each event, changes made in procedure and/or policy as a result of each event, and copies of related correspondence and/or reports to/from the USDA and other agencies as applicable. See CD or flash drive

AC-55. Submit your institution's written animal handling training protocol. [1.5.12]

See CD or flash drive

AC-56. Does your institution utilize temporary, seasonal, or traveling live animal exhibits? [1.5.10]

Yes No

a. If yes, submit a list of the exhibits used by your institution within the last five years, including a brief description of each exhibit, and your institution's protocol for oversight of such exhibits.

See CD or flash drive

AC-57. Does your institution have an Animal Welfare Process that allows staff members to report animal welfare concerns to their supervisors in a non-judgmental environment following a clearly identified protocol? [1.5.8]

Yes No

a. If yes, please provide supporting documentation (e.g., committee members, meeting minutes, inspection reports, individual complaints, etc.) to illustrate the functioning of the process and the committee overseeing the process.

See CD or flash drive

AC-58. NOT AZA-ACCREDITED ONLY: Does your institution permit hunting of captive wildlife? If yes, submit a detailed explanation.

Yes, see CD or flash drive No N/A, Currently Accredited

AC-59. NOT AZA-ACCREDITED ONLY: Does your institution utilize auctions, the pet industry, or hunting ranches for the disposal of captive wildlife? If yes, submit a detailed explanation.

Yes, see CD or flash drive No N/A, Currently Accredited

VETERINARY CARE (VC)

VC-1. Does your institution employ a full-time veterinarian? [2.1.1] Yes No

- a. If no, describe your institution's veterinary program, including the number of visits and the veterinarian's formal agreement.

See CD or flash drive

VC-2. In the event of an emergency, what is the response time when the veterinarian is off the premises (i.e., distance between office/residence and facility)? [2.1.1] _____

VC-3. Are the specific controlled narcotic drugs Carfentanil, M99, or M50-50 utilized by your institution? [2.2.1]

Yes No

If yes, please provide the following information:

- a. Submit your institution's written protocol regarding the use of Carfentanil, M99, or M50-50, including emergency procedures when a licensed veterinarian is not present.

See CD or flash drive

- b. Is a U.S. Government Class V security container or equivalent utilized for the storage of Carfentanil, M99, or M50-50? Yes No

c. Name of licensee(s): _____

VC-4. Are other controlled substances utilized by your institution? [2.2.1] Yes No

- a. If yes, please submit your institution's written protocol which lists those staff members authorized to administer controlled drugs, the situations in which they are authorized to do so, and all related safety and emergency protocols.

See CD or flash drive

VC-5. Does your institution maintain complete medical records on all animals in the institution? [1.4.7]

Yes No, explain: _____

VC-6. Is capture equipment (animal restraint) kept on the premises? [2.3.1] Yes No

- a. Submit your protocols for animal restraint and capture (including aquatic animals).

See CD or flash drive N/A

- b. List staff members by title who are trained in the use of capture equipment: _____

VC-7. Is chemical capture equipment kept on the premises? [2.3.1] Yes No

- a. If yes, where is equipment stored? _____

b. If yes, who is trained? _____

- c. Is capture equipment, including chemical, available to authorized personnel at all times?

Yes No, explain: _____

VC-8. Is there a program for regular disposal (or removal and separate storage) of outdated animal drugs? [2.2.1]

Yes No

VC-9. Submit your institution's preventative animal medicine protocol. [2.4.1]

See CD or flash drive

VC-10/VC-11. *Appearing on Visiting Committee Report form only.*

VC-12. Is a post-mortem examination (necropsy) performed on every individual animal mortality? [2.5.1]

- Yes, provide name(s) of those performing necropsies: _____
- No (submit a statement describing which animals are not examined and why, and an estimate of the percentage of animals which are given a post-mortem examination.)
- See CD or flash drive Statement Provided Here: _____

VC-13 to VC-15. *Appearing on Visiting Committee Report form only.*

VC-16. If your institution is an aquarium or has significant aquarium facilities, does your institution comply with the agreement between the Food and Drug Administration (FDA) and the AZA for accredited institutions with regard to the use of drugs in fishes/at public zoos and aquariums? [2.2.2]

- Yes No N/A (no significant aquarium facilities)

VC-17. Submit a description of your institution's quarantine facilities. [2.7.1]

- See CD or flash drive N/A (no quarantine facilities) Statement Provided Here: _____

VC-18. *Appearing on Visiting Committee Report form only.*

VC-19. Attach a copy of your institution's quarantine procedures. [2.7.2]

- See CD or flash drive N/A (no quarantine procedures)

VC-20. *Appearing on Visiting Committee Report form only.*

VC-21. Attach a description of your institution's animal food nutrition, acquisition, and preparation program which addresses nutritional philosophy, acquisition policy (from well managed or sustainable sources or fisheries), quality assurance, and control, storage, inventory, and stock rotation. Include most recent food analysis report. [Include your institution's basic policy, list where your institution obtains supplies, brands used, etc.] [2.6.2]

- See CD or flash drive

VC-22/VC-25. *Appearing on Visiting Committee Report form only.*

VC-26. Does your institution use browse as part of the diet or enrichment for the animals? [2.6.3]

- Yes No

a. If yes, list the name and qualifications of the individual responsible for oversight of the browse program:

- N/A

b. If yes, submit a description of how browse items are identified and reviewed for safety, including how your institution ensures that the animals are not exposed to toxic plants in and around their exhibits.

- See CD or flash drive N/A

VC-27/VC-28. *Appearing on Visiting Committee Report form only.*

CONSERVATION (C)

C-1. *Appearing on Visiting Committee Report form only.*

C-2. Submit a copy of your institution's written conservation action plan/strategy. [3.2.1]

See CD or flash drive

a. Describe your institution's programs for energy and natural resource conservation, as outlined in your institution's written conservation action plan/strategy. [3.2.1]

See CD or flash drive Statement Provided Here: _____

C-3. Describe how you evaluate the effectiveness of your institution's conservation efforts. [3.2.2]

See CD or flash drive Statement Provided Here: _____

C-4. List your institution's involvement in all Species Survival Plans (SSPs), Taxon Advisory Groups (TAGs), Science Advisory Groups (SAGs), Conservation Action Partnerships (CAPs), Field Conservation Committees (FCCs), and other cooperative conservation programs with similar institutions. [3.2.1, 3.3.1, 3.3.2, 3.3.3, 3.3.4]

See CD or flash drive

C-5 to C-7. *Appearing on Visiting Committee Report form only.*

C-8. Provide a list of the types of conservation initiatives your institution, staff, and governing authority participate in (e.g., educational programs/materials that increase public awareness on the importance of preserving ecosystems, training programs that provide field experiences, programs that aid the transfer of relevant technology for use in the field, programs that purchase land or contribute funds to establish reserves, field research programs, and development of economic incentives to preserve the ecosystem.) Include information on local, regional, state/province, academic, national, and international activities. [3.2.1, 3.3.3, 3.3.4]

See CD or flash drive

C-9/C-10. *Appearing on Visiting Committee Report form only.*

C-11. If your institution maintains elephants, provide a written description of how your institution contributes to research and conservation of elephants in captivity or the wild. [AZA's Standards for Elephant Management and Care]

See CD or flash drive N/A Statement Provided Here: _____

EDUCATION AND INTERPRETATION (EI)

EI-1. *Appearing on Visiting Committee Report form only.*

EI-2. Provide the name and title of the person responsible for coordinating/directing the educational activities for your institution. [4.2.2]

Name: _____ Title: _____

a. Is this person: Full-time paid staff Part-time paid staff

EI-3. Check the types of educational activities conducted by your institution:

- | | |
|--|---|
| <input type="checkbox"/> School programs (on-site) | <input type="checkbox"/> Teacher training programs |
| <input type="checkbox"/> School programs (off-site) | <input type="checkbox"/> Travel/Field program |
| <input type="checkbox"/> Youth programs | <input type="checkbox"/> Interpretive demonstrations |
| <input type="checkbox"/> Classes for individuals or families | <input type="checkbox"/> Programs targeted at underserved audiences |
| <input type="checkbox"/> Lecture series | <input type="checkbox"/> Distance learning |
| <input type="checkbox"/> Radio/TV programs | <input type="checkbox"/> Internships |

Film Series Other, specify: _____

- EI-4. Submit a brief description of your institution's conservation and education messages and describe how they were developed and how they relate to your institution's overall mission. [1.1.1, 4.2.1]
- See CD or flash drive
- EI-5. How many and what types of classes or programs were taught on your institution's grounds in the last 12 months?
- See CD or flash drive Statement Provided Here: _____
- EI-6. Submit a copy of your institution's written education plan. [4.2.1]
- See CD or flash drive
- EI-7. Submit a brief description of how your institution has assessed the programming needs of visitors (e.g. internal, external, multi-cultural, visitors with special needs) and how these needs are addressed by your institution's educational programs (e.g. formal, informal, on-site, off-site, etc.) [4.3.2]
- See CD or flash drive Statement Provided Here: _____
- EI-8. Does your institution have educationally focused collaborative partnerships with local/national groups (universities/colleges, nature centers, conservation organizations, museums, governmental agencies, etc.) [4.2.3]
- Yes, see CD or flash drive for list No Statement Provided Here: _____
- EI-9. Describe how your institution's educational programs (i.e., keeper talks, fee programs, animal encounters, exhibits, etc.) are evaluated. Also include how this evaluation measures both the program satisfaction as well as the impact of the programs on visitors or participants. [4.3.1]
- See CD or flash drive Statement Provided Here: _____
- EI-10. Describe your institution's overall interpretive program. Please include the scope and philosophy for exhibit interpretation and development, interpretive signage, docent carts, keeper talks, shows etc. [4.3.3]
- See CD or flash drive
- EI-11. Are docents/volunteers utilized in your institution's education programs? [7.10]
- Yes: number of volunteers: _____ In what capacities? _____
- No
- EI-12. Is there a library available for staff members to use? [4.2.4]
- Yes No
- a. If "yes", total number of volumes: _____
- b. If "yes", is the library available to the general public? Yes No
- EI-13. Do staff members have access to the Internet on institution grounds? [4.2.4]
- Yes, explain: _____ No, explain: _____

RESEARCH (R)

- R-1. Does your institution have a formal research department? Yes No

- R-2. Provide the name and title of the person responsible for coordinating the research program. [5.1]
Name: _____ Title: _____
- R-3. Did your institution undertake, collaborate on, or support formal research projects during the last three years? [5.3]
 Yes No
a. If yes, attach a list and a description. See CD or flash drive Statement Provided Here: _____
- R-4. *Appearing on Visiting Committee Report form only.*
- R-5. Are the results of research projects published or otherwise disseminated to the professional and scientific community? If yes, attach list (last five years). [5.3]
 Yes, see CD or flash drive No Statement Provided Here: _____
- R-6. Does your institution have plans for future research projects? If yes, attach list.
 Yes, see CD or flash drive No Statement Provided Here: _____
- R-7. Does your institution have a formal research policy? [5.2]
 Yes, see CD or flash drive No
- R-8. Does your institution have a formal committee to review and monitor research activities? Yes No
a. If yes, attach a list of committee members and a description of the committee's responsibilities and activities.
 See CD or flash drive
- R-9. Does your institution have an Animal Care and Use Committee? Yes No
a. If yes, submit an explanation regarding its function, members, etc.
 See CD or flash drive

GOVERNING AUTHORITY (GA)

- GA-1. Is your institution operated or directly maintained by a parent institution, society, business, organization, or agency?
 Yes No
a. If yes, please provide name and address for the parent organization: _____
- GA-2. Select the best description of your institution's governing authority (Governing Authority: agency/organization which ultimately sets policy, owns assets, including the animals and installations, but not necessarily the buildings and grounds.)
- | | |
|--|---|
| <input type="checkbox"/> Municipal Government | <input type="checkbox"/> College or University |
| <input type="checkbox"/> County Government | <input type="checkbox"/> Society |
| <input type="checkbox"/> State Government | <input type="checkbox"/> Nonprofit organization or corporation other than above administered in the public interest |
| <input type="checkbox"/> Federal Government | <input type="checkbox"/> Company, business, or corporation organized for profit |
| <input type="checkbox"/> Park or Recreational District | <input type="checkbox"/> Individual operation (an individual or partnership owns the operation, is responsible for it, and receives |

Public School District

any profits which may accrue to it.)
 Other, specify: _____

GA-3. If other than governmentally operated, submit a copy of your institution's constitution, charter & bylaws, or similar documents which indicate your operating purposes. [6.1]

See CD or flash drive N/A (governmentally operated)

GA-4. Submit a list of the names, years of appointment, and terms of service for the members of your institution's governing body.

See CD or flash drive

GA-5. Provide the name and address of the chairman of your institution's governing authority. (If this position is filled annually, please advise AZA when a change occurs.)

Name: _____
Street Address: _____
City State: _____ Zip+4: _____

N/A, the institution has no governing authority

GA-6. Provide a brief description regarding the working relationship between the governing authority and your institution. [6.1, 6.2, 6.3, 6.4, 6.5]

See CD or flash drive Statement Provided Here: _____

GA-7/GA-8. *Appearing on Visiting Committee Report form only.*

GA-9. Are appropriate decisions expressly delegated to the zoo/aquarium staff? [6.3, 6.4] Yes No

Comments: _____

GA-10 to GA-12. *Appearing on Visiting Committee Report form only.*

GA-13. Is your institution's chief executive officer given an opportunity to participate in meetings of the governing authority? [6.6]

Yes No

GA-14. *Appearing on Visiting Committee Report form only.*

GA-15. Provide the following information regarding the structure of the governing authority:

Maximum number serving: _____

How are vacancies filled?: _____

Do officers change on a regular basis? Yes No

Are there ex-officio members of the board? Yes No

STAFF (S)

The salary portion of this questionnaire will be regarded as highly confidential and will be reviewed only by the Primary Reviewer assigned by the Accreditation Commission and the Visiting Committee.

S-1. Submit a list of all staff members and their titles. State full or part-time **AND** include the annual salary for full-time staff. [NOTE: *if an institution does not wish to place salary information on the electronic CD or flash drive, it may provide this information in hardcopy in a sealed envelope placed inside the sleeve of the application binders*]. [7.3, 7.4]

See CD or flash drive Hard copy in sealed envelope in binder

NOTE to "for profit" operations only. If you cannot submit exact salaries, please provide salary ranges for each full-time staff position **or** indicate that the complete salary information will be made available to the visiting committee for review during the inspection.

Salary Ranges are: On CD or flash drive Hard copy in sealed envelope in binder

Salary information will be made available on site

S-2. Are current job descriptions for all staff on file at your institution? Yes No

S-3. *Appearing on Visiting Committee Report form only.*

S-4. Submit a curriculum vitae for each member of your institution's senior/administrative staff (i.e., chief executive officer, assistant director, operations manager), your animal care staff (i.e., curators, section managers, veterinarians, etc.), and other staff members with responsibilities for operational functions (dive safety manager, etc., if applicable). (Note: Please include c.v. for the veterinarian regardless of whether full-time, part-time, or consulting.)

See CD or flash drive

S-5. Submit a copy of your institution's organizational chart. See CD or flash drive

S-6 to S-9. *Appearing on Visiting Committee Report form only.*

S-10. Provide details regarding your institution's employee in-service training program, including how often it is conducted and by whom, and if all staff are required to participate. Also include details regarding all outside training opportunities available to staff, and the availability of training to qualify staff for management positions. [7.5]

See CD or flash drive

S-11. *Appearing on Visiting Committee Report form only.*

S-12. Does your institution use volunteers? [7.10]

Yes: number of volunteers: _____ In what capacities? _____ No

S-13. Is there a structured program to recruit, interview, train, recognize, and evaluate the performance of volunteers? If yes, submit a brief description of the program. [7.10]

No Yes, see CD or flash drive Yes, Statement Provided Here: _____

S-14. Provide the name and title of the person responsible for coordinating the activities of the volunteers [7.10]:

Name: _____ Title: _____

S-15. *Appearing on Visiting Committee Report form only.*

S-16. Provide a list indicating staff involvement in AZA and other professional organization activities. [7.7]

See CD or flash drive Statement Provided Here: _____

- S-17. *Appearing on Visiting Committee Report form only.*
- S-18. Do all staff members have access to and knowledge of the AZA Accreditation Standards? [7.8]
 Yes No
- a. If yes, have they been provided an opportunity to discuss the accreditation process? Yes No
- S-19. Does leadership review AZA standards and related policies at least annually to stay current and ensure compliance? [7.8]
 Yes No
- a. Is a staff member or team assigned to periodically inspect your institution for continued compliance with AZA standards?
 Yes No
- b. If yes, name of individual or team captain: _____
- S-20. Does your institution have a staff diversity statement or program? [7.9] Yes No
- S-21. AZA-ACCREDITED INSTITUTIONS ONLY: Is your institution's CEO/Director currently an AZA Professional Fellow in good standing? [7.11]
 Yes No, please explain: _____ N/A (not currently accredited)

SUPPORT ORGANIZATION (SO)

NOTE: If your institution has more than one support organization, please submit information for each.

- SO-1. Does your institution have a support organization? Yes No **(If no, skip to next section, Finance.)**
- a. If yes, indicate the name(s) and year(s) formed. _____
- b. Number of memberships _____, representing # _____ individuals.
- c. If the support organization does not handle your institution's membership, please explain how your institution's membership is handled: _____
 See CD or flash drive
- SO-2. Briefly describe benefits to members: _____
- SO-3. List membership fees: _____
- SO-4. Submit a copy of the support organization's most recent audited financial statement, if other than your institution's governing authority. See CD or flash drive
- SO-5. Submit the support organization's bylaws. See CD or flash drive
- SO-6. Provide your support organization's stated purposes.
 See CD or flash drive Statement Provided Here: _____
- SO-7. *Appearing on Visiting Committee Report form only.*
- SO-8. If the support organization is not a governing entity, is the relationship between it and your institution mutually agreed upon and observed? [8.2]

Yes No

SO-9. Submit a copy of your institution's formal agreement with the support organization. [8.3]

See CD or flash drive

SO-10. *Appearing on Visiting Committee Report form only.*

SO-11. Does the CEO of the support organization recognize your institution's CEO as having the overall authority for the management of the institution and its programs? [8.1]

Yes No

SO-12. Does the support organization have any direct responsibility for any portion of your institution's operation? [8.1]

Yes No

a. If yes, briefly describe: _____

SO-13. Does the support organization participate in fund-raising activities? Yes No

SO-14. *Appearing on Visiting Committee Report form only.*

SO-15. What other activities are sponsored by the support organization?: _____

FINANCE (F)

The finance portion of this questionnaire will be regarded as highly confidential and be reviewed only by the Accreditation Commission and Visiting Committee.

F-1. Briefly describe your institution's admission policy and fees: _____

Adults: _____

Children: _____

Senior Citizens: _____

Free: _____

F-2. Provide the last five years' attendance figures:

	Year	Total
a.	_____	_____
b.	_____	_____
c.	_____	_____
d.	_____	_____
e.	_____	_____

F-3. Does your institution meet all state and federal laws regarding financial reporting and auditing?

Yes No, explain: _____

F-4. Submit a copy of your institution's most recent annual operating budget (and audited financial statement, if one exists) and include sources of funding. [9.1]

See CD or flash drive

a. Submit your institution's total budget figures for the last five years:

	Year	Total
1.	_____	_____
2.	_____	_____
3.	_____	_____

4. _____
5. _____

Comments : _____

F-5/F-6. *Appearing on Visiting Committee Report form only.*

F-7. Submit your institution's written contingency plan in the event of financial difficulties. [9.5]

See CD or flash drive

F-8. Does your institution have liability insurance coverage for [9.3]: visitors, governing authority, staff,

society, volunteers, the animals, the physical facilities? [check those that apply]

No coverage, explain: _____

F-9. Submit a list of new facilities added/capital improvement projects, and major repairs and replacements undertaken in the last five years. [9.4, 10.1.2]

See CD or flash drive Statement Provided Here: _____

F-10. List those major projects planned over the next five-year period (capital improvements, and major repairs and replacements), including anticipated sources of funding. [9.4, 10.1.2]

See CD or flash drive Statement Provided Here: _____

F-11. If it is not clear in your institution's financial statements, please provide the amount budgeted (and percent of total budget) for staff development (conferences, continuing education, special training, and seminars). [7.5] _____

F-12. Please provide the amount budgeted (and percent of total budget) for facility maintenance. [9.4, 10.1.2] _____

PHYSICAL FACILITIES (PF)

PF-1. Total area of your institution:

a. Total acreage of institution: _____

b. Total acreage currently being utilized: _____

c. Total buildings square footage: _____

d. Total volume of water managed: _____

e. Total number of aquatic exhibits: _____ ranging in size from _____ gal. (smallest), to _____ gal. (largest).

PF-2. Who owns your institution's buildings and grounds?: _____

PF-3. Please indicate which of the following are available on your institution's grounds:

Holding facilities

Laboratory

Animal Hospital

Quarantine facilities

Isolation facilities

Major surgery room

Minor surgery room

Necropsy room

PF-4. Submit a description of your institution's maintenance program for exhibits, buildings, grounds, and equipment. [10.1.2, 10.2.1]

See CD or flash drive Statement Provided Here: _____

PF-5. Does your institution own or operate a branch zoological park, aquarium, off-premises breeding facility, or other animal holding facilities?

Yes, description: _____ No

PF-6. Your institution's hours of operation:

	Grounds	Buildings
Winter:	_____	_____
Summer:	_____	_____
Days Closed:	_____	_____

PF-7. to PF-16. *Appearing on Visiting Committee Report form only.*

PF-17. Is your institution equipped with emergency life support systems for the animals? [10.2.1]

Yes No N/A

a. If yes, submit a brief description of your emergency system for the species in question, including details on the alarm system for flood and low water detection.

See CD or flash drive

PF-18. If your institution is an aquarium or has significant aquarium facilities, submit a detailed description of the operation of the water circulation system, life support systems, and water supply. Include the following in your description: open- or closed-system? If open-system, does your institution possess a current NPDES permit or exemption? If open-system, how does your institution prevent the unintentional release of exotic species? If open-system, how does your institution avoid discharging chemicals into the environment? If closed-system, what are the re-circulation turnover rates? If closed-system, please provide detailed information. If either, how is filter backwash water disposed of? [10.2.1]

See CD or flash drive N/A

PF-19/PF-20. *Appearing on Visiting Committee Report form only.*

SAFETY/SECURITY (SS)

SS-1. *Appearing on Visiting Committee Report form only.*

SS-2. Are first-aid stations readily available to your staff and the visiting public? [11.2.3] Yes No

SS-3. How many staff members are trained in first-aid? [11.2.3] _____

a. If none, how are these needs being met for staff and visitors? _____

SS-4. How many staff members are trained in CPR? [11.2.3] _____

a. If none, how are these needs being met for staff and visitors? _____

SS-5. Are formal first-aid/CPR training programs available for staff? [11.2.3] Yes No

SS-6. Are staff required to participate in continuing first-aid/CPR training? [11.2.3] _____

SS-7. Does your institution have an automated emergency defibrillator (AED)? [11.2.1] Yes No

a. If yes, is training provided to appropriate staff? Yes No

- SS-8. Does your institution provide training and procedures regarding common zoonoses for employees and volunteers who handle animals in order to recognize signs and symptoms of such zoonotic diseases? [11.1.2]
- Yes No, explain: _____
- SS-9. Submit a copy of your institution's employee occupational health and safety program, as described in the explanation appearing under standard 11.1.3. [11.1.3]
- See CD or flash drive
- SS-10. Submit a copy of your institution's Risk Management or Safety Audit Plan. [11.4.1]
- See CD or flash drive
- SS-11. Does your institution have an active, in-house safety committee? Yes No
- SS-12. Are Safety Data Sheets (SDS) made available to all employees? [11.1.5] Yes No
- SS-13. Does your institution have a written procedure and training program for the handling, storage, and disposal of toxic/hazardous materials, including biohazardous materials? [11.1.4]
- Yes, See CD or flash drive No
- SS-14. *Appearing on Visiting Committee Report form only.*
- SS-15. Does your institution allow staff to work free contact or enter enclosures with any potentially dangerous animals (e.g., adults of the following groups: large carnivores, large reptiles, medium to large primates, large hoofstock, killer whales, sharks, venomous animals, and others, etc.)? [11.4.1, 11.5.3]
- Yes (list the species and reason(s), and include your assessment and mitigation of any potential risk): _____ See CD or flash drive
- No
- SS-16. Does this practice take place in public view? Yes, explain in detail: _____ No N/A
- SS-17. Submit a copy of your institution's written protocol in the event of an injury by a venomous animal or an attack by a potentially dangerous animal (e.g., adults of the following groups: large carnivores, large reptiles, medium to large primates, large hoofstock, killer whales, sharks, venomous animals, and others, etc.). [11.5.2, 11.5.3]
- See CD or flash drive N/A
- SS-18. Have there been any major injuries to staff or the general public caused by a venomous or potentially dangerous animal in the last five* years? [*NOTE: in the last ten years for institutions that are not currently accredited.] [11.5.3]
- Yes, submit an explanation of the event, actions taken during/after the event, changes made in procedure and/or policy as a result of the event, etc. See CD or flash drive
- No
- SS-19. Submit copies of records and evaluation reports for alarm system drills for venomous and/or dangerous animal bite/attack/escape conducted at the institution in the last five years. [11.5.2] See CD or flash drive
- SS-20. *Appearing on Visiting Committee Report form only.*
- SS-21. Are all animal exhibits and holding areas sufficiently secured to prevent unintentional animal egress? [11.3.1]
- Yes No, explain in detail: _____

SS-22. Submit your institution's written procedure and recapture plan in the event of an animal escape. [11.2.4, 11.2.5]

See CD or flash drive

a. Have there been any major animal escapes in the last five years?

Yes, submit an explanation of each event, actions taken during/after the event, changes made in procedure and/or policy as a result of the event, etc. Be sure to note whether tranquilization or veterinary treatment of an animal, or medical treatment of a human being was required.

See CD or flash drive

No

SS-23/SS-24. *Appearing on Visiting Committee Report form only.*

SS-25. Submit copies of other written emergency procedures, including those for natural and human disaster/emergency (fire, bomb threat, weather/environment, injury to staff or visitor, etc.). [11.2.4, 11.2.5]

See CD or flash drive

a. Have any major emergencies involving natural/human conditions occurred in the last five years which have resulted in an extended closing of the institution for repairs?

Yes, submit an explanation of the event, actions taken during/after the event, changes made in procedure and/or policy as a result of the event, etc. See CD or flash drive No

SS-26. Are staff members aware of all emergency procedures? [11.2.4] Yes No

SS-27. Submit copies of records and evaluation reports for the four basic types of live-action emergency drills conducted at your institution for the last five years (fire; weather/environment appropriate to the region; injury to staff or a visitor; animal escape). [11.2.5] See CD or flash drive

a. Is a staff member or team responsible for ensuring that all drills are conducted annually and in accordance with standards?

Yes No

b. If yes, name of individual or team captain: _____

SS-28. Are staff members and volunteers aware of the location of all fire extinguishers and alarms? [10.2.2, 11.2.2]

Yes No

SS-29. Are staff members and volunteers trained in the use of fire extinguishers? [11.2.2] Yes No

SS-30. *Appearing on Visiting Committee Report form only.*

SS-31. Does your institution use either ozone or hypochlorite (chlorine)?

Yes, briefly explain: _____

No N/A

a. If yes, submit your institution's policy for safely handling and storing these and any toxic chemicals to ensure employee safety, animal well being, and environmental protection.

See CD or flash drive

SS-32. Is your institution required to have a confined space entry program (ozone towers, large filters)? If yes, submit copy of protocol.

Yes, see CD or flash drive No N/A

SS-33. Does your institution have a lock-out/lock-in program for conducting major maintenance on machinery? If yes, submit copy of protocol.

Yes, see CD or flash drive No N/A

SS-34. Does your institution have ground fault interrupt (GFI) electrical service supplying all wet environments, aquatic exhibits, and associated service areas? [11.3.4]

Yes No

SS-35. Does your institution utilize underwater diving with compressed air (SCUBA or surface-supplied) as part of regular operations and/or maintenance? [11.7.1, 11.7.2, 11.7.3, 11.7.4]

Yes No

SS-36. What types of underwater diving are a part of your institution's regular operation and/or maintenance? [11.7.1, 11.7.2, 11.7.3, 11.7.4]

N/A (no underwater diving with compressed air takes place at our institution)

Check all that apply:

Exhibit diving by staff/volunteers for routine cleaning/feeding/husbandry.

Exhibit/physical facility/life support maintenance.

In situ specimen collections.

Bona fide underwater research.

Guest/visitor underwater diving programs.

Other (provide description): _____

SS-37. Upon which OSHA standard(s) are the underwater diving safety programs at your institution based? [11.7.1]

N/A (no underwater diving with compressed air takes place at our institution)

Check all that apply:

Commercial diving.

Scientific diving.

Recreational diving.

SS-38. Provide the name, title, and CV of your institution's Dive Safety Officer. [11.7.2]

Name: _____ Title: _____

See CD or flash drive for copy of CV

N/A (no compressed air diving)

SS-39. Submit a copy of your institution's dive manual. [11.7.3]

See CD or flash drive N/A (no compressed air diving)

- SS-40. Submit copies of records and evaluation reports for live-action dive safety drills conducted at the institution beginning January 1, 2012 through present. [11.7.4] See CD or flash drive
- N/A (no compressed air diving)
- SS-41. Does your institution have an in-house diving control board?
- Yes No N/A (no compressed air diving)
- a. If yes, submit a list of the board's membership, member qualifications, and board responsibilities and authority.
- See CD or flash drive
- SS-42. Does your institution provide appropriate training and testing opportunities (including regular CPR, first-aid, and oxygen administration) to those persons involved in diving? Yes No N/A (no compressed air diving)
- SS-43. Do your institution's divers maintain up-to-date diving logs? Yes No N/A (no compressed air diving)
- SS-44. Does your institution provide appropriate workman's compensation (and/or Jones Act coverage for diving from vessels) for divers (including volunteers)? Yes No N/A (no compressed air diving)
- SS-45. to SS-55. *Appearing on Visiting Committee Report form only.*
- SS-56. Does your institution employ security officers? [11.6.1] Yes No
- a. If yes, what hours are they on the premises? _____
- SS-57. Provide a detailed explanation regarding the protection provided the animals and facilities during the hours the institution is closed [11.6.1]: _____ See CD or flash drive
- SS-58. Are security personnel, employed or contracted, required to make regular checks of the grounds/ buildings? (Include those persons who live on the grounds and provide security coverage during hours when the institution is not open to the public.) [11.6.1]
- Yes No
- SS-59. Are security personnel armed? [11.6.3] Yes No N/A
- SS-60. Are firearms kept on the premises? [11.6.3] Yes No
- a. If yes, how and where are firearms stored? _____
- b. If no, what procedures are in place for the humane destruction of a potentially dangerous animal in the event it cannot be recovered (e.g., large carnivores, large reptiles, medium to large primates, large hoofstock, killer whales, sharks, venomous animals, and others, etc.). _____
- c. Is staff provided regular training in the use of firearms? Yes No
- SS-61. Are guard dogs used? Yes No
- a. If yes, please describe how and when the dogs are utilized: _____
- SS-62. Is your institution enclosed by a perimeter fence? [11.8.1] Yes No N/A
- a. If yes, describe the type and height:

- SS-63. Is the perimeter fence independent of all animal enclosure fences? [11.8.1] Yes No N/A

a. If no, explain: _____

GUEST SERVICES (GS)

GS-1. Are public parking areas available for visitors and staff? [12.3]

Yes, # of spaces/public _____ and fees/public _____
of spaces/staff _____ fees/staff _____
of spaces/volunteers _____ fees/volunteers _____

No

GS-2. Are amusement rides/playground areas located within or near your institution? Yes No

GS-3. Are animal rides available within your institution's grounds? Yes No

a. If yes, submit detailed explanation and your animal ride policy (including philosophy and contact policy) detailing species used, safety policies and precautions, recommended exposure times, animal handling policy, training for animal handlers, and animal rotation and/or replacement policy.

See CD or flash drive

GS-4. How many public food service facilities are available to visitors/staff? [12.2] _____

GS-5. *Appearing on Visiting Committee Report form only.*

GS-6. Are drinking fountains or refreshment stands conveniently located within your institution? [12.2]

Yes No, please explain: _____

GS-7. *Appearing on Visiting Committee Report form only.*

GS-8. How many gift stands/shops are available to visitors/staff? [12.3] _____

GS-9. How many sets of visitor restrooms are available on the grounds of your institution? [12.2] _____

GS-10/GS-11. *Appearing on Visiting Committee Report form only.*

GS-12. Is there a map handout at the gate? [12.3] Yes No

GS-13. Are directional signs or maps posted throughout your institution's grounds? [12.3] Yes No

GS-14. Please indicate which of the following transportation services are available on your institution's grounds [12.1]:

- Trams
- Trains
- Escalators: indoor outdoor
- Elevators: indoor outdoor
- Transportation to/from parking lot
- Other: _____
- None

GS-15. Are benches and rest areas available on your institution's grounds? [12.2] Yes No

GS-16. Does your institution rent/provide strollers and wheelchairs? [12.1, 12.3] Yes No

GS-17 to GS-22. *Appearing on Visiting Committee Report form only.*

OTHER PROGRAMS/ACTIVITIES (OP)

OP-1. If your institution conducts its own membership program supply the following information:

- N/A (we have a support organization that handles our membership program)
 N/A (we have no membership program)

- a. _____ # of members _____ # of households served
b. List membership/other fees: _____
c. Briefly describe benefits to members: _____
d. Provide a sample of program brochures. See CD or flash drive Hard copy samples in binder

OP-2. Which of the following are published by your institution:

- Annual report
 Newsletters
 Regular periodical (magazines, journals, proceedings, etc.)
 Brochures
 Interpretive guides
 Other, specify: _____

OP-3. Does your institution have a formal master plan? [13.2]

- Yes, see CD or flash drive No

- a. If yes, in what year was the plan developed and adopted by your institution's governing authority? _____
b. When was the plan last reviewed and updated? _____

OP-4. Does your institution have a formal strategic plan? [13.1]

- Yes, see CD or flash drive No

- a. If yes, in what year was the plan developed and approved by your institution's governing authority? _____
b. When was the plan last reviewed and updated? _____

MISCELLANEOUS (M)

M-1. Submit any additional materials you believe may be pertinent to this application.

- See CD or flash drive N/A

M-2. When the accreditation process is completed, may copies of your institution's policies and brochures be placed into AZA's Resource Center?

- Yes No

M-3. NOT AZA-ACCREDITED ONLY: Annual Operating Budget [9.1]: \$_____

Budget/AZA Dues: AZA annual dues are tiered, based upon an institution's annual operating budget. Annual operating budget is defined as annual operating revenues, as well as all in-kind services and financial support received from the governing authority/support organization, but excluding capital

improvements and concession/gift shop operations.

Annual Operating Budget

Up to \$400,000
\$401,000 - \$4,999,999
\$5,000,000 - \$9,999,999
\$10,000,000 - \$19,999,999
\$20,000,000 - \$29,999,999
\$30,000,000 and above
International

Annual AZA Membership Dues

\$ 1,367
.340% of annual operating budget
\$17,074
\$18,034
\$18,755
\$19,478
\$6,250

Institutions not currently AZA-accredited **MUST SUBMIT BUDGET FIGURE** for calculating dues.

(NOTE: These figures are subject to change. Check with AZA's Membership Department to verify current amounts.)

M-4. Have any staff members ever been found guilty of violating wildlife regulations enacted by any of the various states or any agency of the U.S. Government or those of any foreign nation? If yes, attach detailed explanation.

Yes, see CD or flash drive No

M-5. To your knowledge, are any staff members currently under investigation for alleged violation of any wildlife regulations enacted by any of the various states or any agency of the U.S. Government or those of any foreign nation? If yes, attach detailed explanation.

Yes, see CD or flash drive No

M-6. Would you be willing, **at no cost**, to have an inspector-in-training accompany the inspection team assigned to your institution? If "yes", you will be notified if such an assignment is made.

Yes No

END
(signature pages follow)

IMPORTANT: All questions **must** be answered, as well as all required materials submitted. If a question is not applicable, please indicate as N/A. Improperly assembled or incomplete applications will be returned to the applicant. Related delays could result in an inability to complete processing in sufficient time to continue on the schedule desired by the applicant.

ALL APPLICANTS MUST SUBMIT FIVE (5) SETS OF THE QUESTIONNAIRE AND SUPPORTING MATERIALS ON CDs OR FLASH DRIVES. *Note: We recommend that a sixth set be produced and retained by the institution for reference in the future.*

THE SIGNATURES OF THE DIRECTOR (CHIEF EXECUTIVE OFFICER) AND THE PRINCIPAL OFFICER OF THE GOVERNING AUTHORITY ARE REQUIRED on at least one of the hard copies of this application questionnaire submitted in the binders with the flash drives. These signatures certify the following:

1. We will abide by the Association of Zoos & Aquariums' Code of Professional Ethics, Bylaws, Acquisitions, Transfers, and Transitions Policy, accreditation standards, all duly adopted resolutions and policies, and support its programs and objectives. This includes, but is not limited to, cooperating fully with SSPs, completing annual ARCS reports, maintaining up-to-date information in AZA's membership directory, and embracing modern zoological practices and philosophies as basic tenets within our institution. We realize that any conduct prejudicial to, or in violation of, the above will be cause for revocation of membership and accreditation.
2. Our governing authority has formally considered and approved the submission of this application and has authorized and directed the institution's staff to carry out the procedures for applying for accreditation.
3. Our institution's staff will cooperate fully with the Accreditation Commission and the Visiting Committee, and will take no action to circumvent or obstruct the accreditation process and/or policies.
4. We profess that the answers and materials provided with this application/questionnaire are truthful and accurate to the best of our knowledge and ability.
5. We agree, acknowledge, and affirm on behalf of our institution that any controversy or claim arising out of or relating to (a) this application or the breach of any affirmation or representation contained in this application, or (b) any accreditation of our institution or any denial or termination of accreditation, shall be settled by binding arbitration in Silver Spring, Maryland by a panel of three arbitrators applying Maryland law and shall be administered by the American Arbitration Association ("AAA") under its commercial arbitration rules, or such other rules as the AAA may deem appropriate. We further agree, acknowledge, and affirm that our institution submits to, and irrevocably waives any objections to, accept service of process and the exclusive jurisdiction of the courts of Montgomery County, Maryland and the U.S. District Court for the District of Maryland, Greenbelt Division for the purpose of entering an order compelling arbitration; for the enforcement of any award issued by the arbitrators; or for the issuance of any other order in aid of arbitration, including an order granting preliminary relief to preserve the status quo.
6. We understand that a decision to deny an initial application for accreditation, or to deny the continuation of accreditation, shall not be deemed final until all procedures set forth in Section 3 of the Association of Zoos & Aquarium's Bylaws have been exhausted. As such, we agree to exhaust such procedures before we may initiate the arbitration provided for above.

Signature of Chief Executive Officer/Director: _____

Name: _____

Title: _____ Date: _____

Signature of Principal Officer of Governing Authority: _____

Name: _____

Title: _____ Date: _____

ENCLOSE CHECK WITH APPLICATION

FEES: A check **must** be enclosed with this application as follows: \$3,250 (\$4,250 for international institutions located in countries other than Canada or Mexico). **BREAKDOWN OF FEES:** \$3,250 [\$1,750 represents the non-refundable* filing fee, and the remaining \$1,500 represents the inspection expense deposit]; \$4,250 [\$1,750 represents the non-refundable* filing fee, and the remaining \$2,500 represents the inspection expense deposit for international institutions located in countries other than Canada or Mexico]. The inspection expense deposit will be used to defray a portion of the Accreditation Visiting Committee expenses. Once total costs for the inspection have been tallied, any balance remaining beyond the inspection expense deposit will be invoiced, or any unused portion refunded.

**Filing fees are non-refundable once the official review process has started. If an institution withdraws its application before the official review has started, the fee may be refunded.*

Please make checks payable to AZA and send this application to: Accreditation Programs, Association of Zoos & Aquariums, 8403 Colesville Road, Suite 710, Silver Spring, MD 20910.

EXHIBIT G

AZA ACCREDITATION RACK CARDS FOR VISITORS

ACCREDITED BY THE
**ASSOCIATION
OF ZOOS &
AQUARIUMS**

LOOK FOR THE AZA LOGO

The Association of Zoos and Aquariums (AZA) is a leader in global wildlife conservation, and your link to helping animals in their native habitats. Look for the AZA logo when you choose to visit a zoo or aquarium. This is your assurance that you are supporting an organization dedicated to providing excellent care for animals, a great experience for you and your family, and a better future for all living things.

The Association of Zoos and Aquariums accreditation logo is the most reliable and easiest way for people to identify zoos and aquariums where high-quality animal care is the first priority, and where there is a significant commitment to wildlife conservation.

CONNECT WITH CONSERVATION

AZA-accredited zoos and aquariums offer visitors a fun and easy way to discover connections to their environment and teach them how to make a difference in protecting and preserving our planet. Connect with conservation by visiting your accredited zoo or aquarium today!



For more information,
please visit www.aza.org.

ACCREDITED BY THE **ASSOCIATION OF ZOOS & AQUARIUMS**

Accreditation

AZA accreditation ensures that the animals you visit at accredited zoos and aquariums receive excellent care every day. Visitors should be proud to know that this organization has met mandatory, rigorous, professional standards for animal welfare and management, veterinary care, behavioral enrichment, nutrition and staff training.

AZA accreditation standards exceed currently established local, state and federal guidelines. And, because AZA's top priority is the care of animals, AZA's accreditation standards are continuously reviewed and enhanced.

Once accredited, every zoo and aquarium is expected to continuously advance its professional operation. AZA continually monitors accredited organizations, and every accredited zoo and aquarium must go through the entire accreditation process every five years.

Wildlife Conservation

Every AZA-accredited zoo and aquarium is a leader in conservation, participating in a long-term plan involving habitat preservation, public education, field conservation, genetically diverse breeding, and supportive research to ensure survival for many threatened and endangered species. Through AZA's Conservation Endowment Fund, accredited zoos and aquariums support thousands of wildlife conservation programs around the world.

Science Education

At the core of every AZA-accredited zoo and aquarium is the commitment to engage the public in significant conservation education programs. Over the past 10 years, AZA-accredited zoos and aquariums have trained more than 400,000 teachers with award-winning, proven science curricula. In addition, AZA organizations educate more than 12,000,000 students every year in the classroom or in the field.

EXHIBIT H

ALLIANCE ACCREDITATION PROGRAM APPLICATION

ALLIANCE OF MARINE MAMMAL PARKS AND
AQUARIUMS

ACCREDITATION PROGRAM

APPLICATION

REVISED JULY 2013

ACCREDITATION PROGRAM

APPLICATION

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INSTRUCTIONS FOR USE

Note that responses are confidential and will be shared only with Executive Director of the Alliance, the Accreditation Commission and your Inspection Team.

Instructions:

- 1) The Application Booklet has been formatted to correspond with main headings in the Standards and Guidelines. Please follow this format and order when preparing the application.
- 2) Please submit the application electronically. Create a separate folder for each corresponding section heading in the order they appear in the Application Booklet. All supporting documents, policies, forms and any additional information must be included under these corresponding section headings in the application.
- 3) All reference numbers, i.e. 1.2.4., refer to the Alliance Standards and Guidelines.
- 4) Some responses may call for an estimation, please be as accurate as possible.
- 5) The application requests some general information on pages 4 and 5, please complete the form and include these pages with your application.
- 6) The Accreditation Commission will review the submitted application. In the event the commission determines the application is incomplete, submission of additional documentation will be requested.
- 7) When submitting further documentation as requested, scans of photographs or other relevant facility materials may be included.
- 8) No applications will be submitted to the Board for review and no accreditation inspections will be scheduled until the application is complete.

APPLICANT CERTIFICATION AND POINT OF CONTACT

Institution Requesting Accreditation _____

CERTIFICATION STATEMENT

I understand the purpose of the Accreditation Program offered by the Alliance of Marine Mammal Parks and Aquariums and am willing to abide by the requirements of the Accreditation Program.

Further, I understand that if my organization/facility is approved for accreditation, continued accreditation is contingent upon abiding by the Alliance Constitution and By-laws and sustained adherence to the Alliance Standards and Guidelines. I certify that I am authorized to commit the organization's resources to satisfy the requirements of Accreditation.

Signature

Title

Date

Designate a single point of contact for this application and list below.

Contact Person _____

Address _____

Phone _____ Fax _____ Email _____

ORGANIZATION

1. This section is mostly descriptive information on your organization and not directly related to standards and guidelines. However, the information will be useful in helping the Accreditation Review Team better understand your facility.

2. Is your organization/facility most correctly defined as:

- Marine Mammal Park
- Aquarium
- Zoo
- Research Facility
- Other (Briefly describe)

3. Is your institution: Private Public Not For Profit For Profit

Please provide below a schedule of your public hours.

Monday	___	AM	to	___	PM	Friday	___	AM	to	___	PM
Tuesday	___	AM	to	___	PM	Saturday	___	AM	to	___	PM
Wednesday	___	AM	to	___	PM	Sunday	___	AM	to	___	PM
Thursday	___	AM	to	___	PM						

4. Do your hours of operation vary seasonally? yes no If yes, provide explanation of schedule changes.

5 Please indicate your attendance:

Yearly attendance < 500,000 Yearly attendance > 500,000

6. US facilities: Please provide a copy of your most recent APHIS inspection report. If any non-compliance or deficiencies were noted, please include explanation of correctional steps that have been taken

7. Non-US facilities: Are there any regular governmental inspections of your facility related to marine mammal care? If so, please list and briefly describe each, including a copy of the most recent inspections. If any non-compliance or deficiencies were noted, please include explanation of correctional steps that have been taken.

8. Does your facility operate an interactive program? yes no If yes, provide information on each program involving marine mammals, including the species and number of animals involved, ratio of trainers to animals to guests, and number of times program is offered per day.

9. Summarize your entire marine mammal collection, listing species, numbers, and gender composition.

10. List all major organizational contacts by name and title.

ACQUISITION AND DISPOSITION

1. Please provide your institution's animal management plan, including a description of long-range strategies for maintaining marine mammal species to minimize the need for wild collections through the use of managed breeding programs; loans, exchanges or purchases; and/or recruitment of stranded animals.
2. Please provide your institution's acquisition/disposition policies, including a blank acquisition/disposition form.
3. If this is a re-accreditation application, please report on any changes to your marine mammal collections (acquisitions or dispositions) since your previous accreditation inspection.
4. If your facility has released any marine mammal from its collection in the last five years, excluding beached or stranded animals, please provide documentation substantiating government permitting and an approved scientific protocol.
5. If your facility has collected marine mammals from the wild, please provide documentation that such removal was humane, meets professional standards, did not compromise sustainability of the stock or populations from which the animals were taken, and were undertaken by appropriate government authority. **If suitable documentation cannot be provided, this constitutes an ethics violation and could result in removal from Alliance membership.** If this is a re-accreditation application, please provide documentation on any marine mammals collected from the wild and added to your inventory since your previous accreditation inspection.
6. Please provide a blank necropsy form.
7. Please provide your institution's euthanasia policy.

ANIMAL TRAINING

1. Please provide your organization's marine mammal training policies. This should include the focus and philosophy of the program, statements of animal care and treatment, as well as management review and accountability for the program.
2. Please provide your organization's animal behavior development and management plan, including those specific to interactive programming if applicable. The animal behavior development and management plan should include behavioral goals and objectives as well as criteria for measuring and maintaining success.
3. Please provide your organization's written safety protocols for interactive programming, including descriptions of undesirable behavior, actions to prevent such behavior, and staff response protocols in the event of an accident or emergency.
4. Please provide an organizational chart and position descriptions of your organization's marine mammal training program including personnel qualifications.
5. Describe your marine mammal trainer development program. This should include a written staff training manual, the process used for teaching training theory, the process of measuring and testing staff learning, criteria for staff evaluation and advancement, and educational resources and materials, as well as hands-on opportunities, available to the staff.
6. Describe your professional staff development plan, including how your organization promotes exchange of current animal training information.
7. Please provide your emergency management and contingency plan for animal operations outside of facility perimeter boundaries including a description of the program and its objectives, methods of accomplishment, success criteria and contingency plan in the event of loss of animal control.
8. Please provide your animal enrichment plan, including ways in which you provide stimulation for the marine mammals in your care.

EDUCATION

1. Please provide your institution's written education plan, including mission statement, goals, and evaluation strategies.
2. Please indicate the strategies used by your institution to promote educational understanding of and an appreciation for marine mammals and their ecosystems, such as camps, outreach, community service, tours, curriculums, exhibits, graphics, presentations, shows and/or publications. Please indicate the target audiences for each, such as general public, students, teachers, etc.
3. If you offer an interactive program with marine mammals, please include the conservation messages provided to participants.
4. Please indicate methods used by your institution to insure educational information offered remains up to date, including through the use of a reference library, membership in professional organizations, attendance at conferences, and/or additional staff training.

HUSBANDRY

1. Please provide a blank copy of forms used for recording animal food and nutritional information, including daily animal records.
2. Please provide information on the types of food fish fed, vitamin supplementation provided, protocols for storage, thawing and preparation of food fish, and a copy of your most recent food fish analysis.
3. Please explain how your institution maintains food fish quality, including freezer storage and rotation protocols, freezer and refrigerator temperature validations, and tracking of dates on food fish packages.
4. Please provide your protocol for daily cleaning and disinfection of food preparation areas.
5. Please provide your health care program protocols including daily health monitoring, physical examination content, frequency of physical examinations, parasite screening schedule and the procedure for recording and communicating animal health and medical information between husbandry and veterinary staffs.
6. Please provide a blank copy of forms used for recording animal health and medical information.
7. Please provide your institution's protocol for handling emergency medical procedures.
8. Please provide your protocol for maintaining pharmaceuticals, medical equipment and controlled substances.
9. Please provide a description of your entire health care staff, including the credentials of your qualified attending veterinarian(s).
10. Please provide a title and listing of the members of any animal care or husbandry committee(s).

PROPAGATION

1. Please provide the reproductive management plan for marine mammals within your institution, including plans for monitoring pregnancies and protocols for emergency intervention.
2. Please describe how you optimize genetic diversity with the marine mammals at your institution, including the methods utilized for prevention of free-breeding between progeny with their sire/dam.
3. Please describe your participation in regional, national and/or international studbooks as well as any organized breeding management programs.
4. Please provide a blank copy of forms used for cooperative propagation efforts.

QUARANTINE

1. Please provide your institution's quarantine program for new animal arrivals, including stranded animals. Please indicate the length of quarantine and methods used for containment of the quarantine area including disinfection of equipment, personnel and clothing.
2. Please indicate the precautions taken to minimize the risk of exposure to zoonotic diseases.
3. Please also indicate veterinary policies regarding entrance/exit physical examinations and the policies for keeping quarantine medical records.
4. Please indicate methods for prevention of spread of disease in open ocean enclosures if applicable.

RECORD KEEPING

1. Please provide your document retention program, including how long documents are kept, how documents are protected from hazards such as fire and flood, information concerning duplicating records and their location.

SCIENTIFIC RESEARCH AND CONSERVATION

1. Please provide your organization's research and conservation policy, including the availability of animals, staff and funding for participation in such projects.
2. Please provide a member list of your research and/or animal use committee indicating all representatives.
3. Please provide your organization's policy for financial support of research and conservation projects, including a mission statement that describes the goals in supporting, evaluating and collaborating with outside marine mammal related studies.
4. Please provide a brief description of the recent research and conservation projects that your organization has supported either directly or with in-kind donations.

SPATIAL REQUIREMENTS

1. Please provide sketches of all marine mammal pools including length, width, depth, surface area, and volume measurements. Please indicate any connections between pools.
2. Please provide sketches of all marine mammal dry haul out areas, dry exhibit areas and den boxes, including dimensions, and indicate any connections between enclosures.
3. List the number and species of animals typically held in each enclosure or pool.
4. If your facility participates in the breeding of marine mammals, please indicate the areas to be utilized for separating pregnant females and/or post-parturient females with calves if it should become necessary.
5. If your facility offers interactive programming, please indicate enclosure areas the public is prohibited from entering.

TRANSPORTATION

Please provide a copy of your facility's transport protocol for cetaceans, pinnipeds, sirenians, sea otters and/or polar bears as applicable. A complete written transport plan includes parameters for health assessment, monitoring animals during transport, availability of adequate staff and equipment, and protection from temperature extremes.

WATER AND ENVIRONMENTAL QUALITY

1. Please describe the type of water system operated at your facility -- whether open, closed or a combination.
2. Please provide policies and procedures relating to the daily monitoring of water quality, including parameters for measuring temperature, salinity, pH, chlorine or other oxidizing agents, and safeguards against residual dissolved ozone.
3. Please indicate the frequency of water quality testing, as well as the schedule and protocols for filtration operation and backwashing if applicable.
4. Please provide a blank copy of forms used for recording water and environmental quality parameters.
5. Please provide protocols for limiting microbial growth, including bacterial monitoring and general pool cleaning and maintenance.
6. Describe how your facility maintains a safe environment for the species housed including operating within thermal tolerance levels, providing adequate ventilation, and minimizing exposure to acoustic noise.

EVALUATION OF ACCREDITATION PROCESS

Are procedure instructions clear and easily understood?

Are application questions clear and easily understood?

Do application questions thoroughly cover all applicable areas of marine mammal care and handling?

Did you find any areas in the Alliance Standards and Guidelines that may need clarification?

Is the application organized in an effective way?

How much staff time was needed to complete the application?

What was the total cost of an inspection to your facility?

Based on your experience, how can the accreditation process be improved?

EXHIBIT I

APHIS INSPECTION REPORT



Inspection Report

SEA WORLD, L.L.C.

Customer ID: **3549**

Certificate: **93-C-0069**

Site: 001

SEA WORLD, L.L.C.

500 SEA WORLD DRIVE

Type: ROUTINE INSPECTION

SAN DIEGO, CA 92109

Date: Sep-25-2012

No noncompliance identified on this inspection.

Exit briefing was conducted with a facility representative.

Prepared By:

MANUEL A ADVIENTO, D.V.M. USDA, APHIS, Animal Care

Date:

Title: VETERINARY MEDICAL OFFICER Inspector 5001

Sep-25-2012

Received By:

SENT BY ELECTRONIC MAIL

Date:

Title: SEPTEMBER 25, 2012

Sep-25-2012

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August 21, 2015

Mr. Alexander Llerandi
Coastal Program Analyst
California Coastal Commission
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Conservation and Management of Marine Mammals

Dear Mr. Llerandi:

We represent SeaWorld San Diego in connection with its coastal development permit application for the planned orca habitat expansion.

We are aware that Coastal Commissioners and staff are receiving numerous communications urging the Coastal Commission to deny approval or impose conditions based on the care and management of the marine mammal collection. We believe arguments in these communications are inconsistent with applicable federal and state law.

As explained in my letter to you of April 13, 2015, the Coastal Commission has no jurisdiction over any aspect of care, management or conservation related to SeaWorld's marine mammals. Both the state and federal government have established separate agencies empowered with exclusive jurisdiction over the care, management, and conservation of animals.

Congress enacted the Marine Mammal Protection Act ("MMPA") and the federal Animal Welfare Act ("AWA") to protect animals, and provided extra protections for marine mammals. The California Legislature created the Department of Fish and Wildlife and the Fish and Game Commission (collectively referred to as "Cal. Fish & Game") and empowered it with exclusive jurisdiction to regulate the care and management of animals over which the federal government has not asserted exclusive jurisdiction. The MMPA, AWA, the California Fish and Game Code and the California Coastal Act ("CCA") are clear that only the U.S. Department of Agriculture ("USDA"), the federal Animal Plant

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California Coastal Commission
August 21, 2015
Page 2

Health Inspection Service (“APHIS”), the U.S. Fish and Wildlife Service (“F&WS”), and the National Oceanic and Atmospheric Administration Fisheries (“NOAA Fisheries”)¹ may regulate conservation and management of marine mammals. Any statement to the contrary is incorrect.

Any attempt by the Coastal Commission to regulate or condition SeaWorld’s management of the orcas would violate both state and federal law. This includes any attempt to impose conditions pursuant to Chapter 3, Article 4 of the Coastal Act. The proposed habitat expansion is a fully self-contained, land-based aquarium with no relationship to, or impact on, marine resources.

The CCA recognizes that the Coastal Commission may not interfere with the jurisdiction provided to Cal. Fish & Game. California law recognizes that the federal government has asserted exclusive jurisdiction over marine mammals. Federal law pre-empts all state laws involving any aspect of public display, exhibition, conservation and management of marine mammals.

Summary of the Relevant State and Federal Laws

- The California Fish & Game Code delegates the exclusive power to regulate possession of mammals to the Department of Fish & Wildlife and the California Fish & Game Commission. (Cal. Fish & Game Code 200)
- The California Fish & Game Code states that at such time as federal laws or regulations permit the state to assume jurisdiction over marine mammals, the [Fish & Game] commission may adopt regulations governing marine mammals and the taking thereof. (Cal. Fish & Game Code 4500(b))
- The California Coastal Act identifies the Department of Fish & Game (now Fish & Wildlife) and the Fish & Game Commission as “the principle state agencies responsible for the establishment and control of wildlife and fishery management programs and the [Coastal] commission shall not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by these agencies pursuant to specific statutory laws or authorization.” (Public Resources Code § 30411(b))
- The federal Marine Mammal Protection Act explicitly prohibits a state from “enforc[ing], or attempt[ing] to enforce, any State law or regulation relating to the taking of any species . . . of marine mammal within the State unless the Secretary has transferred authority for the **conservation and management** of that species (hereinafter referred to in this section as ‘management authority’) to the State...” and such transfer of management authority has been made pursuant to MMPA requirements. (16 U.S.C. § 1379(a) (emphasis added))

¹ NOAA Fisheries is under the U.S. Department of Commerce and has responsibility for protecting marine mammals and endangered or threatened marine life.

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- As a result, the “[MMPA] . . . establishes plenary federal authority for the conservation of marine mammals and pre-empts entirely state laws pertaining to their takings” (*Mountain States Legal Foundation v. Hodel*, 799 F.2d 1423, 1427 (10th Cir. 1986) citing 16 U.S.C. § 1379(a)) (see also *People of Togiak v. United States*, 470 F. Supp. 423, 425 (D.D.C. 1979) (the MMPA contains “a broad and detailed pre[-]emption provision”)).
- Marine mammal management authority has never been transferred to any state. (50 CFR 403.08)
- The 1994 amendments to the Marine Mammal Protection Act did not change Congressional intent to maintain exclusive federal control over the taking and display of marine mammals; it merely consolidated the regulatory requirements for care and maintenance under a single agency. Although the amendment removed the requirement to obtain a permit from NOAA Fisheries, the MMPA still dictates the requirements for those entities with marine mammals. These requirements include (1) offer a program for education and conservation, (2) be registered with APHIS under the AWA, and (3) maintain facilities that are open to the public. (U.S. Department of Commerce, NOAA, “Marine Mammal Protection Act of 1972 Annual Report January 1, 1994 to December 31, 1994,” 16 U.S.C. § 1374).

Based on the preceding, if the federal government ever delegated regulatory authority over marine mammals to the state of California, the California Fish & Game Code and the California Coastal Act are clear that only the state Department of Fish & Wildlife and the California Fish & Game Commission would have authority to regulate marine mammal management and conservation.

However, as indicated above, the federal government has never delegated marine mammal regulatory authority to the state of California.

As a result, under both federal and state statutes, the California Coastal Commission has no jurisdiction over the conservation or management of marine mammals.

Coastal Commission Regulates Coastal Land Development

The CCA gives the Coastal Commission the authority to govern development that could change the California coast and its resources. (Cal. Pub. Resources Code § 30001). The Legislature expressly recognizes that the Coastal Commission’s authority does not include any regulatory authority within the jurisdiction of the Department of Fish and Wildlife and the Fish and Game Commission. (Cal. Pub. Resources Code § 30411.)

Nothing in the CCA provides the authority to impose conditions regarding the care, maintenance, exhibit space, breeding habits, or husbandry practices for marine mammals that are currently housed inside the confines of a developed area that does not change any portion of the current natural coast. To the extent the Commission attempted to rely on the Marine Resources section of the CCA to impose conditions unrelated to the structure, such reliance is unfounded. Section 30230 relates to the current marine environment, which is the ocean and natural coastline. The orca habitat is wholly within the

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confines of SeaWorld, and does not have any direct impact on the coast. Nothing about the orca habitat impacts coastal marine resources.

California law requires that provisions of a statute must be read together and harmonized. (*Kelley v. California Unemployment Ins. Appeals Bd.*, 223 Cal.App.4th 1067, 1074 (2014)).² For both California Public Resources Code sections 30230 and 30411 to have meaning, they must govern different items. Section 30411 unambiguously excludes the ability to regulate animal welfare from the scope of authority provided to the Coastal Commission. In order for Section 30230 to have meaning, it must refer to marine resources that are separate and apart from the regulation of animals covered by section 30411. Further, if section 30230 is construed in connection with the other provisions within Article 4, it is clear that “marine resources” refers to the natural habitat of the California coast and the biological productivity of coastal waters. Animal management within the SeaWorld orca habitat, or any of its marine mammal habitats, clearly falls outside the scope of the authority as set forth in both sections 30230 and 30411.

Thus, the Coastal Commission does not have jurisdiction over conservation and management of marine mammals.

No California Regulation of Marine Mammals

The State of California recognizes that the MMPA specifically pre-empts California’s Fish and Game Commission from regulating marine mammals. (Cal. Fish and Game Code § 4500.) Although the California Department of Fish and Game has concurrent jurisdiction over some animals, currently the federal government has not delegated any authority of marine mammals to the states. Should the federal government delegate that authority, the Legislature has expressly stated the regulatory authority would fall within the Department of Fish and Wildlife. (*Id.*; 16 U.S.C. § 1379; 50 CFR 403.01 *et seq.*)

As a result, the Fish and Game Commission does not have jurisdiction over conservation and management of marine mammals.

Federal Law Prohibits State Regulation of Marine Mammals

If the federal government has exercised its statutory authority to regulate all aspects related to a specific issue, the states may not impose additional regulations. (*Morales v. Trans World Airlines, Inc.*, 504 U.S. 374 (1992).)

² Some of the correspondence received by the Coastal Commission has encouraged the Coastal Commission to exercised authority over Marine Mammals pursuant to the Federal Coastal Zone Management Act (“CZMA”). The CZMA does not grant any jurisdiction to the Coastal Commission. First, the Coastal Commission was originally authorized by proposition and later by an act of the California Legislature to enforce California law. Second, the CZMA, AWA, and MMPA were enacted separately and the authority was assigned to different Secretaries; thus, Congress intended for management of marine mammals and management of the coast to be handled separately. Had Congress intended for the management of marine mammals to fall within the purview of the CZMA it could have placed the authority within that act. It did not.

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I have attached a summary of the plethora of federal statutes and federal regulations promulgated by federal agencies regulating the conservation and management of marine mammals. These regulations include standards for marine mammal housing area, husbandry/breeding, transportation, veterinary care, nutrition and sanitation, among numerous other conservation and management concerns.

Congress has conferred the exclusive right to govern the welfare of marine mammals upon the federal government pursuant to the AWA and the MMPA. AWA governs animal care for all warm blooded animals in the SeaWorld collection. The MMPA provides additional protections to Marine Mammals. Congress' intent in providing exclusive jurisdiction over marine mammals to the federal government is evidenced by a review of the legislative and regulatory enactments and the processes followed to ensure a balance between the protection of commerce and the humane treatment of marine mammals.

Congress originally enacted the AWA for the purpose of regulating animals and animal activities and ensure the humane care and treatment of animals. (16 U.S.C.S. § 2131.) AWA regulates “the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.” (Ibid.)

Congress subsequently enacted the MMPA and found, among other things, “there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully,” “marine mammals...move in interstate commerce,” and “marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is in the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound public policies of resource management....” (16 U.S.C.S. § 1361.)

Congress specifically enacted the MMPA to regulate “the removal from the wild or importation of marine mammals for public display.” The MMPA expressly prohibits state enforcement of state laws or regulations without transfer to the state of authority by the Secretary of Commerce. “No State may enforce, or attempt to enforce, any State law or regulation relating to the taking of any species (which term for purposes of this section includes any population of stock) of marine mammal within the State unless the Secretary has transferred authority for the conservation and management of that species...to the State under subsection (b)(1).” (16 U.S.C. § 1379(a); 50 CFR 403.08 [lists no states whom have authority to regulate animals].) Authority for conservation and management of marine mammals has never been transferred to the state of California.

In my April 13, 2015 letter, I explained that the U.S. Supreme Court has ruled that any federal statute that includes the phrase “relating to” expresses “a broad pre-emptive purpose” encompassing laws of general applicability that relate to the subject. (*Morales*, 504 U.S. 374, 387.) As a result, the MMPA relates to, and regulates, all aspects of marine mammal conservation and management.

The NOAA Fisheries was given jurisdiction over all cetaceans (which includes killer whales) and pinnipeds, while the F&WS was given jurisdiction over all other marine mammals. The 1994 Amendment to the MMPA provided sole responsibility for the care and maintenance of marine mammals

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to the APHIS, which governs all licensing and exhibition of animals, including orcas. The amendments did not change the Congressional intent expressed in Section 1361, 1362, and 1379 of the MMPA that the federal government maintain exclusive jurisdiction over marine mammals. Congress simply streamlined the governing process by giving APHIS sole, rather than concurrent, authority to regulate the care and management of marine mammals already in research and educational facilities. While the AWA may cover a broader array of animals over which the state and federal government share authority, the MMPA still creates plenary federal authority over marine mammals.

Based on these and other findings, Congress empowered the USDA and APHIS to enact regulations that dictate the required care, treatment, housing area, handling, transportation, sanitation, nutrition, husbandry, veterinary care, and protection of animals, including marine mammals. (16 U.S.C.S. § 1361 *et seq.*; see also 7 U.S.C. § 2131-2159; 9 CFR 2.1 *et seq.* [licensing and registration of animal exhibits]; 9 C.F.R. 3.104 [regulating space requirements including those appropriate for breeding]; 9 CFR 3.113 *et seq.* [dictates the standards to transport marine mammals]; 9 C.F.R. §3.125 *et seq.*)

The NOAA Fisheries create additional regulatory requirements above that required by USDA and APHIS for marine mammals. NOAA Fisheries is well aware of all marine mammal facilities throughout the U.S. In fact, the NOAA Fisheries website, which discusses permitting requirements for the public display of marine mammals, currently has a picture of an orca at SeaWorld in Texas.³ Further, the MMPA requires all holders of marine mammals to report all births, deaths, and releases, among other information, to NOAA Fisheries within 30 days of the triggering event. (16 U.S.C. § 1374.) F&WS has chosen to specifically regulate over certain types of marine mammals, including polar bears, sea and marine otters, walrus, manatee, and dugong, it has chosen not to create additional permitting regulations for orcas. Thus, the USDA and APHIS have sole jurisdiction over animal care and maintenance of orcas.

The USDA and NOAA Fisheries (1) participates in rulemaking to create specific standards necessary to enforce the AWA and MMPA; (2) issues licenses to every entity or person who exhibits animals, including marine mammals; and (3) inspects for compliance and enforces the legislation and regulations relating to animals, including marine mammals.

The USDA and NOAA Fisheries are also asked to provide input and guidance on animal welfare issues. To formalize this goal, USDA created the Center for Animal Welfare (the "Center"), which is a diverse network of partners and experts who serve as a national resource to develop policy and analysis, education and outreach, and provide science and technology in support of the AWA. The Center partners with experts domestically and internationally to provide accurate, unbiased, and science based information to stakeholders and industry partners. Likewise, NOAA Fisheries works with a series of Science Centers who assist to provide research and laboratory information about marine mammals and to assist with the preservation of ocean resources and their habitat.

Some groups may complain that more or different regulations should exist; however, those complaints ignore the thorough, public process engaged in by the Departments who govern marine

³ http://www.nmfs.noaa.gov/pr/permits/public_display.htm

Mr. Alexander Llerandi
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mammals. These same groups confuse the inter-relationship between the MMPA and the AWA and the federal agencies that take regulatory action pursuant to the authority of these two federal statutes.

Congress enacted the MMPA to vest plenary federal authority for the conservation and management of marine mammals. The MMPA expressly states that it preempts entirely state law, absent an express delegation of authority after complying with a lengthy regulatory review by the Secretary of Commerce. (16 U.S.C. § 1379; 50 CFR 403.01 *et seq.*; *see also Mountain States Legal Foundation v. Hodel* (10th Cir. 1986) 799 F.2d 1423, 1427.) The 1994 amendments did not change Congressional intent to maintain exclusive control over the taking and display of marine mammals, it merely consolidated the regulatory requirements for care and maintenance under a single agency, APHIS. Although the amendments removed the requirement to obtain a permit from NOAA Fisheries, the MMPA still placed requirements on persons with marine mammals that require them to (1) offer a program for education and conservation, (2) be registered with APHIS under the AWA, and (3) maintain facilities that are open to the public. (U.S. Department of Commerce, NOAA, “Marine Mammal Protection Act of 1972 Annual Report January 1, 1994 to December 31, 1994,” p. 6-7, 62-64⁴; 16 U.S.C. § 1374.) Regardless of any attempts to mis-read or mis-interpret the federal statutes, under both MMPA and AWA, only federal agencies regulate the conservation and management of marine mammals.

Federal Agencies Rigorously Monitor and Regulate Marine Mammals

Congress delegated rulemaking authority to the USDA and NOAA Fisheries because it understood that determining the specific regulatory requirements to implement the general laws under the AWA and MMPA would require the experience of experts in the field. (7 U.S.C. §§ 2131-2159; 16 U.S.C. § 1361-1421h; 7 C.F.R §§ 2.22, 2.80, and 371.7; 9 C.F.R. 2.1 *et seq.*) The USDA and NOAA Fisheries, like all other agencies, follows the Administrative Procedures Act to enact new laws. (5 U.S.C. § 500 *et seq.*)

The process begins with experts within the Department who determine when there is an issue that requires more specific regulation based on input from the public. The proposed rule must be published in the Federal Register and made available for public comment. (5 U.S.C. § 553.) Rulemaking can also be spurred if a member of the public submits a Petition for Rulemaking. If the Department is interested, it can publish the Petition in the Federal Register and accept public comment on the issue. (5 U.S.C. § 553, subd. (e).) At the end of the comment period, the Department then must review the comments. If it decides to issue a final rule the Department must base its determination on reasonable conclusions from the process including the comments, scientific data, expert opinions, and facts accumulated during the pre-rule and proposed rule stages. (See generally, “A Guide to the Rulemaking Process”, Office of the Federal Register.)

The USDA conducts periodic, unannounced visits to confirm compliance with its requirements and ensure that licensure should continue to remain in place. These inspections include review of the premises, facilities, husbandry practices, program of veterinary care, records, and animal handling

⁴ The page number references are based on the pages of the PDF listed on the website, which do not match the table of contents at the front of the report. (http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa_annual_1994.pdf)

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procedures. The USDA has the authority to issue warnings, penalties, suspend licensure, and even remove animals and shut down exhibits. (9 C.F.R. § 2.12.) The USDA has and does remove animals from the possession of persons who fail to properly care for the animals.

In addition to the random inspections, the public is permitted to submit complaints in order to request APHIS personnel to visit licensed facilities if there is concern that the animals are being mistreated. APHIS reviews all complaints to determine if further action is required.

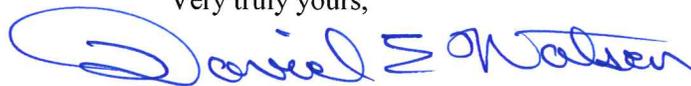
In summary, the federal statutes and regulations control all aspects of marine mammal conservation and management, including housing area, transportation and breeding. Further, these federal departments charged with ensuring compliance with the federal laws have specific procedures in place to ensure compliance with the standards created after input by experts and members of the community.

Congress and the federal departments charged with the authority to enforce the laws have chosen not to delegate any of the authority over marine mammals to state agencies. Thus, no state agency may regulate marine mammals in any manner. (16 U.S.C. § 1379(a); 50 C.F.R. 403.08.)

Conclusion

The Coastal Commission has no legal authority to condition or deny the approval of a coastal development permit on the Coastal Commission's independent determination regarding management or conservation of marine mammals under any provision of the Coastal Act, including Chapter 3. That regulatory determination is reserved for the federal government and the Coastal Commission is pre-empted from action in that regard. California law recognizes that the federal government maintains the exclusive regulatory authority, resources and expertise to ensure the health, welfare and safety of marine mammals in exhibits and attractions in the United States, including those at SeaWorld.

Very truly yours,



David E. Watson

DEW

DM2\5976262.5

cc: John Reilly
Darlene Walter
Corrine Brindley

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SINGAPORE
PHILADELPHIA
CHICAGO
WASHINGTON, DC
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October 1, 2015

VIA ELECTRONIC MAIL

Mr. Alexander Llerandi, Coastal Program Analyst
California Coastal Commission
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Response to Staff Report Legal Analysis CDP Application 6-15-0424

Dear Mr. Llerandi:

We represent SeaWorld San Diego in connection with its coastal development permit application for the planned orca habitat expansion.

SeaWorld deeply appreciates the thorough and comprehensive Blue World Staff Report dated September 24, 2015. SeaWorld concurs with the Staff Recommendation of approval and conditions.

SeaWorld, however, disagrees with the Staff Report conclusions on federal pre-emption and Coastal Act section 30411 regarding regulation of marine mammal collections.

Federal Pre-Emption

As indicated in my letters to you dated April 13, 2015 and August 21, 2015, the federal Marine Mammal Protection Act includes an express pre-emption provision related to the "take" of marine mammals. (16 U.S.C. 1379(a) This pre-emption is discussed on page 15 of the Staff Report. However, the Staff Report analysis fails to cite and discuss the federal regulatory definition of "take."

The Code of Federal Regulations implementing the Marine Mammal Protection Act defines "take" to include "the restraint or detention of a marine mammal . . ." (50 CFR 216.3) There is no doubt that marine mammal exhibits and displays are a restraint or detention. As a result, the exhibition of marine mammals is a take under the exclusive jurisdiction of federal agencies. The Coastal Commission, therefore, has no jurisdiction over SeaWorld's marine mammal exhibits.

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California Coastal Commission
October 1, 2015
Page 2

Duane Morris

Fish and Game Commission Jurisdiction

We also disagree with the Staff Report conclusions regarding Coastal Act section 30411. As indicated on page 16 of the Staff Report, this section prohibits the Coastal Commission from imposing controls that duplicate or exceed regulatory controls promulgated by the California Department of Fish and Wildlife. The Staff Report notes that CDFW has not promulgated any controls regarding marine mammals. This is because the federal agencies have not delegated such authority to CDFW. However, the Staff Report erroneously concludes that because CDFW has not established any controls, the Coastal Commission may.

The Staff Report's conclusion simply misreads Coastal Act section 30411. That section is clear that the Coastal Commission may not exceed regulatory controls established by CDFW. If CDFW has not established any controls, then the Coastal Commission may not either. Because CDFW has established no controls, any Coastal Commission attempt to do so would exceed what CDFW has done.

Conclusion

The purpose of this letter is simply to express disagreement with portions of the Staff Report legal analysis. However, as indicated in this letter and other correspondence from SeaWorld, SeaWorld supports the Staff Recommendations and conditions as set forth in the Staff Report.

Very truly yours,



David E. Watson

DEW:DEW
DM2/6193779.1

Enclosure

cc: John Reilly
Darlene Walter
Corrine Brindley
Charles Lester
Sherilyn Sarb

October 1, 2015

VIA ELECTRONIC MAIL

Th 14A

Mr. Steve Kinsey, Chair, and
Members of the California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Request to Approve Blue World Orca Habitat CDP Application 6-15-0424

Dear Chair Kinsey and Members of the Coastal Commission:

SeaWorld San Diego respectfully requests your approval of its application for a coastal development permit (“CDP”) for our Blue World Orca habitat expansion as recommended in Coastal Commission Staff Report dated September 24, 2015 (“Staff Report”). SeaWorld concurs with the recommendation and conditions as set forth in the Staff Report.

Support Staff Recommendation

We would like to thank your staff for the thoughtful, thorough and comprehensive consideration of our CDP application. In particular, we would like to commend your staff for its willingness to communicate and negotiate on issues related to protection of coastal wildlife. Although we have continuing disagreements with staff over legal analysis related to Coastal Commission jurisdiction over our marine mammal collection, protecting marine resources has always been a top SeaWorld priority. To reflect that environmental priority, we amended our application to reiterate our commitment to the Virgin Pledge against taking cetaceans from the wild as stated in our Addendum to the Blue World Project Description dated September 21, 2015, as well as proposed Special Condition No. 1 in the Staff Report.

We hope you will agree with the Staff Report recommendation of approval. After construction, Blue World will be among the largest, most sophisticated killer whale habitats in the world.

Habitat Capacity

There has been a great deal of public comment, and frankly a significant amount of misinformation, about Blue World's possible population capacity.

This focus on capacity is a misguided attempt to detract from Blue World's true purpose: a larger, improved, more dynamic habitat –not an increase in the number of killer whales.

The Staff Report uses only federal minimum water volume and surface area requirements to estimate Blue World's killer whale population. As a result, the Staff Report analysis considers only one small part of the requirements for proper care and maintenance of our killer whale population. The project includes filtration and other water treatment components needed to ensure a healthy water environment. Based on SeaWorld's decades of experience maintaining marine environment water quality and clarity, Blue World and its supporting infrastructure would establish an upper limit somewhere between a total of 15 and 20 killer whales. This number is far below the numbers set forth in the Staff Report, which analyzes only federal regulatory water volumes.

In the unlikely event that the facility were required to house more animals, further support facilities and modifications would be required and would be part of a future CDP application process. This application and review requirement applies to every SeaWorld capital improvement project. As a result, the killer whale population of Blue World could never exceed the amount listed above without further Coastal Commission review and approval.

Sustainable Incremental Growth

In addition to the support infrastructure capacity limits, the history of SeaWorld's killer whale population demonstrates a pattern of measured, incremental sustainable growth that is dependent on many factors beyond simple capacity. When the Coastal Commission certified the SeaWorld Master Plan in 2002, the killer whale population was 10. The current population is 11. This slow, incremental growth results from both a careful, well managed propagation program, as well as the infrastructure limitations on the existing facility.

SeaWorld's propagation program is based on the fact that breeding is a natural and important part of an animal's life. It is a sign they are socially compatible, in good health and thriving. Likewise, offspring are significant and enriching to groups of animals, especially for species that depend on extensive social contact and cooperation. Due to long gestation and nursing periods, killer whale populations do not grow rapidly. In fact, the SeaWorld killer whale population, spread throughout four parks, has grown only about 3 percent per year over the last 15 years. In SeaWorld San Diego, that would equate to about one killer whale every 5 years. Because we continue to honor our more than 35 year-old practice and commitment to not capture new animals from the wild, it is not biologically possible for this growth rate to substantially rise.

In short, the purpose of Blue World is to provide a dramatically improved, larger environment for the killer whales – not a significant increase in their number.

Purpose of Enlarged Environment

SeaWorld has cared for killer whales for nearly 50 years. During that time, we have enlarged and advanced their habitats several times. Today our habitats are among the largest in the world, and this expanded facility will continue to evolve and enhance our care and will help advance global understanding of these animals.

The enlarged environment will provide killer whales with even more dynamic opportunities. It will support the whales' broad range of behaviors and provide choices that can challenge them both physically and mentally. Educational graphics and theming will provide guest information and educate the public on the research benefits that help further the preservation and conservation of killer whales in the wild. The new environment will allow for increased engagement with experts through new experiences and interactive programs. The environment will enhance the educational experience for guests, foster deeper knowledge of killer whales and their ocean environment, and inspire guests to celebrate and conserve the natural world.

Compliance with all Master Plan and EIR Requirements

The Blue World habitat is fully consistent with all requirements of the SeaWorld Master Plan, which was certified by the Coastal Commission on February 7, 2002, and adopted by the San Diego City Council for effective certification July 9, 2002. The SeaWorld Master Plan contains a detailed list of Theme Park facilities, including stadium animal show facilities, marine aquariums, themed animal exhibits and interactive immersive animal experiences. As an expanded aquarium, animal exhibit and interactive immersive animal experience, the new Blue World habitat is fully consistent with the Master Plan's allowed Theme Park uses.

The Master Plan contemplates that all areas of SeaWorld may be subject to renovation and updates and emphasizes multiple development scenarios and flexible development options for the entire SeaWorld site. The Master Plan states that SeaWorld annually processes numerous projects to upgrade park facilities and keep attractions in top working order. Additionally, the Master Plan provides that SeaWorld may regularly undertake renovations of its larger attractions, rides, shows or exhibits.

To facilitate and regulate these flexible development options, renovations and upgrades, the Master Plan contains Development Criteria and Design Guidelines applicable to the entire leasehold. The Blue World project complies with all Master Plan Development Criteria and Design Guidelines.

Mr. Steve Kinsey, Chair, and
Members of the California Coastal Commission
October 1, 2015
Page 4

All potential environmental impacts for any future projects, including aquarium pool construction, consistent with the Master Plan uses, Development Criteria and Design Guidelines were analyzed in the Environmental Impact Report prepared for the SeaWorld Master Plan. The proposed Blue World habitat expansion is consistent with the Master Plan allowed uses and the Master Plan Development Criteria and Design Guidelines. As a result all project impacts were analyzed in the previously certified Master Plan EIR.

The project will not be visible outside the leasehold and no structures will exceed 30' in height. The park's private storm water treatment facility will capture and treat 100 percent of storm water, and the habitat's entire footprint is entirely within the Theme Park area and will not encroach into or affect any other area of the Master Plan. In addition, the new habitat is a significant distance from the closed underground Mission Bay Park landfill. The Coastal Commission previously has approved paved parking over the portion of the landfill within the SeaWorld leasehold and this project will not disturb that parking area.

The Best of Care

SeaWorld is proud of its care and wellbeing of its marine mammal collection. Our efforts in this regard are compliant with all regulatory requirements of the National Oceanic and Atmospheric Administration Fisheries, the U.S. Fish and Wildlife Service and the USDA Animal Plant Health Inspection Services, the federal agencies responsible for regulating exhibition and public display of marine mammals pursuant to the federal Animal Welfare Act and the federal Marine Mammal Protection Act. SeaWorld also is accredited by the American Zoo and Aquarium Association and the Alliance of Marine Mammal Parks and Aquariums.

We look forward to Coastal Commission approval of this exciting project on October 8.

Very truly yours,



John Reilly, President

cc: Charles Lester
Sherilyn Sarb
Alexander Llerandi

October 1, 2015

VIA ELECTRONIC MAIL

Th 14A

Mr. Steve Kinsey, Chair, and
Members of the California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: SeaWorld Breeding: CDP Application 6-15-0424

Dear Chair Kinsey and Members of the Coastal Commission:

Due to groundbreaking research and decades of work with killer whales, SeaWorld's population of whales has been successfully producing healthy offspring for 30 years. The success of this program has made it possible for SeaWorld to care for and display killer whales to the public without collecting a killer whale from the wild in more than 35 years. The continued success of this program depends on the park's ongoing research and understanding of killer whale reproduction, respect for their social structure and adherence to internationally recognized zoological standards.

All SeaWorld's breeding programs follow zoological best practices and philosophies to ensure the sustainability of a healthy population. These practices are founded on the fundamental concept that long term population health is best maintained when the genetic diversity of the population is maintained across generations of animals. For most species currently housed in zoological facilities, the only means to maintain this diversity is to move animals between populations in order to ensure that their genetic representation is adequate within the overall population. Priority is therefore placed towards reproducing from male or female animals which have fewer genes in common with the rest of the population.

The recommendations for these "matches" are made by species-specific taxon advisory groups within the Association of Zoos and Aquariums (AZA). These breeding recommendations requiring movement of animals from one facility to another are not without risk and for some species, like killer whales, they may involve the disruption of social groups. As a result, SeaWorld invested heavily into the science of reproductive physiology in an effort to develop the same tools that had been commonly used with domestic species and humans for the last 40 to 50 years – namely gamete preservation and artificial insemination.

Mr. Steve Kinsey, Chair, and
Members of the California Coastal Commission
October 1, 2015
Page 2

Since the research program started in the late 1980s, great progress has been made in our understanding of marine animal reproductive biology, and such knowledge resulted in SeaWorld becoming the first organization to successfully develop artificial insemination in marine animals including four cetacean species and two marine bird species. The first of these successes, a killer whale named Nakai, was born at SeaWorld San Diego in 2001. While these assisted breeding tools are not always required, their development has now allowed SeaWorld to maintain maximum genetic diversity without the need to move animals simply for the purpose of breeding.

The efforts of SeaWorld's reproductive research program centered at SeaWorld San Diego in the Reproductive Research Center now includes collaborations with zoological facilities around the world, to study the biology and develop assisted breeding tools in multiple threatened and non-threatened land and marine species. Such zoological research, which allows characterization and monitoring of a species' biology, allows us to establish normal baselines of reproductive and perinatal health, which in turn can inform and enhance wild population management decisions and ultimately contribute to species conservation.

Breeding is a natural and important part of an animal's life. It is a sign that they are socially compatible, in good health and thriving. Likewise, offspring are significant and enriching to groups of animals, especially for species that depend on extensive social contact and cooperation. Due to long gestation and nursing periods, cetacean populations do not grow rapidly. In fact, the SeaWorld killer whale population, spread throughout 4 parks, has only grown by ~ 3% per year over the last 15 years and since we continue to honor our 35+ year practice and commitment to not capture new animals from the wild, it is not biologically possible for this growth rate to substantially rise. Our goal is to continue efforts toward maintaining a healthy sustainable population and, as technologies evolve and become available, to continue to enhance and innovate our habitats and zoological practices in order to provide the healthiest killer whale environment possible.

Very truly yours,



Dr. Hendrik Nollens
Sr. Staff Veterinarian



August 21, 2015

Mr. Alexander Llerandi
Coastal Program Analyst
California Coastal Commission
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Mr. Llerandi,

When SeaWorld opened in 1964 the founders were committed to three principles: Education, Conservation and Entertainment. Their goal was to provide a mix of marine life entertainment and education to Southern California residents, many whom had never seen a dolphin, sea lion or exotic fish before.

The Mission Bay Research Center (now Hubbs-SeaWorld Research Institute) was founded one year earlier, in 1963, because the founders knew they wanted to establish a research arm that would study the park's collection to help preserve animals in the wild.

SeaWorld opened with 45 employees on 22 acres. Today, through responsible, regulated growth, SeaWorld occupies 190 acres and employs more than 4,000 San Diegans. The park has remained successful through innovation, evolution and deliberate, focused attention on providing the best animal care in the world.

Education. SeaWorld's formal education program began in 1973. To date more than 9 million participants have attended in-park field trips, day camp, resident camp, sleepovers, school assemblies, and guided tours. The programs serve approximately 130,000 students and teachers each year by providing award-winning education programs that include structured teaching and informal learning experiences. The park's Instructional Field Trip program is a not-for-profit program that currently costs \$6 per student

Conservation. SeaWorld's commitment to conservation extends to the environment beyond the park's borders. Recycling, environmental awareness, water conservation, and the elimination of polystyrene and plastic bags are just a few of the park's green initiatives. Since 1996 the park has received San Diego's Recycler of the Year or Director's award 19 times and is a 10-time recipient of the prestigious State of California Waste Reduction Awards program. SeaWorld takes an aggressive stance on water conservation, implementing policies that ensure the park uses the least amount of water necessary and making the most of the water it does use. A new saltwater flushing restroom will save an estimated 1.3 million gallons of freshwater a year, and a second saltwater restroom facility is planned as part of the Blue World Project.

Animal Rescue. Since 1965, SeaWorld San Diego has rescued more than 15,000 marine mammals and birds. In 2015 the park rescued a record number of California sea lions as a result of an

Unusual Mortality Event (UME) that caused juvenile sea lions to strand on beaches along the central and southern California coastline. SeaWorld took care of more than 900 sea lions, the majority of which were part of the UME. The park is part of the West Coast Marine Mammal Stranding Network, which is organized by the National Marine Fisheries Service (NMFS). The public, lifeguards and other individuals report strandings to SeaWorld's rescue hotline and team members respond, using guidelines governed by NMFS. Once rescued, animals are nursed back to health and, whenever possible, returned to the wild. If an animal is deemed not releasable, NMFS determines whether the animal is to remain at SeaWorld or to be cared for at another facility.

To care for stranded animals, SeaWorld San Diego is equipped with a state-of-the-art medical facility, which houses a laboratory with the latest diagnostic equipment, antibiotics, intravenous fluids and other medications; two surgical suites, which contain custom surgery tables, X-ray, ultrasound, endoscopy and anesthesia equipment; a food preparation room, where special diets for rehabilitated animals are prepared; and recovery areas, including pools and enclosures, tailored to meet the specific needs of each rehabilitating animal.

Park guests can learn about SeaWorld's rescue program by visiting the Rescue Plaza near Shamu Stadium, where video screens play footage of marine mammals, sea birds and turtles that were given a second chance at life.

Research. Research is a key component of SeaWorld's larger commitment to conservation and animal welfare. This commitment includes publishing our own scientific papers, sharing our park and animals with scientists as a controlled research environment, and funding and supporting conservation projects around the world.

Our park provides a unique environment for our team to partner with outside researchers to better understand marine mammals. SeaWorld's animal health professionals contribute meaningful science learned through the care of the park's animal collection. Additionally, our professionals are deeply integrated with universities and research organizations, and provide access to our animals for scientists conducting studies on a variety of subjects.

The animal health team and scientists of SeaWorld Parks & Entertainment have contributed to more than 300 published studies that advance the global scientific community's understanding of animals and led to advances in the care of animals both in zoological facilities and the wild. Typical studies include: Isotope turnover rates in bottlenose dolphins, Husbandry and hand-rearing of a rehabilitating California gray whale calf, Comparisons of life-history parameters between free-ranging and captive killer whale populations and more.

Recently SeaWorld and the National Fish and Wildlife Foundation (NFWF) announced the creation of two initiatives to aid animals in the wild. SeaWorld pledged \$1.5 million over three years for a Killer Whale Research and Conservation Program to study the endangered Southern Resident pod of killer whales in the Pacific Northwest. More recently SeaWorld pledged \$1.5 million over three years for the Ocean Health Initiative, a marine conservation program designed to protect and restore coastal and marine habitats across the country.

Animal Care Standards. At SeaWorld we proudly care for one of the largest animal collections in North America. Our more than 50 years of world-class care and state-of-the-art habitats, and commitment to animal welfare have earned our park recognition as a global leader in the zoological community. Our animals live in safe, sophisticated habitats. More than 300 San Diego team members

are committed to the care of the animals in our facilities. Our advanced programming includes behavioral enrichment, preventive health, veterinary medicine and facilities design and management.

Our programs and policies are regulated by many federal laws, including the federal Animal Welfare Act, federal Endangered Species Act, federal Marine Mammal Protection Act and other comprehensive federal regulations. These regulations cover conservation, management, husbandry/breeding, transportation, housing area, veterinary care, nutrition and sanitation.

The quality of care we provide is further evidenced through the stringent accreditation process of two of the foremost professional zoological organizations to which we belong: The Association of Zoos and Aquariums (AZA) and the Alliance of Marine Mammal Parks & Aquariums (AMMPA). Fewer than 10 percent of the animal exhibitors in the U.S. are AZA accredited. The accreditation process for both these organizations is rigorous, and includes a detailed accreditation application as well as a multiple day on-site inspection by a team of experts from around the country.

In conclusion, through education and encounters with sea life SeaWorld guests become engaged and greater stewards of marine animals and their habitats. Our rescue, research and conservation programs are woven into the fabric of our culture. SeaWorld team members, pass members, students, residents and visitors leave our park inspired by up-close interactions with marine life. We pride ourselves on setting the highest standards for the animals in our care, and we are dedicated to continual improvement guided by the most advanced scientific research and learning. We are stewards of some of nature's most magnificent creatures and have a great responsibility to get it right when it comes to their health and care. No one wants our animals treated more respectfully than we do. They are our family.

Sincerely,

A handwritten signature in black ink, appearing to read "John Reilly". The signature is fluid and cursive, with a large, sweeping initial "J" and a long, trailing flourish at the end.

John Reilly
Park President
SeaWorld San Diego



August 24, 2015

Mr. Alexander Llerandi
Coastal Program Analyst
California Coastal Commission
San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Mr. Llerandi,

SeaWorld has been a global leader in marine animal care and welfare, education, conservation, research and rescue for more than five decades. This letter is intended to provide you with correct and accurate information based on fact and science, first-hand knowledge and more than 50 years of experience and passion working with these magnificent animals.

Life Expectancy: Our killer whales live full, active and healthy lives. They live as long as their counterparts in the wild. A new peer-reviewed study published in the *Journal of Mammalogy* found no difference in life expectancy between killer whales born at SeaWorld and a well-studied population of wild killer whales. The results demonstrate that killer whales in human care have similar life expectancies to those in the wild.

Breeding: Breeding is a normal, healthy interaction within animal groups, and because of the healthy living environment for our animals, they regularly engage in breeding behavior. Animals are normally reluctant to engage in such behavior when they are under stressful conditions. Not allowing our killer whales to breed would be inhumane. SeaWorld, and other accredited zoological organizations, have established robust breeding programs to ensure a diverse, sustainable and ongoing population for species, including killer whales. These breeding programs often involve multiple zoological facilities. While artificial insemination is part of our breeding program, the animals routinely engage in natural breeding behavior. Reproduction programs provide invaluable knowledge concerning normal reproductive patterns of this species. Researchers are able to study and understand the physiology of the animals that can lead to future conservation for wild species. It is a natural part of life for these animals to breed, produce and raise offspring which is beneficial to the ongoing and ever evolving social structure of the group. We currently have three generations of killer whales that are a vibrant part of our social group of 11 killer whales living at the park. In fact, Amaya, the most recent addition to our killer whale family born at in December 2014, is healthy, thriving, and socially engaged with the other killer whales at SeaWorld.

Collection: SeaWorld has not collected a killer whale from the wild in more than 35 years. The vast majority of our whales were born at our parks or in other zoological facilities. To reinforce our commitment, last year we signed the Virgin Unite pledge that cetaceans taken from the wild will not enter our collection.

Separation: We do not separate killer whale calves from their mothers. Having cared for marine mammals for more than 50 years, we fully understand the importance of keeping mothers together with their dependent calves. Mothers provide the support and nutrition calves need and we would not interfere with that unless the mother or calf's life was in danger. Here at our park, we currently have three generations of killer whales living and thriving together in the same social group.

Sea Pens: Sea pens would have severe negative consequences for our killer whales. Sea pens are nothing more than sea cages. Considering that 80 percent of our killer whales were born in human care, they would stand little chance of survival in an ocean environment. They would be subject to natural and weather related hazards, and an ocean that has become increasingly more perilous due to man-made threats. Animals living in sea cages can be exposed to contagious and potentially deadly diseases, as well as ocean pollution including industrial contaminants. The Southern Resident killer whales in the Pacific Northwest are now endangered, and industrial pollution is one of the major factors contributing to their decline. In its report on the issue, NOAA noted they are "among the most contaminated marine mammals. Man-made disasters -- like the recent Santa Barbara oil spill or the BP oil spill, only heighten the risks to these animals. If an oil spill made it into a sea cage, it would likely kill the whales. Destructive weather has already been known to have severely damaged or destroyed coastal sea cages in the past. Extreme noise is also inherent in such a large, complex enclosure, which was a significant issue in the sea cage near Iceland that housed Keiko, the whale made famous in "Free Willy." When it comes to the health and wellbeing of our killer whales, the habitats in our park have already demonstrated to be far better living environments than any proposed sea cage could ever be. We owe our killer whales the highest possible level of care and quality of life, and sending them off to an unfamiliar and dangerous existence in a sea cage would be unfair, inhumane and something we would never consider.

Dorsal Fin: The shape of the killer whale's dorsal fin is not an indication of the animal's overall health, and in fact there are scientifically documented reports of killer whales in wild populations with bent dorsal fins. The dorsal fin is a structure like the human ear and is comprised of similar material. There are no bones in the dorsal fins. Our killer whales spend much of their time at or near the surface of the water. A tall dorsal fin, without bone, can slowly bend over time. SeaWorld has killer whales with both bent and straight dorsal fins.

Teeth: Decades of observation have shown that killer whales, like all toothed whales and dolphins, develop worn teeth, regardless of whether they are in the wild or a zoological facility. Killer whales explore and manipulate their environment with their mouth. Unlike wild killer whales, we have a team of veterinarians that provide our killer whales comprehensive dental care to prevent health issues related to teeth. Interestingly, tooth wear is actually part of the Latin species name of the bottlenose dolphin, *Tursiops truncatus*. "Truncatus" is a reference to worn, or truncated, teeth.

Positive Training: We only use positive reinforcement training techniques with all of our animals, including killer whales. We request a behavior and if the animal responds appropriately, they are reinforced with a reward which could come in the form of fish, a back scratch, a bucket of ice, a play toy or even gelatin. If any of our animals choose not to respond, we literally do nothing. There is never a negative response nor is there any form of punishment. For all the animals, interactions with their

trainers are fun, rewarding and enriching experiences. It's also important to know that the primary importance of training is related to our husbandry (health) program. Training allows the animals to participate in their own health care.

High Quality Food: All of our killer whales receive their full diet every day. For example, a 5,000-pound killer whale could eat as much as 175 pounds of fish in one day. This seafood is caught specifically for places like SeaWorld, so we can always maintain the highest standards. In addition, we follow the rigorous USDA guidelines governing how the fish are delivered, thawed and prepared.

Stress: All animals, no matter where they live, can experience varying levels of stress. The animals at SeaWorld don't face many of the factors that cause stress in the wild. The animals in our care are well adapted to their environment, receive the highest quality care and enrichment, and continue to thrive. Routine medical exams also consistently demonstrate that our animals are not stressed.

Aggression: The animals at SeaWorld exhibit the same types of behavior as their counterparts in the wild. Many marine mammals, including killer whales, live in social groups where they demonstrate their position in the social hierarchy. This includes physical contact like mouthing and raking. It is not scientifically accurate to refer to such interactions as aggression, rather they are normal displays found in wild and zoological social groups. Instances of aggression are rare and rarely serious.

All of us at SeaWorld feel very strongly that maintaining and conserving marine mammals and animals in a park like ours is extremely important. It is and has always been our philosophy, as it is with the entire zoological community, that firsthand experience with animals is the finest way possible to create a lasting appreciation and respect for them. But with that comes the obligation to provide these animals, who are ambassadors for their species in the wild, the best care possible. There is no organization in the world more committed to the physical, social and mental welfare of its animals, including killer whales, than we are. This is an obligation we take very seriously and all of our trainers, animal care staff and veterinarians are tremendously passionate in caring for our animals.

The truth is that our killer whales live happy and healthy lives, and thrive in our care. We are very proud of what we do and will continue to provide the inspirational and educational experience that has done so much in the last five decades to advance and enhance the appreciation for marine mammals around the world.

Sincerely,

A handwritten signature in black ink that reads "John Reilly". The signature is written in a cursive, flowing style with a large, prominent loop at the end of the name.

John Reilly
Park President
SeaWorld San Diego

Blue World Habitat Expansion

SeaWorld San Diego

CDP Application No. 6-15-0424



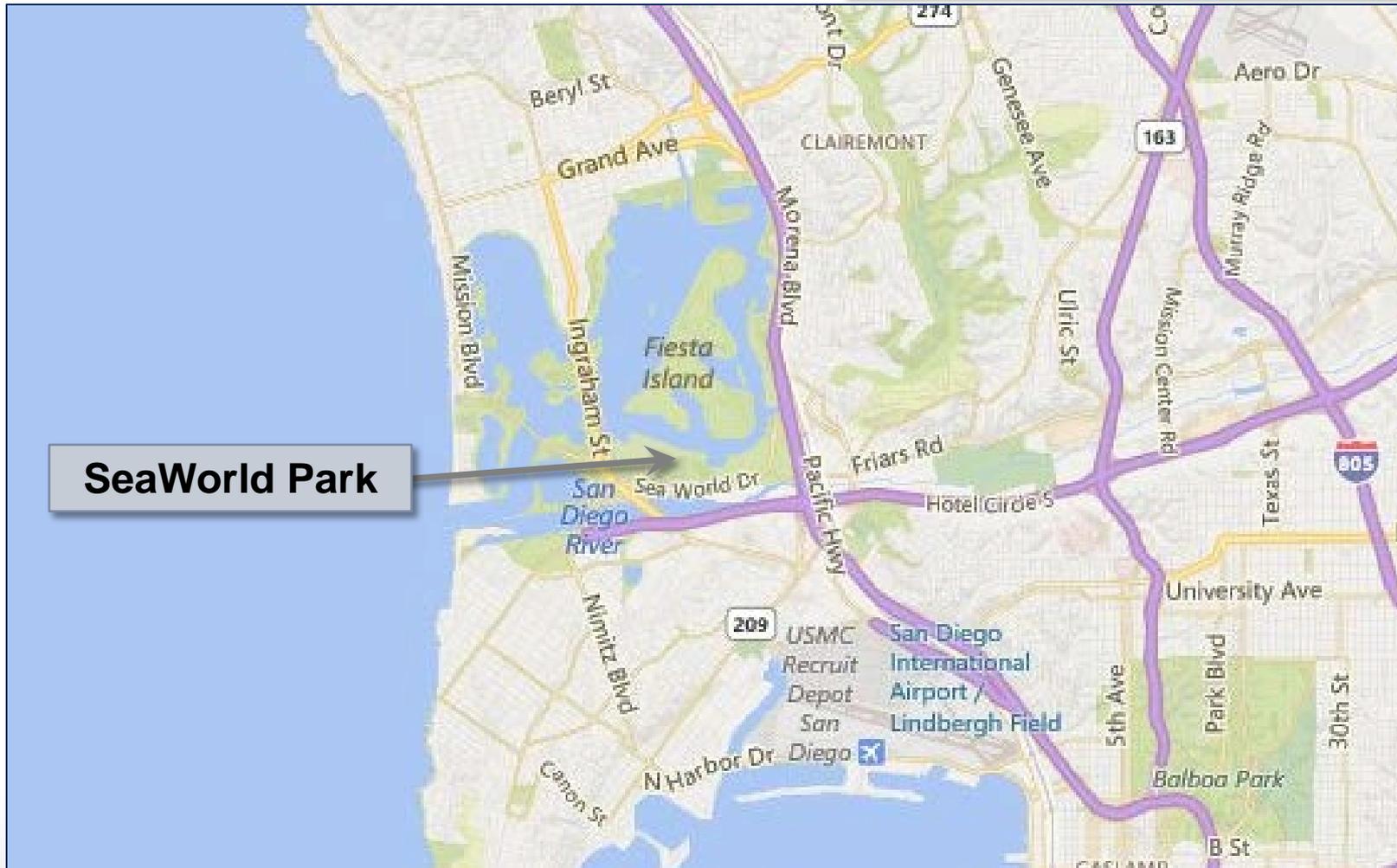
CCC Hearing
October 8, 2015
Item Th14a



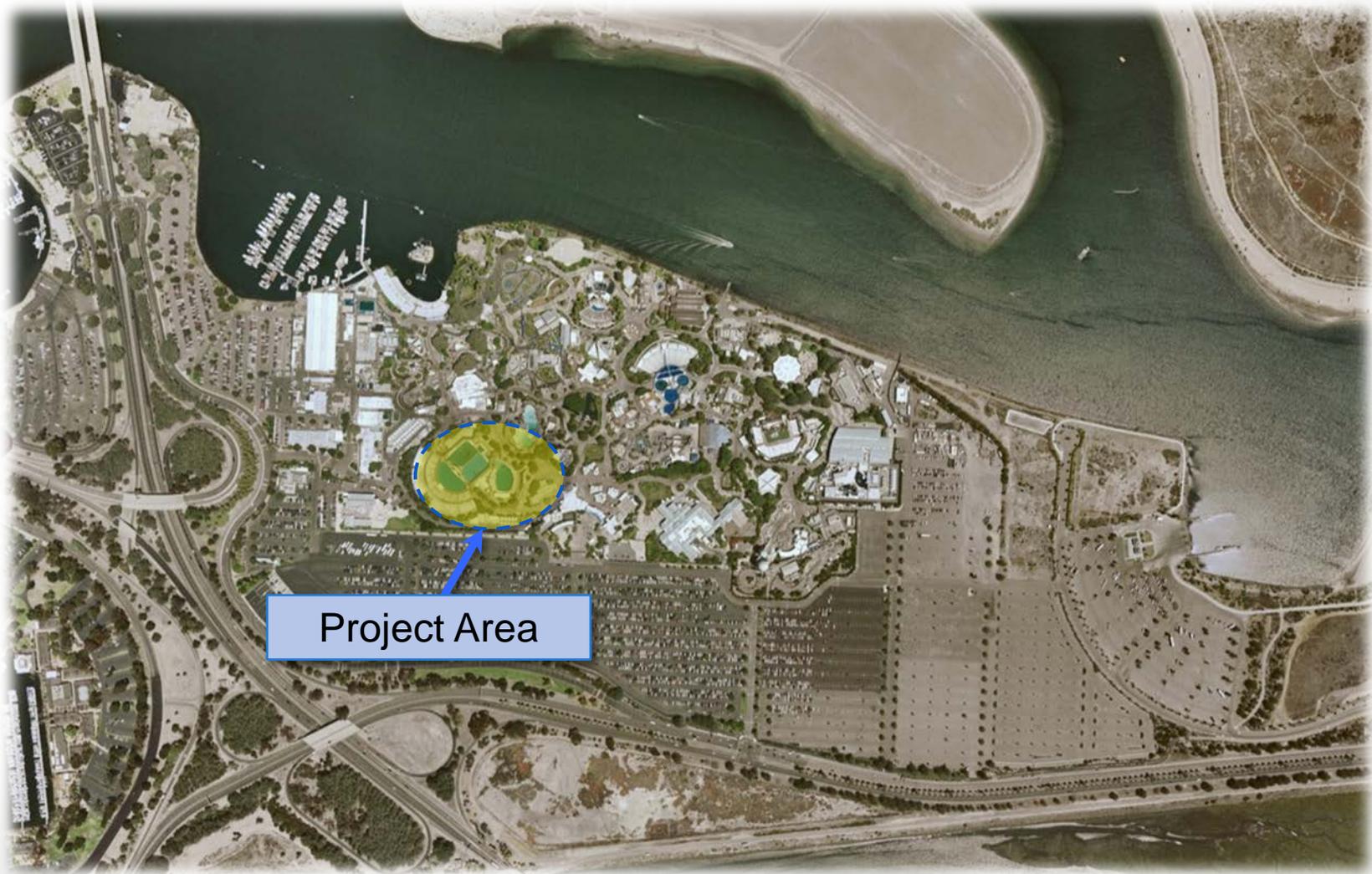
Copy of these briefing materials has been provided to CCC Staff

Location

500 SeaWorld Drive, Mission Bay,
City of San Diego



SeaWorld Park Overview



Why Blue World

- Benefits to whales
 - Dramatically larger, adaptable environment
 - Natural environments that feature rocks, plant life and varied depths
 - Fast water currents where whales play
 - Dynamic enrichment for physical and mental challenges
- Benefits to visitors
 - Multi-level, expansive viewing gallery
 - Educational experience deepens appreciation and understanding
 - Live sessions with zoological team members
 - Physical interactive learning experiences
 - Guest engagement zone to learn how to protect oceans around the world
- Benefits to research
 - Independent scientists collaborating
 - Facility provides unique access for study
 - Scientific study helps whales at SeaWorld and in the wild

Blue World Conservation

- **\$10 million in matching funds** for research focused on threats to wild orcas
 - National Oceanic and Atmospheric Administration (NOAA) to identify threats for research guidance
- **Independent Advisory Panel** providing expertise to:
 - Maximize health and wellbeing of the animals
 - Advise on research projects to foster scientific and academic partnerships (including contributions from UC Davis, UC Santa Cruz and UC San Diego)



Orca Habitat Background

- **May 1971:** First orca habitat expansion opens
- **June 1987:** Opening of existing orca habitat
(*CDP # 6-86-2*)
- **May 1995:** Certification of Mission Bay Park LUP
- **May 1996:** Expansion of existing orca habitat
(*CDP # 6-95-013*)
- **Feb. 2002:** **CCC Certification of SeaWorld Master Plan**
(*Mission Bay Park/San Diego LUPA*)
- **July 2002:** City adoption of SeaWorld Master Plan
- **Jan. 2015:** Mission Bay Park Committee review of Blue World Project (orca habitat expansion)
- **April 2015:** Submittal of Blue World CDP application
- **Oct. 2015:** CCC consideration of Blue World CDP

Orcas in SeaWorld's Care

- **Life Expectancy** – Peer reviewed study found no difference in life expectancy between SeaWorld born orcas and those born in the wild.
- **Family Units** – Three generations of orcas currently reside at Shamu Stadium.
- **Breeding** – Breeding and reproduction demonstrate healthy, thriving animal social interaction. SeaWorld's orcas regularly engage in normal breeding behavior and successful reproduction. Raising offspring is enriching for the social structure of orcas.
- **Collection** – SeaWorld has not collected an orca from the wild in more than 35 years.
- **Food Quality** – All SeaWorld animals receive their full diet every day. The highest standards of restaurant quality fish is maintained.



The Virgin Pledge



(Facility name) _____

Is committed to the protection and conservation of oceans for future generations. Except when necessitated by the needs of rehabilitation*, rescue** or support for endangered species***, this facility pledges to never take receipt of cetacea including whales and dolphins that were taken from the wild after 14th February 2014.

REHABILITATION*

Many facilities play an important role in the care and rehabilitation of injured animals. In the case of animals that are taken into care in the event of injury, stranding or any other natural or man-made disaster, the primary intention should always be to rehabilitate and release.

RESCUE**

A rescue refers to an animal that has been deemed non-releasable by relevant government authorities.

SUPPORT FOR ENDANGERED SPECIES***

(Or equivalent status within differing international frameworks)

The role of facilities in supporting on-going conservation programmes is recognised. Ex situ conservation initiatives (captive breeding programmes of certain species) are therefore exempt, assuming that;

- A) the initiative is deemed necessary by relevant authorities e.g. at the request of government, published species action plan or at the recommendation of authoritative bodies such as IUCN
- B) it is as a complementary (and not as an alternative) approach to in-situ conservation (programmes that take place in the species natural habitat)

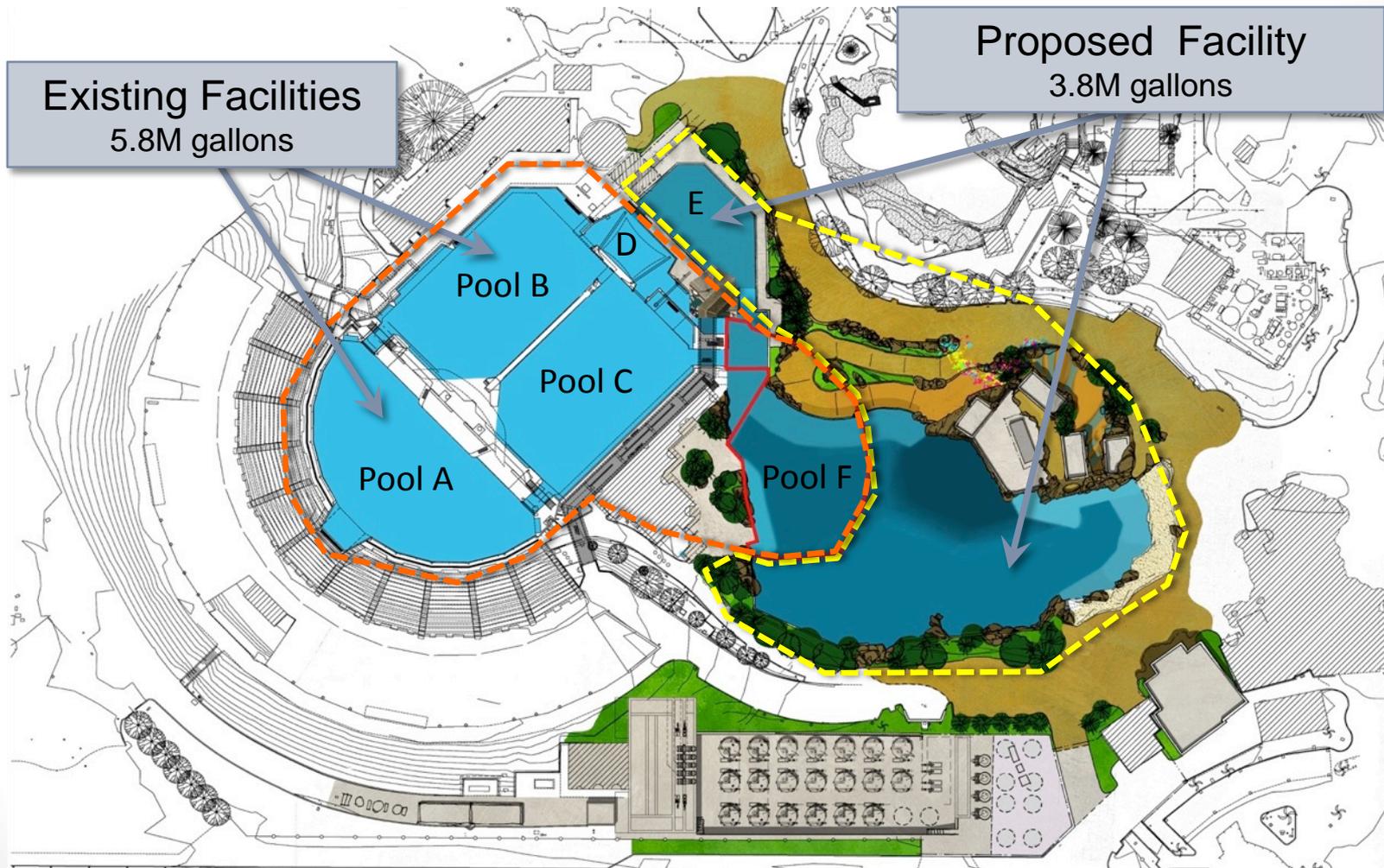
Signed _____

Name _____

Position _____

Date _____

Total Project Area – 9.6M Gallons



Blue World Project Description

Expansion of existing orca habitat with new marine aquarium, themed exhibit and immersive orca experience.

Specific project components include:

- Construction of Pool E (Husbandry) - approximately 43 ft. wide and 75 ft. long, containing approx. 450,000 gallons
- Construction of Pool F (Expanded Habitat)- approximately 250 ft. wide and 350 ft. long, containing approx. 5.2 million gallons
- Habitat depth of 50 ft.
- Removal of existing restroom (5,500 sq. ft.) and replacement with new saltwater flush restroom (2,900 sq. ft.)

Master Plan Consistency

- SeaWorld Master Plan contains detailed list of facilities, including stadium and animal show areas, aquariums, exhibits, and park infrastructure
- Master Plan provides specific developmental guidelines
- Master Plan contemplates all areas subject to renovation and emphasizes flexible development options
- All potential environmental impacts for proposed project analyzed in certified Master Plan EIR

***Blue World Project Fully Consistent with
CCC Certified SeaWorld Master Plan***

Master Plan Consistency *(cont.)*

Project fully complies with Master Plan Development Criteria and Design Guidelines as follows:

- ✓ ***Project not visible outside of existing site***
- ✓ ***Blue World footprint lies within designated Theme Park area and will not encroach into or affect any other designated use area***
- ✓ ***All structures are below 30 ft. height***
- ✓ ***Complies with all parking requirements***

Coastal Act Consistency

Project consistent with all Chapter 3 Coastal Resources Planning and Management Policies

- **Article 2 Public Access:** Project does not impact public access and recreation
- **Article 3 Recreation:** Project enhances and expands public recreation activities within SeaWorld
- **Article 4 Marine Environment:** Project is fully land based and has no impact on coastal marine resources. Project controls water runoff, protects biological productivity and water quality
- **Article 5 Land Resources:** Project fully complies with all requirements of Mission Bay Park Plan Update (LCP) and SeaWorld Master Plan for protection of environmentally sensitive resources
- **Article 6 Development:** Project complies with all Development Criteria and Design Guidelines of the SeaWorld Master Plan

Arrival View



Walk With The Whales



Deep Water View



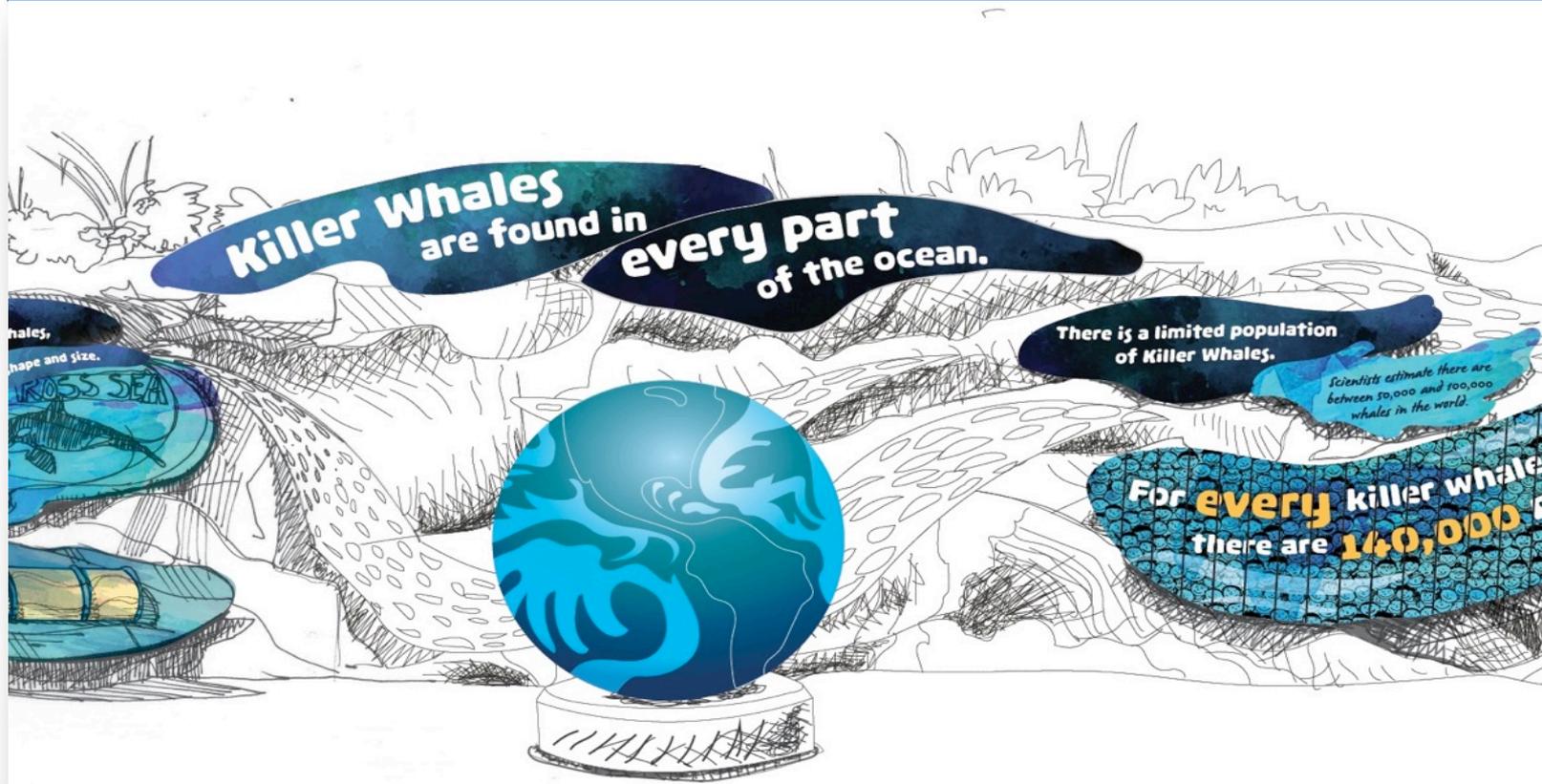
Research Enhancements

- Fast current
- Hydrophone
- Research tech - cameras



Inspire, Educate, Conserve

Blue World Focuses on Education and Science



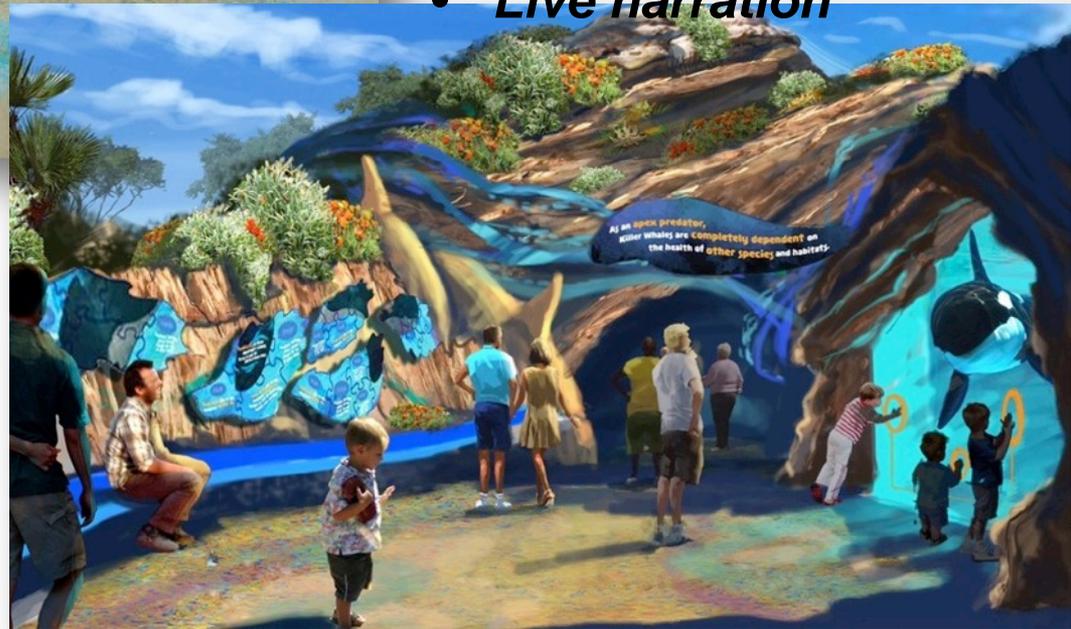
Sample Mural

Discovery Opportunities



- *Educational messaging*
- *Live narration*

- *Conservation facts*
- *Interactive exhibits*



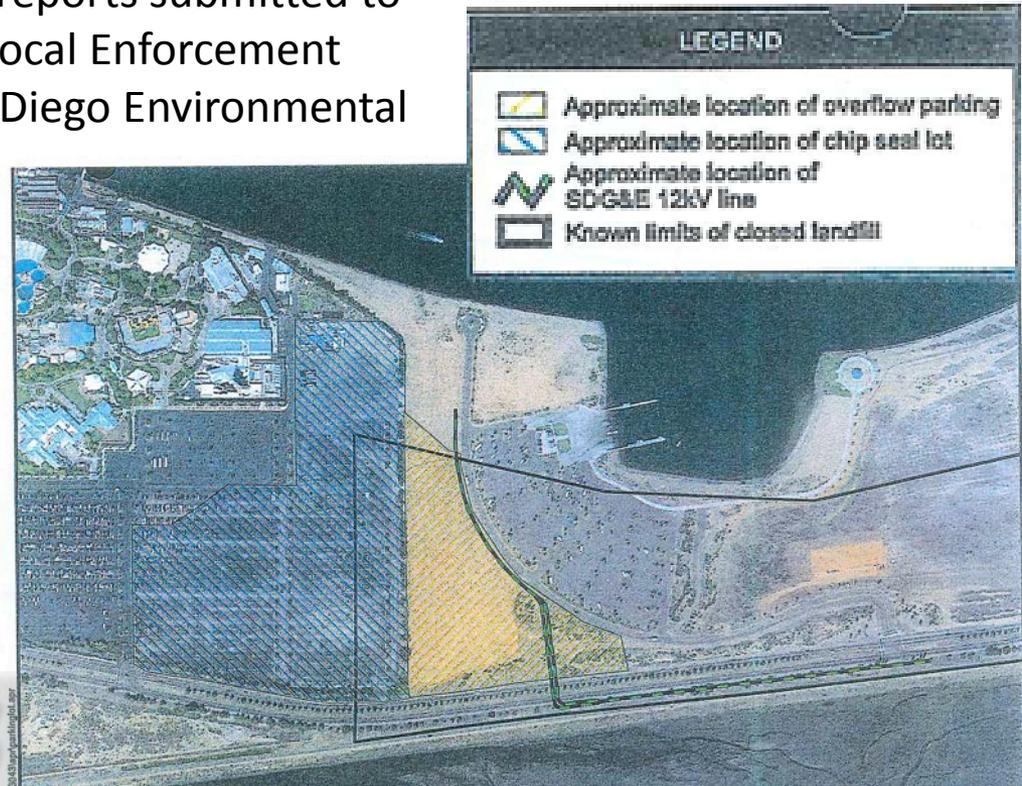
Landfill

- Blue World project located 1,700 ft. from known limits of inactive landfill
- Semi-annual testing shows no detectable contamination within 1,000 ft. of landfill
 - Landfill Gas Monitoring reports submitted to City of San Diego LEA (Local Enforcement Agency) and City of San Diego Environmental Services Dept.

“As the proposed orca facility is even further away from the historic landfill than the splashdown ride, it is even less likely that the landfill or groundwater contaminated by the landfill has migrated under or adjacent to the project site.”

Staff Report, p. 35

← Blue World site
(approx. 1,700 ft.)



Staff Report Findings

Public Access

- No parking impacts; adequate on-site parking available
- Existing public access to and around SeaWorld unaffected by project

“The proposed development will be located entirely within the private leasehold, approximately 1,100 feet from the shoreline, and will not encroach into any existing or proposed public accessways.”

Staff Report, p. 25

Public Views

- No impacts to view corridors
- Height will not exceed 30 ft.

“The proposed improvements are substantially below-grade, and the above-grade improvements will be approximately 17 feet in height, and will not be visible from outside of the park leasehold.”

Staff Report, p. 38

Staff Report Findings

Water Quality

- No impacts to Mission Bay by runoff from project site; all stormwater and runoff diverted to existing on-site wastewater treatment plant
- Compliant with RWQCB's testing guidelines and management practices
- Compliant with Federally-issued NPDES permit

“Because SeaWorld has an extensive water treatment system to handle water from both the animal exhibits and surface runoff, which is monitored under a thorough permitting regimen that has identified minimal water quality violations, the proposed development, as conditioned, will not cause adverse impact to the water quality of adjacent Mission Bay.”

Staff Report, p. 31

Marine Mammal Jurisdiction

Federal Statutes and Regs Govern Marine Mammals

- **Animal Welfare Act (AWA)**
 - Licensed Class C Exhibitor
- **Marine Mammal Protection Act (MMPA)**
- **Animal-Plant Health Inspection Service (APHIS)**
 - Management standards
 - Conservation standards
 - Husbandry/breeding standards
 - Transportation standards
 - Housing area standards
 - Veterinary standards
 - Nutrition standards
 - Sanitation standards

To reflect its ongoing efforts to protect the marine environment, SeaWorld amended its Blue World Project application to reiterate its commitment to the Virgin Pledge against taking killer whales from the wild as stated in Special Condition No. 1.

Summary of Blue World Benefits

- Expands and enhances orca habitat
- Educates public and raises awareness of ocean health
- Promotes conservation
- Supports scientific research
- Provides enhanced visitor experience
- Continues responsible use of freshwater resources

“The proposed Blue World project will provide not only an expanded habitat for whales, but also new opportunities for researchers to conduct studies that will benefit killer whales and other cetaceans in the wild... In addition, a dynamic animal environment like Blue World may inspire a host of future marine biologists, veterinarians, and other scientists.”

-Paul J. Ponganis, MD, PhD, Research Physiologist, UC San Diego

Conclusion

SeaWorld supports the staff recommendation and accepts all special conditions.

Blue World is consistent with all applicable Coastal Act policies and certified SeaWorld Master Plan and ensures:

- Preservation of water quality and visual resources
- Protection of marine resources
- Enhancement of public access and recreational uses

For more information on marine mammal care:

<http://ask.seaworldcares.com/>



Project Supporters

Zoological and Animal Welfare Orgs:

- Association of Zoos and Aquariums
- California Association of Zoos and Aquariums
- Florida Association of Zoos and Aquariums
- International Marine Animal Trainers Association
- Alliance of Marine Mammal Parks & Aquariums
- American Humane Association
- Mystic Aquarium
- Cabrillo Marine Aquarium
- Shedd Aquarium
- Texas State Aquarium
- San Diego Oceans Foundation
- Helen Woodward Animal Center

Business Organizations:

- International Association of Amusement Parks and Attractions
- California Chamber of Commerce
- California Attractions and Parks Association
- California Travel Association
- California Retailers Association
- California Hotel and Lodging Association
- San Diego Regional Chamber of Commerce
- San Diego County Restaurant Association
- San Diego Economic Development Corporation
- San Diego County Hotel Motel Association
- San Diego Tourism Authority
- San Diego Tourism Marketing District Corporation
- Chula Vista Chamber of Commerce
- Evan's Hotels
- Mission Bay Lessee's Association
- Local 569 International Brotherhood of Electrical Workers
- UA Local 230 Plumbers and Steamfitters

Local Elected Officials:

- Speaker of the Assembly, Toni Atkins (78th District)
- Senator Marty Block (39th District)
- Mayor Kevin L. Faulconer, City of San Diego
- Mayor Sam Abed, City of Escondido
- Mayor Mary Casillas Salas, City of Chula Vista
- Deputy Mayor Pamela Bensoussan, City of Chula Vista
- Supervisor Ron Roberts, County of San Diego
- Councilmember John McCann, City of Chula Vista
- Councilmember Chris Cate, City of San Diego
- Councilmember Myrtle Cole, City of San Diego
- Councilmember Scott Sherman, City of San Diego
- Councilmember Lorie Zapf, City of San Diego

Veterinarians, Academics, and Researchers:

- Linda J. Lowenstine, DVM, PhD, Professor Emerita, Veterinary Pathology at UC Davis
- Kwane Stewart, DVM., National Director, No Animals Were Harmed[®] program
- Andreas Fahlman, PhD, Texas A&M University Corpus Christi
- Sarah Helman, BVM&S, MRCVS, UCLA Doctoral Student in Wildlife Disease Ecology
- Ted Cranford, PhD, San Diego
- James Peddie, DVM
- Paul J. Ponganis, MD, PhD, University of California, San Diego
- Donald B. Kent, Hubbs-SeaWorld Research Institute

Education & Community Groups:

- MANA de San Diego
- Reality Changers
- Special Olympics Southern California, San Diego County Region
- Mary Ogden, Co-Founder of Spectrum of Science Foundation

In the Matter of:
CALIFORNIA COASTAL COMMISSION

TRANSCRIPT OF PROCEEDINGS

October 08, 2015

Dianne Jones & Associates

Reporting and Videography

P.O. Box 1736
Pacific Palisades, California 90272
310.472.9882

EXHIBIT NO. 16

APPLICATION NO.

6-15-0424

Unofficial Hearing

Transcript



California Coastal Commission

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CALIFORNIA COASTAL COMMISSION

Long Beach Convention & Entertainment Center

Seaside Ballroom

300 East Ocean Boulevard

Long Beach, CA 90802

October 8, 2015

TRANSCRIPT OF PROCEEDINGS

Item 14(a): Application No. 6-15-0424 (SeaWorld Orca Enclosure Expansion, San Diego) Application of SeaWorld San Diego to replace and expand existing Orca enclosure with new 450,000 gallon and 5.2 million gallon pools and construct new restroom facilities, at 500 SeaWorld Dr., San Diego, San Diego County. (AL-SD)

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1	INDEX		CHAIR KINSEY: We're about to begin a very
2	EX PARTES		2 important agenda item. And I know there's
3	COMMISSIONER LUVÉANO	25	3 tremendous interest on all sides of the activity
	COMMISSIONER SHALLENBERGER	27	4 we're going to enter into right now for the next
	COMMISSIONER GROOM	32	5 number of hours, so this is going to be an extended
4	COMMISSIONER HOWELL	34	6 period of time, and it's going to require all of us
	COMMISSIONER BOCHCO	36	7 to be considerate of each other. Again, I'll remind
5	COMMISSIONER URANGA	42	8 folks the fire marshal has said that we need to fill
	COMMISSIONER COX	43	9 the seats and no more, so be respectful of that.
6	COMMISSIONER TURNBULL-SANDERS	44	10 I'm going to again remind folks that, out
	COMMISSIONER MITCHELL	46	11 of respect, we don't clap, cheer, or otherwise make
7	COMMISSIONER VARGAS	48	12 noises, but you do have the ability to express your
	COMMISSIONER GIBSON	49	13 opinion non-verbally. I'm going to ask my fellow
8	ORGANIZED PRESENTATIONS		14 commissioners to be sure that you speak clearly into
9	JOHN RILEY	49	15 the microphones in front of us because there are
10	DAVID WATSON	54	16 those who are not in the room that are interested in
	DR. HENDRIX NOLLENS	59	17 hearing the proceedings, they're outside, and we
11	LINDY DONAHUE	68	18 need to be clear in our -- in our speaking into the
	DR. INGRID VISSER	73	19 microphones.
12	KIM VENTRE	84	20 And I think that we have a very clear
	JOHN HARGROVE	90	21 understanding of how we're going to proceed. As we
13	JARED GOODMAN	100	22 get further into the hearing, I do want to encourage
	PAMELA ANDERSON	112	23 folks, there are -- we've made accommodation for a
14	KATHLEEN DEZIO	115	24 number of organized presentations, so listen closely
	PATRICK BERRY	121	25 to those, if they do reflect your point of view, and
15	CAROLYN HENNESSY	123	
	DR. DEBORAH LUKE	126	
16	MARK PALMER	128	
	DR. NAOMI ROSE	135	
17	CARNEY NASSER	140	
	CHRISTOPHER BERRY	150	
18	SARA WAN	153	
	JENNIFER FEARING	159	
19	SCOTT ANDREWS	161	
	PATRICK HERMAN	162	
20	DAVID HANCE	164	
21	PUBLIC SPEAKERS		
22	DANNA SPAIN 173	GUY STRONG 176	
	LORI ZAPF 177	ANDREA CARDENAS 179	
23	DAVID GRUBB 180	JAMES DUFF 181	
	JOE MORENO 183	PAM HETHERINGTON 183	
24	LEX 185	CARLY KIRCHEN 189	
	LINDSAY LARRIS 190	CEECEE COMER 192	
25	GRACIELA PARAGUIRRE 192	RON BRADEN 193	
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1	PUBLIC SPEAKERS (CONTINUED)		1 the -- and the position that you have and you can be
2	CHERIE SHANKAR 195	MARTHA SULLIVAN 196	2 comfortable allowing for those folks to represent
	BILL COHEN 197	LAUREN BOUCHER 199	3 your voice, you may choose not to speak, even if
3	GENESIS BUTLER 200	TEREN BAYLOR 201	4 you've filled out a card. And we'll give everyone
	NAN BRADLEY 203	JOEY RACANO 205	5 who wants to speak the opportunity to speak, but
4	BRITNEY HOLSTROM 207	VINCENT LAWLEY 208	6 given the length of the hearing that we anticipate,
	CHERYL NICHOL 209	SCOTT NICHOL 210	7 I just encourage folks to be thoughtful about
5	ALEX CHARRIK 211	TYLER STARR 211	8 whether there is going to add some special
	MARIAM LEHMAN 212	LOLA KAY 213	9 perspective.
6	DAN FULLEN 214	GABBY SOTO 216	10 There could easily be ways to show your
	TRACY REIMAN 216	CATHERINE SANDERS 212	11 support for a position without necessarily having to
7	STEPHANIE SHAW 219	ERIC DAVIS 219	12 take the time to speak. When we do get into the
	KATHY COHEN 221	MICHAEL HAMMERS 222	13 hearing, the public speaking part, I'll be calling
8	JOSHUA MCFARLAND 223	ALANA RAMSER 225	14 out a number of names in advance, and I'd ask that
	LIAM CRONIN 225	SCOTT BREWER 226	15 people when you hear your name if you do plan to
9	JAMES CUNNINGHAM 226	ELIZABETH LAMM 227	16 speak, if you can come up, there are some seats that
	ALLISON CHOW 228	JERRY SANDERS 229	17 are reserved at the front for speakers and those who
10	DANNY PRATER 230	CONNIE PEARSON 232	18 are going to be speaking next, and it just will
	PAULINE NOREIGA 233	JANINE NOREIGA 233	19 reduce the amount of time it takes for us to be able
11	AARON LONG 234	DR. ANN BOWLES 236	20 to take this information in.
	DR. SAM DOVER 239	JILL KOSOFF 240	21 So with that, and a pile of healthy, happy
12	HAROLD WEISS 241	LINDSAY RAIGHT 242	22 folks who do intend to speak, I think we're about
	SIMONE SHELBY 243	THOMAS OTTEN 243	23 ready to begin the presentation. I'll turn it over
13	MARTY KOSOFF 245	SEAN BARR 246	24 to Sherilyn Sarb. Thank you.
	KATIE CLEARY 249	LIZ J. CABELLE 250	25 DEPUTY DIRECTOR SARB: Thank you, Chair
14	GARY RAYMOND 251	KENNETH MONTVILLE 252	
	JOCELYN HEANY 254	ISAIAH BERRY 254	
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18	MATT RAMO 270	BRENDA CALVIA 272	
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19	MARTA HOLMBERG 277	KIM JOHNSON 278	
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20	PATTY JACKSON 281	KATH ROGERS 282	
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23	JONATHAN KLEIN 290		
24	MOTION/SECOND 308		
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25	VOTE 323		

<p style="text-align: right;">Page 6</p> <p>1 Kinsey. This is Item 14(a), the permit number is 2 6-15-0424, and the Applicant is the SeaWorld 3 San Diego. Just first a couple housekeeping items. 4 I'd like to draw your attention to the addendum. 5 There's a green addendum, it includes letters from 6 federal, state and local officials. There are a 7 number of letters of support, and letters of 8 opposition, ex parte communications, and there's 9 letters of response from the Applicant. Some of 10 these things due to the size are available online 11 only. And that just leads me to the amount of 12 material that's been submitted for Staff 13 consideration for this matter I believe is 14 unprecedented.</p> <p>15 I need to acknowledge the Staff in both 16 San Diego and the headquarters office. They've had 17 to work many extra hours just to handle the volume 18 of information and material that's been generated by 19 this project. I also want to thank the public for 20 that participation, I think it's safe to say that 21 the coastal development permit hearing for the -- 22 this project has served to galvanize the public's 23 interest in the killer whale population at SeaWorld. 24 And Staff has reviewed the project as we 25 review any proposed development in California's</p>	<p style="text-align: right;">Page 8</p> <p>1 coastal resources. The expansion of the Orca 2 facility could potentially impact marine habitats by 3 encouraging the take -- the taking of Orcas from the 4 wild, could impact public access through increased 5 visitor traffic loads on coastal roads, impact water 6 quality from the excavation of the expansion area, 7 as well as increase discharges from the expanded 8 Orca facility and impact visual resources from the 9 erection of new structures within Mission Bay Park.</p> <p>10 After analyzing the potential impact to the 11 project and the relevant information, Commission 12 Staff is recommending several conditions to bring 13 the project into conformance with the Coastal Act, 14 including the prohibition of the use of Orcas taken 15 after February 14th, 2014, or their genetic material 16 within the expanded Orca facility. As well as 17 conditions requiring adherence to approved plans 18 government construction staging, storage, 19 landscaping, drainage and final design.</p> <p>20 Thus, Commission Staff is recommending that 21 the Coastal Commission approve CDP No. 6-15-0424 as 22 conditioned.</p> <p>23 Slide 2. SeaWorld San Diego is located 24 upon an approximately 200-acre leasehold along the 25 southern boundary of Mission Bay Park in the city of</p>
<p style="text-align: right;">Page 7</p> <p>1 coastal zone for its consistency with the Coastal 2 Act. Alex Llerandi has lived and breathed the 3 SeaWorld project for the past several months. He 4 has been responsible for reviewing the volumes of 5 material that have been submitted, and he will 6 present this item to you today.</p> <p>7 CHAIR KINSEY: Welcome. 8 MR. LLERANDI: Thank you. Good day, 9 Commissioners. Item 14(a), the SeaWorld Blue World 10 Orca facility expansion project. SeaWorld San Diego 11 is proposing to modify their existing Orca facility, 12 which consists of five pools totaling 5.8 million 13 gallons to reduce and relocate the existing fifth 14 pool in order to add a new sixth pool of 15 approximately 5.2 million gallons, increasing the 16 Orca facility's capacity to 9.6 million gallons.</p> <p>17 To make space for the expansion, SeaWorld 18 San Diego is also proposing to demolish a 19 neighborhood restroom and eating facility and 20 construct a new salt water restroom facility next to 21 the expanded Orca facility.</p> <p>22 Upon analysis of the relevant information 23 and multitude of public comments submitted to the 24 Commission. Commission Staff identified areas where 25 the proposed development could potentially impact</p>	<p style="text-align: right;">Page 9</p> <p>1 San Diego. The majority of the northern half of the 2 leasehold consists of the developed park area, and 3 the remaining half consists of employee and visitor 4 parking.</p> <p>5 Within the park, the project site is the 6 existing Orca facility in the southwestern portion 7 of the developed park area, also referred to as 8 Shamu Stadium. It is here where SeaWorld San Diego 9 11 Orcas reside. As well as where the Orca 10 performances occur.</p> <p>11 To serve SeaWorld's water treatment needs, 12 the park also has two water treatment plants; the 13 western treatment plant and the eastern treatment 14 plant that treats the sea water taken in from 15 Mission Bay for SeaWorld's uses as well as treatment 16 of any runoff or discharges coming from Mission 17 Bay -- SeaWorld's operations into Mission Bay.</p> <p>18 Slide 5 -- slide 4. Sorry. 19 The existing Orca facility at SeaWorld 20 San Diego consists of five -- I'm sorry. Wrong 21 slide.</p> <p>22 What you see here on this side is the 23 existing facility as it currently looks and appears 24 at SeaWorld San Diego. This expansion was approved 25 by the Coastal Commission pursuant to CDP in 1995.</p>

<p style="text-align: right;">Page 10</p> <p>1 Currently the Orcas can swim within this pool as 2 well as the visiting public can go below grade and 3 view the Orcas underwater below -- through the 4 window along the side of the pool.</p> <p>5 Next slide.</p> <p>6 The existing eastern pool outlined in red 7 is approximately 1.7 million gallons. As part of 8 the proposed development, SeaWorld proposes to 9 excavate 35,000 cubic yards from the project area to 10 then install a new, smaller fifth pool of 450,000 11 gallons and a new sixth pool of approximately 5.2 12 million gallons.</p> <p>13 The Orca facility expansion will include an 14 improved below grade viewing area. Identified on 15 the slide is the entrance ramp -- is the entrance to 16 the ramp that would lead visitors down to a depth of 17 up to 40 feet, where large viewing windows will 18 allow the public to view the Orcas. The viewing 19 areas will also include elevators for handicapped 20 access.</p> <p>21 To the south expansion area is existing 22 life support equipment serving the Orca facility. 23 To serve the increased water capacity of the 24 expanded facility, SeaWorld's proposal will include 25 installation of 12 additional 12-foot filters in the</p>	<p style="text-align: right;">Page 12</p> <p>1 maximum depth of almost 40 feet. The proposal by 2 SeaWorld will introduce greater depth and variation 3 into the new expanded Pool F. It will reach up to 4 depths of 50 feet and will have various depths 5 throughout its layout, which SeaWorld states will 6 create a more unique environment for the Orcas 7 within SeaWorld.</p> <p>8 Slide 8.</p> <p>9 This is a rendering of proposed entrance 10 area to the below grade viewing area, which SeaWorld 11 says is designed so as to better mimic the ocean 12 environment.</p> <p>13 Slide 9.</p> <p>14 There are several government agencies at 15 the federal and state level that are involved in the 16 regulation of marine animals. With regards to the 17 Orca specifically, at the federal level, the Marine 18 Mammal Protection Act prohibits the taking of marine 19 mammals except pursuant to federal regulations. 20 Under the Marine Mammal Protection Act, the National 21 Marine Fishery Service oversees premise for the take 22 or importation of Orcas for the purpose of public 23 display, as well as maintaining the National 24 Inventory of Marine Mammals, which tracks the 25 births, deaths and transfers of captive marine</p>
<p style="text-align: right;">Page 11</p> <p>1 support building as well as upgrading the two 2 chillers and cooling towers that regulate the water 3 temperature of the Orca facility pools.</p> <p>4 Slide 6.</p> <p>5 This layout of the proposed Orca facility 6 shows the location of the various pools as they will 7 be once the development is finished. The existing 8 easternmost pool, Pool E, will be reduced and 9 relocated to the north, so as to allow construction 10 of the new Pool F.</p> <p>11 The new salt water bathroom will be 12 constructed in close proximity to the site of the 13 demolished existing restroom and restaurant facility 14 and in close proximity to the expanded Orca 15 facility.</p> <p>16 During construction of the new pool area, 17 the Orcas residing at SeaWorld San Diego will be 18 kept in the remaining existing pools, and when 19 particularly noisy construction activity will occur 20 in the expansion area, the Orcas will be moved to 21 the furthest pool from the activity until that 22 particular construction activity is completed.</p> <p>23 Slide 7.</p> <p>24 The pools of the existing Orca facility are 25 fairly uniform in design and materials, with a</p>	<p style="text-align: right;">Page 13</p> <p>1 mammals, including Orcas within the United States.</p> <p>2 Once National Marine Fishery Service has 3 approved the take or importation of an Orca and it 4 is brought to the United States, the majority of 5 oversight passes to the U.S. Department of 6 Agriculture's Animal and Plant Health Inspection 7 Service (APHIS), which conducts annual unannounced 8 inspections of facilities with captive marine 9 mammals including Orcas. The APHIS program insures 10 that the federal standards of the Animal Welfare Act 11 are being followed.</p> <p>12 While APHIS inspects for conformity of the 13 Animal Welfare Act standards, the Animal Welfare Act 14 does allow states to enact their own standards that 15 are in addition to the standards of the Animal 16 Welfare Act. At this point in time, the state of 17 California has not promulgated standards regarding 18 Orca captivity.</p> <p>19 At the state level, the California 20 Department of Fish and Wildlife manages wildlife and 21 fishery stocks in the state of California, and 22 oversees take of certain species through hunting and 23 fishing licenses. However, because the Marine 24 Mammal Protection Act specifically precludes state 25 regulation of the take of marine mammals from the</p>

<p style="text-align: right;">Page 14</p> <p>1 wild, California Department of Fish and Wildlife 2 does not regulate the take of Orcas. While the 3 California Department of Fish and Wildlife does 4 conduct inspections of aquatic facilities for the 5 presence of invasive species, Orcas are not 6 considered an invasive species.</p> <p>7 Finally, the Coastal Commission oversees 8 development along California's coastal zone that 9 could an impact on the coastal resources of 10 California.</p> <p>11 CHAIR KINSEY: Thank you. I'm going to 12 just interrupt for one moment. I've been just 13 notified that because of the number of potential 14 folks who have their cell phones or other devices 15 on, there is creating a technical program, and so 16 just for those of you who are in here, if you would 17 check and insure that you don't have your cell 18 phones on, or if you do, if you could turn them off, 19 and even for fellow Commissioners' phones are kind 20 of impeding the ability to communicate and for 21 others to hear remotely. So just ask that as a 22 favor, and we can continue with the hearing. Thank 23 you.</p> <p>24 MR. LLERANDI: Thank you, Commissioner. 25 Slide 10.</p>	<p style="text-align: right;">Page 16</p> <p>1 incentive to commit such future takes in the future, 2 which would adversely impact California's coastal 3 resources.</p> <p>4 Slide 11.</p> <p>5 To address the potential impact, Commission 6 Staff's recommendation contains Special Condition 7 One, which prohibits the occupancy of the approved 8 expanded Orca facility at SeaWorld San Diego by any 9 Orcas taken after February 14, 2014 or the use of 10 genetic material from Orcas taken after February 11 14th, 2014 at the facility. The date that was 12 chosen mirrors the date of the Virgin Pledge, a 13 pledge signed by SeaWorld where it agreed to such a 14 prohibition. Staff's recommended special condition 15 would thus incorporate this pledge into a 16 legally-binding requirement of this approved permit 17 to further strengthen the prohibition and further 18 decrease the incentive of future take of wild Orcas.</p> <p>19 Slide 12.</p> <p>20 SeaWorld San Diego occupies approximately 21 200 acres with Mission Bay Park along the southern 22 coast of Mission Bay. While SeaWorld does have 23 substantial landscaping, due to its design and 24 function the majority of the leasehold consists of 25 impervious surfaces.</p>
<p style="text-align: right;">Page 15</p> <p>1 Relying on Section 3023 of the Coastal Act 2 which protects marine resources and species of 3 special significance, Commission Staff reviewed the 4 proposed expansion with regard to how the project 5 would impact marine mammals in the marine 6 environment. Orcas are apex predators that can be 7 found residing in and traveling through California 8 waters.</p> <p>9 While not applying Section 3023 to the 10 Orcas that now exist at SeaWorld San Diego, many of 11 SeaWorld's Orcas were taken from the wild, and these 12 wild Orcas do contribute the genetic material used 13 in breeding. Commission Staff reviewed extensive 14 amounts of information, both internal and submitted 15 by the public, regarding both the regulatory 16 framework government Orcas and the effects that Orca 17 captivity could have on California's marine 18 environment and the captive marine mammals 19 themselves.</p> <p>20 In doing so, Commission Staff determined 21 that while National Marine Fisheries Service has not 22 issued a permit for taking an Orca from the wild 23 since the 1980's. Future wild take is still a 24 possibility, and that a captive Orca system such as 25 is found at SeaWorld could potentially create the</p>	<p style="text-align: right;">Page 17</p> <p>1 Furthermore, because the majority of its 2 animals live in a marine environment, SeaWorld 3 intakes salt water from Mission Bay for uses -- for 4 use in its animal habitats, as well as discharges 5 water back into Mission Bay.</p> <p>6 Mission Bay is identified under the Clean 7 Water Act as a water quality limited segment, which 8 means it does not meet water quality standards even 9 after discharges from source points are treated with 10 the minimum required levels of pollution control 11 technology.</p> <p>12 SeaWorld operates under a permit from the 13 Regional Water Quality Control Board, which governs 14 its operations. The permit oversees the levels of 15 multiple substances that may flow from SeaWorld as 16 well as the performance levels of its treatment 17 facilities.</p> <p>18 Going over the past few years of monitoring 19 reports by Staff has revealed that SeaWorld 20 consistently meets or exceeds its treatment 21 requirements for all pollutants except for me; total 22 coliform. In the few instances of exceeding the 23 monthly discharge limits for total coliform, 24 SeaWorld has conducted subsequent monitoring 25 inspections of the water treatment plants to rectify</p>

<p style="text-align: right;">Page 18</p> <p>1 any non-conformities as well as install additional 2 measures to prevent additional events.</p> <p>3 These measures were then reported on to the 4 Region Water Quality Board, who reviewed them and 5 found them satisfactory. Commission Staff has 6 reviewed these reports as well and found them 7 satisfactory as well. SeaWorld also has a current 8 total internal capacity of 11,480,000 gallons among 9 its various pools. And these pools and animal 10 habitats are interconnected in a park-wide 11 recirculated water system.</p> <p>12 Thus, while SeaWorld has a substantial 13 water capacity, it is consistently well below the 14 discharge limits contained in its Region Water 15 Quality Control Board permit. Because SeaWorld is 16 able to retain and move water internally, its 17 regular operations take water from Mission Bay only 18 as needed, such as to compensate for evaporation or 19 spillage. Because this intake can be very 20 controlled, its discharges, too, are well below 21 limits. And again, are treated before entering 22 Mission Bay.</p> <p>23 The proposed Orca facility expansion may 24 require a large one-time intake to fill it with sea 25 water once construction is complete. But subsequent</p>	<p style="text-align: right;">Page 20</p> <p>1 paving of the eastern parking area was approved a 2 few years later, the Commission looked at study data 3 from multiple local and state agencies addressing 4 the location and impacts of the landfill and found 5 that the proposed developments within the SeaWorld 6 leasehold would not pose health risks.</p> <p>7 In the case of the Journey to Atlantis 8 ride, which is only 500 feet from the western edge 9 of the landfill. Geological borings were done when 10 the foundations were built up to depths of 25 feet 11 and no trash or other detritus were found. To this 12 day, SeaWorld has multiple gas monitoring wells -- 13 gas monitoring wells around the Journey to Atlantis 14 area to detect for dangerous levels of methane and 15 other landfill gases. And to date, these alarms 16 have not gone off.</p> <p>17 The expansion area of the Orca facility is 18 1700 feet away from the landfill. Nevertheless, 19 SeaWorld conducted multiple geological borings of 20 the soil under the expansion area to check for the 21 migration of any contaminants from the landfill or 22 other sources. The geological borings failed to 23 detect levels of contaminants above what are deemed 24 unsafe levels.</p> <p>25 This report was further reviewed by</p>
<p style="text-align: right;">Page 19</p> <p>1 to this initial filling, the park will return to its 2 regular general operations of internally 3 recirculating its salt water, and thus not 4 substantially increase its salt water intake or 5 exacerbate the issues contained therein.</p> <p>6 Thus, with the existing treatment systems 7 in place, SeaWorld is meeting its water quality 8 requirements and the proposed development will not 9 present an adverse impact to the water quality of 10 Mission Bay.</p> <p>11 Slide 13.</p> <p>12 The southeasternmost portion of this 13 SeaWorld parking lot is underlined by the 14 westernmost portion of the historic Old Mission Bay 15 landfill, which operated shortly after World War II 16 and through the 1950's. This landfill accepted 17 municipal and industrial waste until it was 18 eventually shut down and buried. Because of the 19 presence of the landfill under a portion of 20 SeaWorld's leasehold, past Commission actions 21 regarding SeaWorld have periodically addressed the 22 issue of possible impacts from the landfill's 23 presence.</p> <p>24 When the Journey to Atlantis Splashdown 25 ride was approved by the Commission in 2002, and the</p>	<p style="text-align: right;">Page 21</p> <p>1 Commission staff geologist, Dr. Mark Johnson, who 2 concurred with the geological borings analysis and 3 conclusions.</p> <p>4 Slide 14.</p> <p>5 Because SeaWorld is a popular attraction in 6 Mission Bay Park, a popular coastal destination 7 itself, the impact of public access and traffic from 8 SeaWorld's visitors has always been a concern for 9 the Commission. SeaWorld submits annual traffic 10 monitoring studies to Commission Staff. For the 11 proposed project, Commission Staff reviewed the past 12 years of traffic studies as well as reports 13 summarizing the findings therein, which determined 14 that the surrounding intersections continue to 15 operate at a level of Service D or better, which is 16 considered an acceptable level of operation.</p> <p>17 The circles you see in front of you on the 18 slide are just some of the intersections that are 19 monitored around SeaWorld, further intersections 20 south of the San Diego River, which is along the 21 south of this slide are also monitored by the study. 22 The proposed project is an expansion to an 23 already-existing Orca facility, where the public can 24 already view the Orcas underwater.</p> <p>25 Nevertheless, the improvement still creates</p>

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1 the chance that attendance could increase in at
 2 least the short term. As much, the traffic studies
 3 also looked at the parking situation at SeaWorld
 4 over the years. Monitoring has revealed that the
 5 SeaWorld parking supply is 8,664 spaces, but that
 6 highest parking recorded has been in the 7,000 to
 7 7,500 parking space range.

8 Thus, the proposed expansion of the Orca
 9 facility is not expected to create adverse impacts
 10 to coastal access in the Mission Bay Park area.

11 Slides 15 to 16 are looking in the
 12 direction of the expansion area from public areas
 13 outside of SeaWorld. Because of the low-lying and
 14 scenic nature of Mission Bay, visual impacts from
 15 SeaWorld, by far the largest development within
 16 Mission Bay, has always been a concern for the
 17 Commission.

18 Mission Bay, as is much of San Diego's
 19 coastal zone, is under a 30-foot height limit.
 20 While SeaWorld gained a voter-approved exemption
 21 from the height limit in 1998, the design of new
 22 development within the park is still a concern so as
 23 to avoid impacts of public views to the greatest
 24 extent feasible.

25 However, because the majority of the

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1 proposed expansion, the Orca facility is below
 2 grade, and it will not be taller than the existing
 3 stadium facility, has little potential to adversely
 4 impact coastal views.

5 These photos show how SeaWorld is screened
 6 by trees of up to 60 feet in height, and that they,
 7 coupled with the existing development already in
 8 place around the expansion site, means that the
 9 proposed development will not be viewable from the
 10 public areas of Mission Bay Park outside of
 11 SeaWorld. Thus, there are no adverse impacts on
 12 coastal views with this proposed project.

13 Slide 17.

14 In conclusion, Commission Staff thoroughly
 15 reviewed the proposed development with regards to
 16 impacts to marine resources, water quality, public
 17 access and visual resources. Recognizing the large
 18 amount of public comment and attention that this
 19 subject development has garnered, Commission Staff
 20 considered all the relevant information submitted by
 21 the public in determining actual and potential
 22 impacts posed by the expansion.

23 By looking at potential impacts to wild
 24 Orcas, water quality and public access, conditions
 25 were drafted that adequately minimizes the chance

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1 for adverse impacts and helps the project conform to
 2 the requirements of Chapter 3 of the Coastal Act.

3 Thus, Commission Staff recommends that CDP
 4 6-15-0424 be approved as condition. The appropriate
 5 motion resolution can be found on page 6 of the
 6 Staff report. There are addendums to the Staff
 7 report. Thank you.

8 CHAIR KINSEY: Thank you. We are going to
 9 start with our ex partes on this, and I'll turn to
 10 my right, and ask for any commissioners that have
 11 had ex partes beginning with Commissioner Luvéano.
 12 I saw her being most ready. Please.

13 COMMISSIONER LUVÉANO: Sorry. It's just
 14 going to take me a quick minute to find it.

15 CHAIR KINSEY: Maybe it was a false --
 16 false reading. Commissioner Shallenberger.

17 COMMISSIONER LUVÉANO: No, no. I'm ready.
 18 I'm ready.

19 CHAIR KINSEY: Yeah, please.

20 COMMISSIONER LUVÉANO: I'm sorry. Yes. On
 21 October 1st at approximately 1:00 p.m. I had an
 22 ex parte phone call with Susan McCabe, Ann Blemker,
 23 John Riley, Corrine Brindley, and Hendrik Nollens.
 24 We discussed the proposed Blue World project, they
 25 described the Orca enclosure as providing a more

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1 natural environment for the animals, they described
 2 a fast water current that the animals can swim
 3 against and generally described the other attributes
 4 of the project.

5 They also mentioned that there has been a
 6 \$10 million pledge and matching grants to help fund
 7 research for Orcas. Dr. Nollens discussed the life
 8 expectancy of the Orcas. He mentioned that two
 9 peer-reviewed studies have found no difference in
 10 life expectancy between Orcas in the wild and in
 11 captivity, and that in some cases they live longer
 12 in captivity --

13 (Interruption.)

14 COMMISSIONER LUVÉANO: He stated that they
 15 do not separate calves unless calves are at risk.
 16 He said they have three generations living in the
 17 facility. He discussed breeding, he said that
 18 whales at SeaWorld engage in normal breeding
 19 behavior, that they also do artificially inseminate
 20 whales and that allows SeaWorld to maintain genetic
 21 diversity without moving the whales.

22 He said that SeaWorld has not collected
 23 whales from the wild in more than 35 years, three
 24 whales have been collected in the wild, their ages
 25 are 38, 39 and 51. They also mentioned the signing

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1 of the Virgin Pledge and reaffirmed that they would
2 not be taking genetic material from whales collected
3 after that date.

4 I asked about taking genetic material from
5 whales collected prior to that date and the answer
6 was yes, that that's a possibility.

7 They discussed some of the attributes of
8 the new enclosure including hydrophone arrays and a
9 variety of other things they had mentioned that they
10 support the Staff recommendations with all
11 conditions.

12 And that's it.

13 CHAIR KINSEY: Thank you. Commissioner
14 Shallenberger?

15 COMMISSIONER SHALLENBERGER: On -- thank
16 you, Chair Kinsey. On Wednesday, September 30th, I
17 believe, at approximately 9:00 in the morning I had
18 a telephone conversation with Sara Wan. She said
19 that -- that Staff, she agrees with the Staff, that
20 we are not fed -- there is no federal preemption
21 here. She said that the Staff report includes the
22 condition that would allow them to breed; them being
23 SeaWorld as much as they wanted, and that SeaWorld
24 has been quoted saying it is going to use the new
25 tank for breeding.

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1 She said there is a continued -- it also
2 says that there is a continued, quote, need for new
3 genetic material and she explained that Russia or
4 anybody else who was not under the United States
5 could capture from the wild and then breed so that
6 their offspring could then be used as part of the
7 new genetic material.

8 She said that Section 30230, that the
9 Commission has in fact applied this in the past, and
10 that Staff cited one in the Staff report, but that's
11 actually the only time that she was aware of where
12 it could have been applied, so she feels that it is
13 absolutely we can apply it here.

14 She said she'd go through the analysis; on
15 one hand it says you can't apply, meaning the Staff
16 report 30230, but in fact the Staff condition does
17 apply to 30230. So there's an internal
18 inconsistency. She said that U.C. Santa Cruz and
19 Scripps both do research, but -- but in this, with
20 SeaWorld we're talking about animals for
21 entertainment and not research.

22 Staff says Orcas are species of special
23 concern. They are definitely marine resources and
24 nothing in 30230 says it applies only to animals in
25 the wild. Orcas are very social and have strong

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1 family bonds. She said the Southern Resident
2 population in the United States is considered
3 endangered because the entertainment industry in the
4 past had taken so many from the wild that it
5 decimated the population.

6 She said that Condition One allows SeaWorld
7 to turn the new tank into a breeding tank, and there
8 are no meaningful reproductive guidelines for Orcas,
9 which is what the Staff report references that they
10 need to be within those guidelines, but Ms. Wan says
11 there are no such guidelines.

12 Then on -- sorry, I had my pen in here and
13 then lost it. Monday, October 5th at about 4:30 in
14 the afternoon I had a telephone conversation with
15 Jared Goodman from PETA. They oppose the project,
16 it does nothing to better the lives of the existing
17 captive whales. He said -- he talked about the
18 business model for SeaWorld and said that that's
19 what this is really about. That two days after
20 their stock dropped 30 percent is when they
21 introduced this new concept.

22 She -- he said that large wild animals,
23 mammals, should not be used for entertainment. He
24 said the construction project itself would be
25 incredibly stressing to the -- the construction

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1 project itself would be incredibly stressing to the
2 animals, and stress can make them aggressive.
3 There's no benefit to the animals 350 feet long
4 where in nature they -- they swim much farther than
5 that -- I didn't write down the number, but he
6 equated their normal whales, how much they swim in
7 the wild, a whale would have to do 1500 laps in a
8 single day to approximate their wild condition.

9 He also talked about the teeth of the Orcas
10 which get broken on the concrete walls and have to
11 be drilled out by veterinarians and then flushed
12 with peroxide to keep them clean. But that doesn't
13 necessarily mean that they don't get infected.

14 He said that Orcas in captivity are
15 sometimes administered Diazepam to manage their mood
16 and it's because it's -- and to manage behaviors
17 which are not normal to the Orcas in the wild.

18 SeaWorld is saying the added tank will --
19 okay, that's like you're on your own, sweetie --
20 moving forward, actually it doesn't -- oh, SeaWorld
21 is saying that this would lead to more education,
22 conservation, but studies have shown that it's just
23 the contrary, that wild -- wild animals when they're
24 in captivity trained to do tricks and entertainment
25 do not actually educate the public at all about the

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1 need for these animals in the wild.
2 The Animal Welfare Act says that states --
3 very specifically says that states may pass more
4 productive measures.
5 And then finally, on Tuesday night of this
6 week at about 6:00 p.m. I had a conversation with
7 the folks from SeaWorld. I'll bring up their --
8 here's their names. Hendrik Nollens, Senior Vice --
9 Senior Veterinarian for SeaWorld; Darlene Walker,
10 the VP of Engineering; Corrine Brindley, Government
11 Affairs; John Riley, the park president, and Susan
12 McCabe.
13 I had already reviewed the briefing
14 documents that they had sent, they said that their
15 project was -- had three goals, breeding goals, were
16 to maintain the species in zoos, to maintain genetic
17 diversity, and I think I forgot to write down the
18 third.
19 Now, I asked about the breeding stock they
20 have now, they have two youngsters in SeaWorld, a
21 10-month old and a two-month old, he said that
22 breeding moves very slowly because of the gestation
23 period, and how long the calves -- lactation for the
24 calves. So there's generally about a five-year
25 interval between calving.

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1 The intent of this project is to have a
2 better home for the animals, a better experience for
3 the public, and to help with research. They don't
4 believe the Coastal Commission has jurisdiction over
5 the whales, or that there are any land use issues in
6 their project.
7 They said that they, in this hearing they
8 are going to clarify that they do not -- they're not
9 going to use any genetic material from those whales
10 collected in Russia in 2012, and apparently nobody
11 seems to really know how many whales were collected
12 or where they are.
13 That was it. Thank you.
14 CHAIR KINSEY: Thank you. Commissioner
15 Groom. Oh, before -- Commissioner Luévano had
16 perhaps one -- one more, we'll get through this,
17 this is important.
18 COMMISSIONER LUVÉANO: Sorry. Yes. At
19 approximately, it looks like 4:38 a.m. this morning
20 I received an e-mail from Lori Lipsman, resident of
21 San Diego, stating her opposition to the Blue World
22 project.
23 CHAIR KINSEY: Thank you. Commissioner
24 Groom.
25 COMMISSIONER GROOM: Thank you, Mr. Chair.

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1 On September the 15th at 9:30 a.m., in
2 Redwood City I met with Jared Goodman of PETA and
3 John Hargrove, who is a former SeaWorld employee.
4 The conversation was substantially the same as -- as
5 Commissioner Shallenberger.
6 On September the 30th, in Redwood City I
7 met with Susan McCabe, John Riley, Darlene Walter,
8 Christie Burkas and Corrine Brindley, all from
9 SeaWorld and the conversation was also the same
10 as -- as that of Commissioner Shallenberger.
11 And on September 30th at 3:00 p.m. I had a
12 telephone conversation with Sara Wan, and it was
13 also the same as Ms. Shallenberger, and these are
14 all on file.
15 CHAIR KINSEY: Thank you. Commissioner
16 Howell?
17 COMMISSIONER HOWELL: Thank you, Chair
18 Kinsey. On October 4th at 2:00 in Pismo Beach I had
19 a telephone conversation with Sara Wan, which was
20 very similar to the conversation that Commissioner
21 Shallenberger had. On a drive down Pismo Beach, I
22 had a telephone conversation at 10:30 on the 6th of
23 October with Jared Goodman and Stephanie Shaw, and
24 it was -- it was similar to the conversations that
25 Commissioner Shallenberger had.

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1 There was a few additional comments that
2 they made, which was that SeaWorld's expansion plan
3 would be an enormous step backwards from animals'
4 use in the entertainment industry at a time when
5 public opinion has shifted away from captivity.
6 They also point out that decision makers in
7 the state are working hard to put an end to this,
8 and they also, I guess, alerted me to the fact that
9 even though these tanks would be larger, the
10 numbers of Orcas in them would also -- could also
11 increase dramatically as well, up to as much as 20.
12 And so the potential was that the Orcas may very
13 well have less tank space than they have now.
14 Thank you.
15 CHAIR KINSEY: Thank you. Commissioner
16 McClure.
17 COMMISSIONER MCCLURE: Yes, thank you. I
18 had a phone conversation on October 1st with Sara
19 Wan, and the substance of our conversation has been
20 shared by fellow commissioners. On the 5th of
21 October at 6:30 in Long Beach I met with Susan
22 McCabe, John Riley, Corrine Brindley, Darlene Water
23 and Hendrik Nollens, with Susan McCabe and my
24 husband, Ky, was also in attendance, and we reviewed
25 the briefing booklet, talked a bit about the

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1 different aspects of the breeding program, and
2 talked about the expansion of the tanks.
3 And this morning I met with Dr. Naomi Rose,
4 along with Commissioners Bochco and Groom, and we
5 talked about the science of the Orcas and she was
6 extremely concerned that there was information that
7 SeaWorld possibly has but they don't share with the
8 scientific community, and finds that very
9 disturbing.
10 And I also had about a three-minute
11 conversation with Jennifer Fearing about the need to
12 not have a breeding program at SeaWorld.
13 That's it.
14 CHAIR KINSEY: Thank you. Commissioner
15 Groom, did you just want to confirm that one --
16 COMMISSIONER GROOM: Yes, I forgot to say
17 that I also met with --
18 CHAIR KINSEY: Ms. Rose?
19 COMMISSIONER GROOM: Naomi Rose this
20 morning along with Commissioners Bochco and McClure.
21 CHAIR KINSEY: Thank you. Vice Chair
22 Bochco. Vice chair -- yes, for you.
23 VICE CHAIR BOCHCO: Oh, I'm sorry.
24 CHAIR KINSEY: That's okay. I knew you
25 would be ready.

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1 VICE CHAIR BOCHCO: On September 29th, at
2 1:30 in the afternoon, I had a meeting in my office
3 with Susan McCabe, John Riley, Corrine Brindley,
4 Darlene Walter and Lindsay (sic) Donahue from
5 SeaWorld, and we covered the presentation booklet as
6 other Commissioners have stated. Then we had a
7 little bit of a conversation about the language in
8 Condition One.
9 I asked what would keep them from expanding
10 to the full 90-whale capacity, they said they have
11 11 whales now, the most they've ever had, it's up
12 from 10, which was the most they've ever had in the
13 history of the facility.
14 They also said the facility's life support
15 system, the filtration water quality system, could
16 not support many more whales than they have now.
17 They would have to come for a CDP to upgrade that
18 system.
19 When I asked what their position might be
20 if we -- if they were asked to stop breeding in
21 captivity, Ms. Donahue, who is actually the senior
22 trainer there stated that it would be a very cruel
23 thing to deprive these animals of the rewarding
24 behavior of being a parent.
25 Then I had on 3:00 o'clock at -- on October

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1 2nd a call from George Kieffer at Manatt, a law
2 firm in Los Angeles, he represented SeaWorld.
3 Mr. Kieffer wanted to discuss the jurisdictional
4 issue. He believed that the federal laws were
5 preemptive, but in particular that Public Resources
6 Code 30411(b) gives the California Fish and Wildlife
7 agency authority to -- I'm sorry -- the authority to
8 regulate captivity, and since they chose not to
9 impose controls, we are exceeding their regulatory
10 controls.
11 I found that a bit contradictory in the
12 code, but I'll discuss that later.
13 Then on October 2nd, I had a 3:15 telephone
14 conversation with Jared Goodman. It was -- from
15 PETA. It was similar to those discussed before,
16 except we went into a little more detail about the
17 history of the animals in captivity. He said PETA
18 sees this as a step backward, which I think you've
19 heard before. The legislature is moving towards the
20 protection of animal welfare in captivity. He cited
21 the elephant in the circus example. And he said
22 unlike Ringling Brothers who saw public opinion
23 going against the elephants performing, and who
24 voluntarily quit the practice, PETA thinks SeaWorld
25 is trying to prop up their failing business model by

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1 acting as if the animals are well off and their
2 practices are good for research.
3 PETA does not believe the enlarged tank
4 will benefit the Orcas in any way, since the '80s,
5 after it was discovered that Orcas were exhibiting
6 aggressive towards each others and trailer, SeaWorld
7 tripled the size of the tank. It made no difference
8 in the animal behavior. Dominant animals were
9 raking each other, biting them so their skin would
10 bleed, and SeaWorld was also decide -- so SeaWorld
11 decided to pull their trainers from the water
12 because of this aggression.
13 When the San Diego was trainer was recently
14 killed, investigation showed there were over a
15 hundred acts of aggression in the SeaWorld's file.
16 The construction noise will be very hard on
17 these animals. In the past, hammering from a much
18 smaller project created disturbed and aggressive
19 behavior. Orcas actually tried to jump out of the
20 pool at their trainers. There is no evidence that
21 performing animals increase -- there is no evidence
22 the performing animals increase the awareness of
23 conservation by the public.
24 In fact, there is some evidence that the
25 public is lulled into believing that the species

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1 must be fine since here they are entertaining us.
2 PETA does not believe that SeaWorld will not try to
3 increase the number of whales. With no restrictions
4 on transportation, artificial insemination and
5 purchase of whales born in captivity, the chances are
6 very great that they will increase the numbers.
7 As an aside, to prove this point, PETA told
8 me that there had been a SeaWorld-trained whale and
9 trailer in Spain. The whale killed the trainer --
10 I'm sorry, some of this is kind of vague because I
11 can't write that fast -- the whale killed the
12 trailer, SeaWorld pulled trainers from the pools for
13 about two months, but upon returning to standard
14 policy, they told the trainers that the top priority
15 was to get the Orcas pregnant. I don't know what
16 that --
17 Okay. Sarah Wan, September 29th, 3:00 p.m.
18 Basically we covered what has been said before.
19 This morning, with my fellow Commissioners, we had
20 breakfast with Naomi Rose, 7:40 this morning at the
21 hotel dining room, she's with the Animal Welfare
22 Institute, she has studied all kinds of issues with
23 marine mammals, noise, sonar, safety for whale
24 watchers and whales in the whale-watching industry.
25 She's been studying stress hormones in the

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1 Orca scat. As a point of interest the dog are now
2 trained to point the snack up -- the scat out on the
3 water, and then they can go collect it to see the
4 hormones and DNA.
5 I asked if SeaWorld gave any information on
6 these studies, and she said they've been very
7 reluctant to allow scientists in who have not been
8 openly supportive of their business model.
9 (Audience interruption.)
10 VICE CHAIR BOCHCO: Excuse me. She said no
11 research has been done on the teeth-grinding issue
12 by outsiders in the SeaWorld environment. There are
13 teeth-grinding issues in the wild, and they would
14 have looked to have been able to collaborate and
15 find out what SeaWorld is learning in captivity.
16 We had a lot of conversations about the
17 teeth.
18 It says SeaWorld misleads regarding the
19 problems that appear at the -- at the park. If they
20 were more open and transparent to outside
21 scientists, she thinks it would help not only with
22 the perception of SeaWorld, but also the research
23 that could be had.
24 She mentioned that there is a corporate
25 narrative that you'll hear time and time again when

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1 you talk to the SeaWorld people. She said that
2 there is a great deal of love and affect from the
3 SeaWorld people to their animals, but they aren't
4 really aware of the normal whale behavior in the
5 wild because they really have only spent time with
6 these whales.
7 I'm sorry.
8 She said in 1994 she was testifying before
9 Congress about the amendment to the Marine
10 Protection -- Marine Mammal Protection Act, and that
11 SeaWorld was there to lobby to end the jurisdiction
12 of MMPA over captive livestock, which happened.
13 We also discussed what would be the best
14 thing to do with the whales, and she said they
15 should be moved into sea pens, and other
16 Commissioners and myself were curious as what does
17 it take to build a sea pen, and she said it really
18 only takes about two to \$5 million. There are
19 active sea pens on the California coast, I think
20 there's one in Oregon as well, there's one in
21 Iceland.
22 The tank that SeaWorld is building costs a
23 hundred million dollars, so it just seemed as if
24 that might be an interesting alternative for
25 everyone to look to. It would be -- the business

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1 model would be instead of like the San Diego zoo, it
2 would be more like the San Diego Wildlife Safari
3 Park, where the animals are free to roam and people
4 still have the enjoyment of seeing them.
5 (Audience interruption.)
6 VICE CHAIR BOCHCO: And that's enough.
7 CHAIR KINSEY: Thank you. Commissioner
8 Uranga.
9 COMMISSIONER URANGA: Thank you, Chair
10 Kinsey. On October 5th at approximately 3:00 p.m. I
11 had a phone discussion with Jared Goodman,
12 representing PETA, and the topic was the SeaWorld
13 Blue World project. We had a lengthy discussion
14 about the treatment of the Orcas in the tank, and
15 that in reality the new tanks will fail to provide
16 adequate space and range of motion for natural
17 behavior, have the same devastating physical and
18 psychological effects on marine mammals, leading to
19 distressing stereotype behavior observed only in
20 captivity, negatively affect local landscape and
21 delay true conservation efforts, and will work
22 against overwhelming political opinion, which favors
23 retiring captive Orcas to coastal sanctuaries. And
24 I have other ex partes on file.
25 CHAIR KINSEY: Thank you. Commissioner

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1 Cox.

2 COMMISSIONER COX: Thank you, Mr. Chairman.

3 On October 2nd at 4:15 p.m., in the afternoon, I had

4 a chance to go on site at the SeaWorld facilities.

5 In attendance was a member of my staff, Greg Murphy,

6 also in attendance was John Riley, Corrine Brindley,

7 Darlene Walter, Dr. Ann Bowles, Dr. Todd Schmitt,

8 and Ann Blemker.

9 I participated in a tour of the

10 Hubbs-SeaWorld Research Institute and the SeaWorld

11 facilities, during the tour I received an update

12 from SeaWorld representatives regarding the Blue

13 World project for expansion of the existing Orca

14 habitat with the new marine aquarium-themed exhibit,

15 an immersive Orca habitat experience.

16 We went through a briefing book that had

17 previously been provided to staff and discussed the

18 project's consistency with the SeaWorld master plan,

19 which is part of the San Diego LUP, and applicable

20 policies of the Coastal Act including those related

21 to public access, views and water quality.

22 At the time of our meeting the Applicants

23 states they were in agreement with the Staff report

24 recommendations and special conditions, and the

25 Applicant requests approval of the Blue World

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1 project by the Commission at its October meeting.

2 Thank you.

3 CHAIR KINSEY: Commission Turnbull-Sanders.

4 COMMISSIONER TURNBULL-SANDERS: On October

5 2nd, at approximately 11:00 a.m., I had an ex parte

6 telephone call with Jared Goodman of PETA. The

7 substance of our conversation, most of -- most of

8 it's already been reported by other Commissioners;

9 however, there are a few additional things that I'd

10 like to add.

11 Mr. Goodman was opposed to the idea of

12 having the Orcas being forced to perform, held in

13 incompatible groups. He does not want new Orcas

14 introduced and it would allow them to keep breeding

15 and causing suffering to the animals. He mentioned

16 that the CEO of SeaWorld admitted that with the

17 expansion of the tanks, SeaWorld would be

18 introducing additional animals and continue to

19 breed.

20 He also stated that the -- that SeaWorld

21 had already committed to the Virgin Pledge, so

22 adding that to a condition to the Staff as a

23 condition to this permit is meaningless. He also

24 mentioned that he had filed numerous lawsuits

25 against SeaWorld and filed complaints with the U.S.

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1 Department of Agriculture for violations of the

2 Animal Welfare Act.

3 And he also said that captive Orcas do not

4 conserve the species because it sends a message that

5 their populations are fine, and if they're used for

6 shows they must be fine. He said there is no

7 evidence that viewing animals in captivity was the

8 result in changes in public attitudes about a

9 specie's endangered or special status. And believed

10 that the Coastal Act should be viewed broadly.

11 On October 3rd at 9:00 a.m. I had a meeting

12 in person with Sara Wan. During that meeting most

13 of the -- most of what she said has already been

14 related by other Commissioners. I'll add the

15 portions that were in addition to that. Ms. Wan

16 argued that there is a loophole in the Virgin Pledge

17 in that SeaWorld could purchase captive-born Orcas

18 that were borne from animals that were captured in

19 the wild, and that the SeaWorld pledge that they

20 will not introduce new wild Orcas would be easily

21 circumvented.

22 That's it for the additions for Ms. Wan's

23 ex parte.

24 I also had an ex parte with SeaWorld on

25 October 3rd at -- at approximately 11:00 a.m.

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1 During that meeting, the persons presence -- present

2 were Ann Blemker, John Riley, Corrine Brindley,

3 Darlene Walter, Dr. Hendrik Nollens, and during that

4 meeting most -- again, most of what was discussed

5 was relayed by other commissioners. However,

6 SeaWorld did -- when I brought up the issue of

7 whether there was a loophole in the Virgin Pledge,

8 SeaWorld said that they would agree to add

9 clarifying language to make sure that SeaWorld could

10 not purchase the calves in captivity that born from

11 wild-caught parents.

12 In addition, SeaWorld also stated that they

13 may be willing to cap the numbers in the new whale

14 facility should a permit be issued.

15 CHAIR KINSEY: Commissioner Mitchell.

16 COMMISSIONER MITCHELL: Thank you,

17 Mr. Chair. First, per the Coastal Commission

18 regulations, I -- any ex partes before seven days of

19 this hearing are on file. In addition, on October

20 the 2nd, I had a meeting with Sara Wan at 3:30 in

21 person in Los Angeles, the substance of which has

22 been covered by previous Commissioners.

23 In addition, at 4:15 that day -- excuse me,

24 I had a meeting with Jared Goodman, I had a phone

25 conversation with Jared Goodman of PETA, the

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1 substance of which has been covered.
2 On October the 5th I received a phone
3 message from Scott White representing SeaWorld and
4 labor unions requesting to speak with me, and we did
5 not actually connect, but he said they would not be
6 able to build the expansion of the Sea -- of Blue
7 World if they were not allowed to continue to breed.
8 And also -- excuse me -- today at 10:30 I had a
9 conversation with Jennifer Fearing of Fearless
10 Advocates, which is the best name of a firm I've
11 ever heard, representing the Humane Society of the
12 U.S., and while they are supportive of the project,
13 they did -- they're supportive only if the breeding
14 and -- is limited or if there is no extension of
15 breeding. So, thank you.
16 CHAIR KINSEY: Thank you. Commissioner
17 Vargas.
18 COMMISSIONER VARGAS: Thank you. I had
19 most of my ex partes after the seven-day cutoff
20 except for one. I had a communication with Sara Wan
21 on October 1st at 5:00 p.m. via telephone. I
22 received a briefing, an electronic briefing book
23 from Sara, who is requesting that the project be
24 denied unless specific Condition One is modified to
25 read as follows: "SeaWorld may only hold or display

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1 the currently-existing whales in its San Diego
2 park," and she lists all of the specific whales
3 there, and "SeaWorld is prohibited from the captive
4 breeding of Orcas either through mating or
5 artificial insemination including the collection of
6 gametes."
7 (Audience interruption.)
8 COMMISSIONER VARGAS: This would make the
9 project consistent with the provisions of Section
10 30230, and will allow SeaWorld to continue to use
11 the current Orcas but gradually phase out the
12 practice of using captive Orcas for MPM purposes.
13 (Audience interruption.)
14 CHAIR KINSEY: Thank you. That completes
15 that, and my ex partes are on file. So we can move
16 into the presentation -- oh, excuse me, Commissioner
17 Gibson. Hang on just a moment. Please, go ahead.
18 COMMISSIONER GIBSON: I did have one
19 ex parte that I wanted to report, since I am here at
20 the meeting. This is on August 5th I met with Jared
21 Goodman, the director of Animal Law, PETA, and John
22 Hargrove, and the subject of the discussion was the
23 same as has been reported here. Commissioner Beland
24 was also in attendance.
25 CHAIR KINSEY: Thank you. Okay. I'd like

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1 to invite up John Riley now, the Applicant, and
2 confirm with Mr. Riley. Welcome. Mr. Riley, you'd
3 like 30 minutes for your presentation and 15 minutes
4 to respond; is that correct.
5 MR. RILEY: That's just fine.
6 CHAIR KINSEY: Please proceed, and I'll --
7 again, I'll ask folks to be respectful and, you
8 know, I've made comments about speaking out and
9 while I want to encourage energetic --
10 (Recording interruption.)
11 CHAIR KINSEY: That's great.
12 A VOICE: Do I repeat myself.
13 CHAIR KINSEY: There you go. I'm going to
14 try again, but the -- the waving of the banners
15 creates a fair amount of noise, and so, you know, I
16 don't want to hold you back too much, but I think if
17 you can wave them just a little more gently it may,
18 and --
19 (Audience interruption.)
20 CHAIR KINSEY: -- certainly don't -- don't
21 wave them to impede the ability of speakers to be
22 heard. That's the key point. And with that, I
23 welcome Mr. Riley. Please proceed.
24 MR. RILEY: Okay. Thank you. Chairman
25 Kinsey, members of the Commission, my name is John

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1 Riley and I'm president of SeaWorld San Diego. It's
2 my pleasure to be here with your -- with our team
3 today, to present Blue World, our dynamic new Orca
4 habitat. It's been quite a journey getting here,
5 and I'd like to start by thanking staff for their
6 efforts in putting this report together. Your staff
7 has worked incredibly hard on this project. And
8 they carefully considered all facets of the Coastal
9 Act.
10 SeaWorld concurs with the recommendation of
11 approval and conditions in the Staff report, and we
12 request your approval today. Today you're going to
13 hear a great many inaccurate and just untrue
14 statements from opponents of zoos and aquariums.
15 I'll tell you the truth about Blue World. Blue
16 World will first and foremost provide a better
17 living environment for our family of killer whales.
18 It will educate and inspire millions of guests and
19 present a new window into the world of Orcas for
20 researchers and scientists. Working to learn more
21 about whales in human care and to apply that to
22 whales in the wild.
23 At SeaWorld we could not be more excited
24 about this project. Many people around the globe
25 are enamored with killer whales, and more than

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1 160,000,000 have been inspired by those animals at
2 SeaWorld San Diego alone. No one is more passionate
3 and knowledgeable about the whales in human care
4 than SeaWorld is. The issues around killer whales
5 are complex. They stir up an abundance of emotion.
6 In addition to the 300 or so SeaWorld supporters
7 here today, we delivered almost 52,000 support
8 letters, postcards and e-mails on this subject to
9 coastal staff.

10 More than a dozen elected officials support
11 Blue World as well as zoo and aquarium associations
12 representing nearly 300 facilities, dozens of
13 business organizations and labor.

14 While we have supporters around the globe,
15 the letters you receive from us on this project by
16 and large are residents of California, and most have
17 been touched by their own visit to SeaWorld
18 San Diego.

19 I'd like to introduce our team today.
20 Darlene Walter, Vice President of Engineering, who
21 is responsible for the construction of this project.
22 Dr. Hendrik Nollens, our senior veterinarian. Lindy
23 Donahue, Supervisor of Animal Training. And
24 Attorney David Watson. And now I'd like to
25 introduce you to Blue World.

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1 (Blue World video (with musical
2 accompaniment) played:
3 Narrator: "Dive into a blue
4 world. A vast new expanded habitat for
5 SeaWorld's pod of killer whales.
6 Naturalistic and sweeping, with new
7 spaces for them to explore. These
8 majestic killer whales will find
9 enriching activities everywhere. And
10 explore in even greater depths. This
11 immersive environment is unlike any
12 other, giving SeaWorld experts and other
13 scientists more access than ever before
14 for world class health care and research
15 that will help killer whales here and in
16 the wild. With unprecedented views
17 above and below, these ar the moments
18 that inspire wonder, connection and
19 action to preserve our precious ocean.
20 A new world, a beautiful blue world.")
21 MS. WALTER: Thank you, Chairman Kinsey and
22 Commissioners. I'm Darlene Walter, Vice President
23 of Engineering at SeaWorld. As Mr. Llerandi
24 thoroughly explained, the existing facility consists
25 of five pools currently totaling 5.8 million

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1 gallons, and will be expanded to six pools
2 consisting of 9.6 million gallons.
3 SeaWorld's intent is to provide a larger,
4 better habitat for our existing whales as a natural
5 development and progression from our ongoing
6 learning as this is the fifth expansion in our
7 history. All of the whales will have access to the
8 entire expanded habitat. Work will also include the
9 construction of SeaWorld's salt water restroom. The
10 first restroom opened in March of this year and
11 already saved 1.3 million gallons by using salt
12 water in lieu of potable water for toilets and
13 urinals.
14 SeaWorld's master plan was approved and
15 certified by the California Coastal Commission in
16 2002, and contemplated future development and
17 renovations. This project is consistent with the
18 requirements of the master plan and Blue World is
19 not visible outside of the leasehold, is with
20 SeaWorld -- is within the designated theme part
21 area, does not contain any structures over 30 feet
22 tall, the project does not impact traffic or
23 parking, and it captures and treats all surface
24 water runoff in SeaWorld's private treatment
25 facility which is compliant with the

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1 federally-issued NPDES permit, and compliant with
2 Regional Water Quality Control Board testing
3 guidelines and management practices.
4 This project is fully consistent with the
5 SeaWorld master plan. Blue World focuses on
6 education and science and provides opportunities for
7 people to speak directly with animal experts. We
8 provide educational messaging and conservation facts
9 through graphics and interactive exhibits to promote
10 learning.
11 Through education, we can develop an
12 appreciation for the killer whales at SeaWorld and
13 in the wild. I'd like to turn it over to Dave
14 Watson, legal counsel. Thank you.
15 MR. WATSON: Good morning, Chairman Kinsey
16 and members of the Commission. My name is David
17 Watson, and I'm here representing SeaWorld today. I
18 want to speak briefly about Coastal Commission
19 jurisdiction issues that have arisen in connection
20 with Blue World. I have summarized my statement in
21 the yellow page outline just distributed to you and
22 provided to your staff last Tuesday.
23 We have written two detailed letters to
24 Staff explaining SeaWorld's position that the State
25 of California does not jurisdiction to regulate the

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1 management and care of marine mammal collections.
2 (Audience interruption.)
3 MR. WATSON: This issue involves
4 interpretation of complex federal and state
5 statutes. However, I want to summarize our position
6 as simply as possible. First, we believe that
7 federal law expressly preempts all state regulation
8 of marine mammal collections. The Federal Marine
9 Mammal Protection Act contains an express federal
10 preemption provision reserving all such regulation
11 to federal agencies.
12 The Marine Mammal Protection Act regulates
13 taking of marine mammals. The federal regulations
14 define "take" to include, and I quote: "Restraint
15 and detention." A marine mammal exhibit or aquarium
16 is a restraint or detention.
17 As a result, all marine mammal exhibits or
18 aquariums are regulated exclusively by the federal
19 government. Nothing in the 1994 amendments to the
20 Marine Mammal Protection Act changed that fact. The
21 amendments authorize the federal agencies already
22 with exclusive jurisdiction over marine mammals to
23 regulate exhibits and aquariums pursuant to the
24 Federal Animal Welfare Act, which Staff has already
25 mentioned.

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1 Although the federal AWA allows state
2 regulation of other non-marine mammal animal
3 collections, the exclusive federal jurisdiction over
4 marine mammals has not been changed, altered or
5 eliminated.
6 Second, the Fish and Game Code delegates
7 exclusive power to regulate possession of mammals to
8 the Department of Fish and Wildlife and the
9 California Fish and Game Commission. In addition,
10 the Fish and Game Code states that when federal laws
11 or regulations do allow the state to assume
12 jurisdiction over marine mammals, the Fish and Game
13 Commission may adopt such regulations.
14 Third, the Coastal Act states that the
15 Coastal Commission shall not establish or impose
16 controls over wildlife or fishery management that
17 duplicate or exceed regulation controls established
18 by the Department of Fish and Wildlife and the Fish
19 and Game Commission.
20 Neither the Department of Fish and Wildlife
21 nor the Fish and Game Commission have established
22 any regulatory controls over marine mammals as staff
23 has indicated.
24 Because the Coastal Commission may not
25 exceed with the Fish and Wildlife regulations state,

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1 the Coastal Commission may not regulate where the
2 Department of Fish and Wildlife has not.
3 Fourth, we strongly agree with certain
4 statements about the Coastal Act as set forth in the
5 Blue World staff report. So I'm not being entirely
6 contentious here. The Staff reports, "No provision
7 of the Coastal Act expressly addresses the
8 management of animals that are kept in captivity in
9 an artificial environment."
10 The Staff report states, "The context and
11 language of Coastal Act Section 30230 which protects
12 marine resources concerns animals in the wild."
13 The Staff report further states, "The most
14 straightforward interpretation of marine resources
15 is that they consist of resources in the marine
16 environment." That is, marine resources are in the
17 ocean, not resources contained in on-shore
18 artificial structures.
19 SeaWorld exhibits and aquariums are
20 on-shore artificial structures. Therefore, Coastal
21 Act Section 30230 does not apply to SeaWorld
22 exhibits and aquariums.
23 Finally, the Coastal Commission has been
24 reviewing and approving SeaWorld development
25 projects including previous killer whale habitat

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1 expansions for more than 40 years, ever since the
2 Coastal Act was established.
3 The Coastal Act has never imposed any
4 condition, special or otherwise, on any SeaWorld
5 project based on Coastal Act Section 30230. There
6 has been some reference to the staff report prepared
7 for Journey to Atlantis in September 2002. That
8 report discussed Section 30230 in the context of
9 possible noise impacts on marine mammals.
10 However, the Staff report concluded the
11 project was designed in a manner that eliminated
12 possible noise impacts. No condition of any kind,
13 special or otherwise, related to noise and based on
14 Section 30230, was imposed on Journey to Atlantis.
15 In addition, the Staff report did not
16 contain any explicit findings related to noise in
17 Section 30230. As a result, we firmly believe the
18 Commission does not have jurisdiction over
19 SeaWorld's marine mammal collection, and the
20 Commission has never asserted such jurisdiction.
21 Because this is a coastal land development
22 project, I would be remiss if I did not reiterate
23 Staff's conclusion that Blue World is fully
24 consistent with the SeaWorld master plan and the
25 Coastal Act, and all potential environment impacts

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1 of the project were fully analyzed in the master
2 plan EIR.

3 From a pure land use regulatory
4 perspective, this is a simple project, completely
5 compliant with all regulatory requirements.

6 However, we know you want to learn more about the
7 whales themselves. For discussion about that, I
8 would like to turn the podium over to two people who
9 I believe have the greatest jobs in the world. Dr.
10 Hendrik Nollens, SeaWorld's Senior Staff
11 Veterinarian, followed by Lindy Donahue, SeaWorld
12 Supervisor of Animal Training. Thank you.

13 DR. NOLLENS: Good morning, Commissioners.
14 I am Dr. Hendrik Nollens, a veterinarian at SeaWorld
15 San Diego. I have a veterinary degree from the
16 University of Ghent in Belgium, a master's degree in
17 marine biology from the University of Otago in
18 New Zealand. And a Ph.D. in infectious diseases of
19 marine mammals from the University of Florida.

20 I have authored over 30 peer-reviewed
21 papers that have appeared in 20 scientific journals
22 on various topics of marine animal health and
23 disease, I am a member of the Society for Marine
24 Mammalogy, the International Association for Aquatic
25 Animal Medicine, the American Veterinary Medical

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1 Association, and the Wildlife Disease Association.

2 I am a former clinical assistant professor
3 in marine mammal medicine at the University of
4 Florida. I am currently responsible for the health
5 and wellness of all SeaWorld San Diego's animals
6 including the killer whales. I have dedicated my
7 life to the care and well being of marine mammals
8 not only in a zoological setting but also in the
9 wild. I am a marine mammal health professional.

10 No matter whether you do or you do not
11 believe that animals in zoos play an increasingly
12 important role in our digitalized society, one thing
13 is -- must be very clear. With the approval of Blue
14 World we are set to transform the habitat of our 11
15 Orcas into a dramatically better, larger, more
16 naturalistic, more dynamic and more enriching home.

17 How could anyone who only has the whales'
18 best interest in mind possibly claim that this is a
19 bad thing?

20 Blue World will double the size of the
21 whales' current home. It will be an even more
22 dynamic environment with varied depths, fast-running
23 water current and shallow areas similar to rubbing
24 beaches. It will have exchangeable electronic
25 modules cast into its walls that will allow for

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1 unprecedented research and enrichment opportunities.

2 This new habitat is part of the ongoing
3 evolution of our park's whale environment. It will
4 provide all of us, marine experts and visitors, with
5 a deeper understanding and appreciation of these
6 incredible animals. We are partnering with leading
7 marine mammal experts from institutions such as the
8 Scripps Institution of Oceanography, U.C. Santa
9 Cruz, U.C. Davis, U.C. San Diego and the American
10 Humane Association to ensure that our habitat
11 maximizes the benefit to a whale's health and well
12 being.

13 You will hear many things today. Some
14 people will be making purposely outlandish
15 accusations. These are not based in fact. Some
16 speakers have opinions based only on biased media
17 broadcasts, and are misguided or misinformed about
18 killer whales in human care.

19 You will even hear from anti-zoo activists
20 masquerading as scientists.

21 (Audience interruption.)

22 DR. NOLLENS: These individuals -- these
23 individuals do not care for, train or observe our
24 animals every single day like I do or the 150
25 caretakers I represent here today. If my knowledge

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1 of SeaWorld were limited to what is disseminated in
2 unfounded media broadcasts or a movie, I would have
3 my reservations about SeaWorld too. Fortunately, as
4 a staff veterinarian, I have the most intimate
5 insight of what goes on in the lives of the whales
6 at SeaWorld, and it is my professional opinion that
7 the reality is nothing like what some will try to
8 make you believe today.

9 The whales at SeaWorld are cared for, loved
10 and provided for like no other animal I have worked
11 with.

12 (Audience interruption.)

13 DR. NOLLENS: Let me set the record
14 straight. We do not separate dependent calves from
15 their moms unless the health of a calf is at risk.
16 We have not collected a killer whale from the wild
17 in more than 35 years. We have reaffirmed that
18 Orcas taken from the wild will not be part of our
19 collection as stated in the Virgin Pledge and again
20 in the project description.

21 Today, we also clarify further our
22 commitment, also applies to any cetacean taken after
23 January 2012, including any whales that are
24 reportedly captured for the -- for the Russian Sochi
25 Olympics.

<p style="text-align: right;">Page 62</p> <p>1 We know nothing more about the collection 2 of these Russian whales than what is reported 3 online. And we will not accept these whales, their 4 offspring or their genetic material.</p> <p>5 The killer whales at SeaWorld are healthy, 6 anyone working with marine mammals, possibly even 7 our opponents, will tell you that SeaWorld is the 8 world-wide leader in marine mammal veterinary care. 9 The killer whales at SeaWorld are not bored. Each 10 day there are husbandry exercise, learning, 11 relationship, play and research training sessions 12 that keeps the whales enriched and stimulated.</p> <p>13 The whales at SeaWorld are not stressed. 14 The animals at SeaWorld don't face many of the 15 factors that cause stress in the wild, and in fact, 16 when scientists study stress, they use sample from 17 animals at aquariums as baseline non-stress samples.</p> <p>18 Teeth. Killer whales naturally develop 19 worn teeth, that regardless of whether they are in 20 the wild or at SeaWorld. They explore and 21 manipulate their environment with their mouth, which 22 leads to dental wear.</p> <p>23 Many wild whales have been found stranded, 24 dead with worn, infected and abscessed teeth. 25 Unlike wild killer whales, we provide comprehensive</p>	<p style="text-align: right;">Page 64</p> <p>1 Our whales are thriving, which is evidenced 2 by how long they live. A recent peer-reviewed paper 3 in the Journal of Mammalogy, and a second 4 independent study by federal government researchers 5 found that killer whales at SeaWorld, and I quote, 6 "Live as long and sometimes longer than killer 7 whales in the wild." And the wild can be a 8 treacherous place. Disease, food shortages, boat 9 strikes. Wild whale populations are in peril. At 10 SeaWorld our oldest whale is over 50 years of age 11 and currently three generations of whales are living 12 as a family unit at SeaWorld San Diego.</p> <p>13 The whales are thriving because they are 14 reproducing. Breeding is a natural, fundamental and 15 important part of an animal's life. It is a sign 16 that an animal is living in a socially compatible 17 group with adequate resources and that they are in 18 good health.</p> <p>19 Likewise, offspring are significantly 20 enriching to groups of animals, especially for those 21 species and depend on extensive social contact and 22 cooperation such as killer whales.</p> <p>23 When calves are born, you see increased 24 activity, pod swimming and synchronized behaviors. 25 Those years where a calf is dependent are the years</p>
<p style="text-align: right;">Page 63</p> <p>1 medical care, comprehensive dental care that is 2 primarily based on prevent. Not one whale is 3 receiving anti-depressants.</p> <p>4 Medications are prescribed according the 5 same ethics and principles of best veterinary 6 practice. According to the same principles, your 7 veterinarian may prescribe medication for your dog, 8 or your family doctor may prescribe for yourself.</p> <p>9 If a whale has a bacterial infection it 10 will be prescribed an antibiotic. If something is 11 inflamed, we may prescribe an anti-inflammatory. A 12 mild sedative, such as Diazepam, may be prescribed 13 to make a specific medical procedure easier on both 14 the animal and the Staff, but it is not prescribed 15 to treat depression. The whales at SeaWorld don't 16 need anti-depressants.</p> <p>17 The whales are fed the highest quality 18 food. The seafood is caught specifically for places 19 like SeaWorld, so we can always maintain the highest 20 standards for quality and cleanliness. In addition 21 we follow the rigorous U.S.D.A. guidelines governing 22 how the fish are delivered, thawed and prepared.</p> <p>23 They are fed all their food every day. 24 Food items are indeed used as a training reward. 25 But we would never deprive our whales of their food.</p>	<p style="text-align: right;">Page 65</p> <p>1 that the closest bond a whale ever experiences. 2 Quite frankly, depriving a social animal of the 3 right to reproduce is simply inhumane.</p> <p>4 There is, by the way, no way to deprive a 5 whale of reproducing without compromising its health 6 and well being. The technology to anesthetize 7 whales does not yet exist. And therefore whales 8 cannot be neutered or spayed.</p> <p>9 Long-term oral contraception has never been 10 used, would be entirely experimental, and has been 11 associated with fatal side effects in several other 12 species. The only other option would be to separate 13 males and females, which would require breaking up 14 family units.</p> <p>15 However, Blue World was not developed to 16 increase our killer whale breeding capacity. Due to 17 a long gestation and nursing periods, whale 18 populations do not grow rapidly. The SeaWorld 19 killer whale population spread throughout our four 20 parks has only grown by three percent per year over 21 the last 15 years.</p> <p>22 Since we continued to honor our 35-plus 23 year practice and commitment to not collect animals 24 from the wild, it is not biologically possible for 25 this growth rate to substantially increase.</p>

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1 Moving our whales to sea cages, we put
 2 their lives at risk. Our whales have been raised
 3 under human care. Eight of the 11 Orcas at SeaWorld
 4 San Diego were born in the zoological facility. Our
 5 whales have been raised under human care, our whales
 6 need human care to survive.

7 In the wild, these whales would suddenly
 8 have to face the same natural and man-made threats
 9 the wild whales are currently facing. They would be
 10 exposed to parasitism, toxic algal blooms and other
 11 contagious and potentially deadly diseases they have
 12 never been exposed to before.

13 Water temperature fluctuation, bacterial
 14 loads, industrial pollution, oil spills and fresh
 15 water runoff after rainstorms could be deadly.

16 Animals living in sea cages often swallow trash and
 17 rock, which can't be kept out of these enclosures.
 18 Destructive weather and noise pollution from both
 19 large complex enclosure and from shipping traffic
 20 would be a significant issue.

21 And considering all these issues, these
 22 mythical sea cages are not possibly a better
 23 alternative than expanding, advancing and improving
 24 the environment that is currently home to these
 25 animals.

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1 I am a marine mammal health professional,
 2 but I know that I speak here today on behalf of the
 3 more than 150 members of my team when I saw that we
 4 care for these animals as if they were family. We
 5 have altered our professional and personal paths for
 6 these animals for the opportunity to see them every
 7 day and for getting to know and better understand
 8 them. We have nothing but the whales' interest at
 9 heart.

10 (Audience interruption.)

11 DR. NOLLENS: Not only do we care about
 12 them deeply, we also see how they speak to future
 13 generations. Just like they did to us. We want
 14 these magnificent ocean ambassadors to continue to
 15 inspire and educate others. And Blue World will do
 16 exactly that.

17 Commissioners, I am here today to request
 18 your approval for a bigger, better home for our
 19 whales. I can tell you, Blue World is a win for our
 20 whales. Now all we need is your support. Thank
 21 you.

22 MS. DONAHUE: Good morning, Chairman
 23 Kinsey, members of the Commission. My name is Lindy
 24 Donahue, and I'm a supervisor of animal training at
 25 SeaWorld. I have been caring for Orcas and dolphins

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1 for 15 years. I have a degree in education and my
 2 colleagues have bachelor's and master's degrees in
 3 psychology, biology, zoology, animal science and
 4 more. We have a combined over 140 years of
 5 experience working with marine mammals. I work with
 6 our whales every day. From 51-year-old Corky to new
 7 baby Amaya, from grandma Kasatka to big brother
 8 Nakai. I love them all. They are family to me.
 9 I've spent all night monitoring Kasatka in labor,
 10 I've marveled at the playfulness of Amaya, and I
 11 took notice when Orkid didn't feel well.

12 One rainy night when we were anxiously
 13 awaiting, we were anxiously awaiting our newest
 14 calf, Amaya, to nurse. Hours had gone by and Amaya
 15 was having trouble finding just the right spot and
 16 position. We were starting to worry and wonder why
 17 she wasn't catching on. That day the team watched
 18 with amazement as Kasatka, an experienced mom,
 19 brought her own youngster over to Kalia and
 20 demonstrated right in front of her how to nurse. It
 21 was such an incredible sight to see the new calf
 22 nurse for the first time.

23 I'm a wife, mom, daughter and sister.
 24 Becoming a mom has been of my life's greatest gifts,
 25 and some day I look forward to my own daughters

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1 experiencing motherhood. At SeaWorld, watching
 2 Kalia grow up, deliver her own calf, and experience
 3 motherhood has been extremely special.

4 My hope is that once Amaya grows up she too
 5 can experience motherhood herself. Denying Amaya or
 6 any other Orca the opportunity to be a mother would
 7 be cruel and inhumane.

8 During the development of SeaWorld my team
 9 has had the opportunity to provide input on what
 10 would be most dynamic for the whales. We spent most
 11 of our time observing, bonding with, exercising
 12 mentally and physically challenging, playing with,
 13 feeding and caring for our family of whales. Blue
 14 World will offer more space, length, depths and
 15 opportunities for all of these activities.

16 We've been working hand in hand with
 17 engineers designers, and veterinarians to help
 18 develop the most state of the art habitat possible.
 19 During our brainstorming sessions, we've discussed
 20 new ways to use the fast water current for exercise
 21 and research projects. Dynamic enrichment features
 22 that actually give the whales choice and control
 23 over their environment, and giant viewing windows
 24 for better scientific observation.

25 The tremendous size of Blue World alone

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1 provides for enhanced socializing among the whales.
2 We can't wait to see what the whales will come up
3 with on their own. At Blue World we will have more
4 opportunity challenge our whales with interactive
5 sessions.
6 I'm disappointed today that you'll hear
7 negative comments from former SeaWorld employees.
8 Some of these individuals have little experience
9 with killer whales, others haven't worked at
10 SeaWorld in decades. One who was removed from
11 working with killer whales over a safety violation
12 and has since made a career out of disparaging
13 SeaWorld.
14 (Audience interruption.)
15 MS. DONAHUE: They'll tell you -- they'll
16 tell you all kinds of misleading stories about our
17 treatment of whales. These are lies.
18 SeaWorld is the organization who pioneered
19 a positive reward-based training philosophy that
20 uses a variety of reinforcement items to interact
21 with our whales. This method has since been
22 universally adopted for conditioning both domestic
23 and zoo animals. Our animals get all of their food
24 every day and choose to participate in sessions.
25 Let me tell you, you cannot force a killer

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1 whale to do anything.
2 (Audience interruption.)
3 MS. DONAHUE: I have given a lot of thought
4 to Blue World and what it will mean for our Orcas.
5 I care deeply for every one of the whales, and I've
6 always wanted what is best for them. We know our
7 habitat is not the same as the wild, but that
8 doesn't mean that our whales are not thriving.
9 Whales living in human care experience rich
10 fulfilling lives.
11 Life at SeaWorld is not better or worse
12 than the wild, it's just different. I have
13 dedicated my life to these animals and I would
14 never, ever do anything to harm them. I believe
15 from the bottom of my heart that the expanded
16 habitat, fast water current, rubbing beaches and
17 other enrichment opportunities of Blue World will be
18 a tremendous enhancement to our whales' lives. I
19 cannot wait to see them explore their new home.
20 Thank you very much.
21 MR. RILEY: In closing, I appreciate your
22 time today. We're here to answer any questions you
23 may have, but if I leave you with one thought: Blue
24 World is going to be a great enhancement to our Orca
25 habitat. First for our whales but also for

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1 researchers, students and guests. Thank you.
2 CHAIR KINSEY: Thank you, Mr. Riley. Now
3 we're going to move on, I'm going to invite
4 Dr. Ingrid Visser up from the Orca Research Trust,
5 who will have 15 minutes, and then Kim Ventre from
6 the Voice of the Orcas, will have 15 minutes, and
7 then we will take a lunch recess, and at that time
8 during that time, the Coastal Commission will also
9 meet in closed session, so we'll establish that
10 we'll come back into open session before we leave
11 the room.
12 And I want to compliment everyone, for the
13 most part it's been an idea in which to express your
14 support while respecting the speakers. So thank you
15 for that. And let's see if we can hold on to that
16 way of being.
17 With that, we're going to welcome
18 Dr. Visser.
19 DR. VISSER: Thank you very much for having
20 me here today. I have flown in from New Zealand
21 specifically to come to talk to you. I have not
22 been paid to be here. I've come voluntarily because
23 I am so concerned about the situation.
24 I've been very interested in hearing some
25 of the comments that have been presented here. I

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1 believe that as a scientist, it's important that we
2 separate the business rhetoric from the facts, and
3 that's what I'd like to do today. I do have some
4 slides, please.
5 Visser, V-i, double s, e-r.
6 Thank you, sir.
7 Okay. So I thought I would just give you a
8 little bit of a brief introduction to myself because
9 coming from New Zealand you may not know who I am.
10 I've been studying Orcas since 1992 in the wild,
11 from the polar waters of Antarctica to the tropical
12 waters of New -- Papua New Guinea, but also in
13 New Zealand.
14 I've been involved in eight different
15 rescues of Orca in the wild that have all been
16 returned to the wild. And I've published 20 peer
17 reviewed papers that specifically deal with Orca.
18 But I have also visited Orca in 11 different
19 facilities that are held captive.
20 That includes the three SeaWorld
21 facilities, and just yesterday I was in the
22 San Diego facility where interestingly I was
23 actually told I had to leave. Now, obviously
24 SeaWorld is concerned about me being here because I
25 am speaking as a scientist, and they're concerned

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1 about what I've observed at their facilities. So
2 I'll leave it at that, but just so that you know, I
3 was told to leave.
4 Now, I have also got experience working
5 briefly with Keiko, who the industry will tell you
6 was a non-success. You would probably know him as
7 Free Willy. It was a success.
8 (Audience interruption.)
9 DR. VISSER: Now, we also work quite
10 extensively with my project with Orca in the wild,
11 and that's what I'd like to do today is speak to you
12 about the comparisons between Orca in captivity and
13 in the wild, put that into perspective for you.
14 From research we know that Orca travel on average
15 138 miles a day. Now, that's not just a one-day
16 event. This is two different studies that have
17 shown these animals are doing this over extended
18 period. Sometimes for 44 days the average distance
19 has been 138 miles.
20 So I wanted to put that into perspective
21 for you. If we take a circle around SeaWorld's
22 proposed new tanks, and we do 122 kilometers or --
23 sorry, 222 kilometers or 138 miles, that takes us
24 well south of the border. If we did just two days'
25 travel, that takes us up well north of here. That's

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1 two days.
2 This new tank does not meet even these
3 basic requirements, no tank ever will. No facility
4 of any sort ever will. It's a true fact. It's a
5 scientifically proven thing.
6 Okay. Now, there are definitely some
7 populations of Orca who don't travel those big
8 distances. We know this, but it's their choice.
9 They are not contained within tanks, they are not
10 sent into medical tanks. They are not separated,
11 they have a choice. And these animals in captivity
12 around the world including SeaWorld's animals, do
13 not have this choice.
14 Now, we know that Orca have been around for
15 a long time. They've been around for approximately
16 five million years, depends on where you divide that
17 line.
18 Now, let's put that into the scale of
19 humans, less than half a million years, but again
20 where do you divide that line? We even go back to
21 3.6 million years, but Orca still have evolved
22 longer than we have. By having these animals first
23 generation, second generation, third generation even
24 in captivity, you still do not take away the fact
25 that they evolved in the wild, they have not evolved

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1 to life in tiny little concrete boxes.
2 This is an example that you're going to
3 probably see a few times today. Up in the very top
4 inside the circle is a little blue box. That little
5 blue box represents one of the tanks at SeaWorld.
6 Albeit one at San -- sorry, Orlando, not at
7 San Diego, but the concept still applies.
8 The new proposed tank will be approximately
9 the depth of the circle around this box. The yellow
10 line represents an average dive for a single dive of
11 a wild Orca. A single dive. They can do anything
12 up to 500 of these in a day in the wild. So a tank
13 that represents that little blue circle up in the
14 top does not meet the needs of these animals.
15 To put it again into perspective for you
16 and something that you can relate to, I did not know
17 the dimensions of the Statute of Liberty, I
18 apologize, I had to look them up, but when I saw
19 them, I was horrified. Four times the size of the
20 Statute of Liberty for a regular dive for an Orca.
21 So let's put that again into perspective of
22 what you would see at this new proposed tank. The
23 new proposed tank would be approximately at its
24 maximum 50 to 55 feet deep. Okay.
25 Now, the tablet that your wonderful Statue

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1 of Liberty holds is 23 feet long. So two times the
2 length of the tablet, not four times the length of
3 the statue. That's what they're proposing. This is
4 just a bigger box.
5 You will hear SeaWorld say many things
6 about what they do. Some of them are actually
7 pretty good. But some of them are atrocious.
8 Making these animals do tricks is not what they
9 should be doing. But I will tell you that coming
10 out and seeing these sort of behaviors, this is
11 normal behavior; it's not normal behavior. This is
12 a trick. Okay. They liken it to the situation that
13 you see with Orca in Argentina. This is a research
14 project that I'm involved in.
15 The Orca there come up onto the beach, but
16 they do it for survival. They do it to hunt their
17 food. This is not a trick. This is a risk for the
18 animals at times, but this is very real. And
19 SeaWorld tries to tell you coming out onto a slide
20 is normal behavior. It's not. There are fewer than
21 20 Orca in the world who have specialized in this
22 particular behavior.
23 Now, you've also heard about the teeth.
24 This is a photograph that I took of an Orca in
25 SeaWorld. These teeth are broken off, not because

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1 of food handling as you were just told by the
2 esteemed (inaudible) I'm criticizing the concept of
3 what he's trying to portray to you.

4 This animal here as tooth damage as an
5 individual, not at a population level, which we do
6 see, but as an individual because it is kept in
7 captivity, because it has chewed on the side of the
8 tanks, because it has chewed on the bars in the
9 tanks. This is not because it has been handling its
10 food. Food handling happens because in the wild,
11 they have to capture their food. In SeaWorld it's
12 shoved down their throat in handfuls.

13 The animals do not handle their food. In
14 the wild, Orca are known to hunt sharks, I know
15 this, I'm one of the scientists who has published
16 about it. SeaWorld will tell you that it's -- they
17 get, Orca in the wild get tooth damage because of
18 handling sharks. And yes, it's believed that some
19 of them do, but it's not been proven.

20 In New Zealand, these Orca which I see on a
21 regular basis also specialize in hunting for rays.
22 When they handle the rays and the sharks, this is
23 when we would expect to see teeth damage, if it is
24 as proposed by SeaWorld and their fairy tale
25 concept.

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1 But here we have a photograph of an Orca
2 handling a ray. This Orca I know also hunts sharks.
3 You can see very clearly there that its teeth are in
4 pristine, perfect condition. I know of not a single
5 Orca in the whole New Zealand population that has a
6 cracked or broken tooth.

7 We recently had some Orca turn up in
8 New Zealand that all died. They stranded and died.
9 It was a very tragic event. But three of those
10 animals had worn-down teeth to the gums. But they
11 were worn down as an age-related food-handling
12 situation. Not because they were chewing on
13 concrete tanks or bars.

14 So the size of the tank is not going to
15 alleviate the stress issue that has created this
16 problem. Now, also, when I was at SeaWorld I
17 photographed in San Diego the images both on the
18 left and on the right. This is young Nakai. Nakai
19 was injured. SeaWorld told everybody that it was
20 from contact with the side of the tank. Now, I
21 quote that. "Contact with the side of the tank."
22 If that's what their tanks are doing to
23 their animals, this is not a good concept for you
24 guys to be endorsing getting a bigger one.
25 (Audience interruption.)

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1 DR. VISSER: However, I truly believe as a
2 scientist that this was not from contact from a
3 tank. This was from aggression. Close up you can
4 see four puncture marks that match the spacing on
5 Orca teeth. And on my professional career, I swear
6 that I truly believe that this was from aggression.
7 Now, Nakai's wound on the right, you can see it's
8 nearly healed, but this is four years on and it's
9 still not completely healed.

10 Aggression I have observed at SeaWorld
11 every time I have gone to any of the parks. This is
12 the same Orca, Nakai, hammering into the side of the
13 young calf so hard his rostrum is buried into the
14 side of that calf. I was absolutely horrified and
15 disgusted, not only by what I saw, but by the staff
16 member standing there laughing and telling the
17 public that his was play.

18 (Audience interruption.)

19 DR. VISSER: In the wild you never see
20 this. This is what you see. Two weeks ago, I spent
21 22 hours with a mother grieving over her dead calf.
22 She carried that calf lovingly for three days. That
23 is what happens in the wild. You get true family
24 bonds, not constructed by humans. You get families
25 who care for each other. You do not get aggression

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1 where young makes are nailing young calves against
2 the side of tanks. It just doesn't happen.

3 Now, these two photographs show two
4 animals. The one in the top is the mother of that
5 young calf. These are self-mutilation wounds.
6 These Orca have inflicted them themselves because of
7 the stress in their tanks. You can see scars where
8 this has happened previously. Now, the animal on
9 the bottom left, her name is Morgan. She was taken
10 from the wild, albeit under a rescue, yes, she
11 definitely needed help, we have never denied that.
12 The problem is that SeaWorld now owns her, and
13 SeaWorld holds her in an overseas facility and
14 SeaWorld's pledge conveniently excludes her.

15 So her offspring will be used because she's
16 not included in your caveat that you guys have put
17 in place. Let's not even go down the whole thing of
18 the dorsal fins, but suffice it to say that in the
19 wild, less than one percent of adult males have a
20 dorsal fin that is collapsed. But in all aquariums
21 all around the world, one hundred percent of adult
22 males have collapsed dorsal fins.

23 Now, you don't have to be a scientist to
24 work out that there's some correlation going on
25 there. How much money is SeaWorld going to spend on

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1 this? There are all sorts of proposals. But you've
2 also been asked and told to look at the options of
3 sea pens. I know that's not on your mandate, I know
4 that's not in your jurisdiction, but I beg you as
5 individuals to consider it from the bottom of your
6 heart as something that can be recommended to
7 SeaWorld to look at.

8 Cetacean sanctuaries do not have to be
9 scary, big things like the vets make them out to be.
10 These places can be monitored, they can be
11 controlled, and believe it or not, the ocean is
12 actually a great place. They'll tell you it's a
13 scary, bad place, but hundreds of thousands of Orca
14 manage to survive out there.

15 But because these animals are coming from
16 captivity, they are in a compromised situation. We
17 realize that they may need some level of care beyond
18 just putting them in a sea pen. So it is feasible
19 to have medical pens in there. It is feasible even
20 to go to the extent where SeaWorld could have an
21 off-site facility where the public could go, the
22 public could still see Orca. Let's put these
23 animals into a retirement system, let's put them
24 possibly into a rehabilitation center. And even
25 possibly look at release into the wild.

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1 The public doesn't have to be deprived of
2 seeing these animals that are now there, but we can
3 phase them out, and I really hope that you guys will
4 take the right step in the right direction. Thank
5 you very much.

6 (Audience interruption.)

7 CHAIR KINSEY: Thank you. Thank you.
8 Okay. Please, please remember what we're asking for
9 in the way of audience participation, and we're
10 going to move on now to the next speaker, Kim
11 Ventre. And after this we will be taking our lunch
12 recess and closed session. Welcome.

13 MS. VENTRE: Hi. Thank you.

14 CHAIR KINSEY: You have 15 minutes.

15 MS. VENTRE: I'm actually sharing my time
16 with John Hargrove.

17 CHAIR KINSEY: Certainly.

18 MS. VENTRE: So I have some photographs
19 that are on there, but is it possible to just scroll
20 through them. They're not really, they're just
21 teeth photos and things like that.

22 So thank you very much for having me. I'm
23 here today on behalf of Dr. Jeffrey Ventre and
24 Dr. John Jett. Dr. Ventre practices medicine, is
25 with patients today; Dr. Jett is a professor

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1 teaching environmental science. Jeff and John were
2 trainers at SeaWorld's Orlando flagship working
3 closely with the Orcas I will describe.

4 They've published peer-reviewed research
5 papers in a university textbook chapter on Orca
6 captivity. I'm Kimberly Ventre, an entrepreneur
7 with a master's degree in urban planning. I'm a
8 California resident and a California voter. We're
9 all three volunteers and give our time to
10 conservation for free.

11 I only mention this because it speaks to
12 our motivation. There are many paid industry
13 representatives or employees who obviously support
14 SeaWorld's policies and practices. Jeff, John and I
15 are completely independent.

16 We want to share some of the stories
17 SeaWorld does not publicize. None of these stories
18 will be made better by building bigger pools.
19 During Dr. Ventre's time at SeaWorld he found the
20 killer whale, the Kanduke, to be particularly
21 tragic. Like famous captive Tilikum, Duke weighed
22 12,000 pounds and had a collapsed dorsal fin. Like
23 Tilikum, he was less maneuverable and subdominant,
24 big, subdominant, and with no mother and status, he
25 was bullied, raked and beaten up.

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1 Tormented in his captive world, Duke would
2 beat his head against the stage with such force you
3 could feel the impact of it during the shows. His
4 jaws would bleed regularly. Duke had no viable
5 teeth left from grinding them on the walls. My
6 brother describes applying black zinc oxide to his
7 back and dorsal fin as the skin would blister from
8 lying in the Florida sun. During the night,
9 hundreds of mosquitos would land on Duke's back,
10 biting his blistered skin until he decided to move
11 and swim below the surface.

12 Another Orca, Taku, was captive born, but
13 no less tragic. As Jeff watched Taku grow, he
14 noticed that even at almost three years old, Taku
15 was still nudging his mom, Katina, for milk and
16 sometimes nursing.

17 Unfortunately for Taku and mom Katina, when
18 he became sexually mature, he impregnated her,
19 producing a daughter who was also his sister in
20 2006. This in-bred Orca, Nalani, was created by the
21 confines of SeaWorld tanks. It sent a shock wave
22 through SeaWorld and Taku was quickly shipped away
23 from the only family he ever knew, dying just one
24 year later.

25 Duke and Taku both had similar deaths in

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1 unnatural environments away from their families. In
2 '90, Duke died of Saint Louis virus encephalitis.
3 In 2007 at the age of 14, Taku died of West Nile
4 virus. Both of these viruses were transmitted by
5 mosquito bites and are typically not fatal. These
6 viruses only attack the brain of victims with
7 compromised immune systems.
8 Both Duke and Taku had teeth rot, gum
9 disease, and were chronically medicated. Their
10 tragic deaths are not featured in SeaWorld's
11 literature.
12 Dr. Jett tells similar stories. Watching
13 Winnie, a very sweet, docile female being
14 continuously harassed, chased and beaten up was
15 heartbreaking for him. He watched her cower in the
16 corner, come out of the water onto the slide out
17 areas to escape attacks. During one event she was
18 raked and bleeding so badly that the entire pool
19 system was darkened with her blood. As a result,
20 the next show had to be cancelled.
21 John also describes listening to Goodrem
22 (sic) emit distressing vocals so loud they could be
23 heard everywhere through the park, even the employee
24 parking lot. Shamu shows were cancelled during her
25 chilling vocalizations which she would repeat

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1 unchanged for hours on end.
2 Goodrem died from internal hemorrhaging
3 after SeaWorld vets manually pulled a dead fetus out
4 of her body. Hearing the details of how she died
5 and how long it took her to die is terribly painful.
6 Orca Nair (sic) died a slow death after two
7 years of being forced fed her food and medications.
8 Nair's mom, Goodrem, and the other whales had little
9 to do with her as she was disabled and permanently
10 separated from them. Nair's situation, like the
11 others mentioned, made John's view of killer whale
12 captivity in a completely -- made him view captivity
13 in a completely different light.
14 In terms of care, John and Jeff were always
15 concerned by the number and amount of drugs the
16 whales were given. It seems natural to ask what is
17 it about captivity that requires so much medical
18 intervention.
19 We think that the dental teeth damage and
20 drilling procedures that occur at places like
21 SeaWorld is probably the most tragic consequence of
22 captivity, and I know that Dr. Visser went over
23 that. Exploitation and marginalization with the
24 industry extends to low-wage employees, most without
25 benefits. Injured trainers are afraid to speak up,

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1 government administrators are pressured into
2 changing reports or citations, not to mention the
3 awful conditions from many other animals.
4 We hope these stories and voices are not
5 shouted down by corporate money and slick PR. The
6 Florida-based animal circus and captivity industry
7 has fallen out of favor and is in major decline. As
8 of 2014, only 21 percent of Americans actually favor
9 captivity.
10 SeaWorld as announced plans to expand to
11 China and the Middle East where laws and views are
12 more lenient. The expansion globally will only
13 encourage more captives world wide. SeaWorld's
14 financials show huge debt, multiple shareholder and
15 class action lawsuits, yet they continue to spend
16 enormous amounts on lobbying and advertising. As
17 attendance continues to drop, are local citizens
18 going to be left bailing out this project?
19 California leads the world in innovation,
20 tech, green energy, genetics, aerospace. We should
21 be seeking something better for our state, not
22 propping up a dying industry with bigger pools.
23 SeaWorld could be real heroes if they
24 evolved into the 21st century and changed their
25 business model. Today, let's seek the right side of

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1 history, the environmentally sound, transparent,
2 cruelty free and uplifting, something all of
3 California can be proud of. Blue World is old
4 world. I urge you to vote no on this old world
5 expansion.
6 (Audience interruption.)
7 MR. HARGROVE: Good morning. I'm John
8 Hargrove, and I'm here today to ask you to deny
9 SeaWorld's request for a permit to expand their
10 killer whale tanks. I'm a former senior killer
11 whale trainer for SeaWorld with 12 years of
12 experience with the company, both SeaWorld of Texas
13 and California, resigning my position in August,
14 2012. I was also a supervisor of killer whale
15 training with Marine Land in France.
16 The health effects due to confinement in
17 captivity is irrefutable. Due to boredom and
18 stress, the whales peel and eat the paint in the
19 tanks. They also wear down their teeth by
20 excessively rubbing their teeth on the concrete and
21 bite the stage and ledges from frustration, causing
22 the teeth to fracture. This damage forces us to
23 manually drill the teeth with a metal drill bit
24 without anesthetic.
25 Trainers, not vets, perform this risky

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1 procedure. Once the holes are drilled, the whale
2 must endure daily multiple invasive irrigations with
3 a powered machine with a hydrogen peroxide solution
4 as we dig into the tooth with a metal catheter.
5 This now causes the whales to be at greater risk to
6 deadly infections and in fact this has happened.
7 Captive Orcas are heavily medicated. They
8 are treated for ulcers from chronic stress and for
9 countless infections from multiple types of
10 antibiotics. We have medicated a whale for epilepsy
11 and yet we still swam with him despite the obvious
12 dangers associated with both his condition and his
13 mental state being compromised due to the side
14 effects of the medication.
15 Often we witness self-mutilation as whales
16 due to boredom expressed obsessive behavior that
17 caused injury to their faces and rostrums which
18 became bloodied and bruised and often caused them to
19 what we refer to as shutting down or refusing to
20 eat. Despite our best efforts to extinguish this
21 undesirable behavior, through SeaWorld training
22 principles, we were unsuccessful.
23 In-breeding has now become a serious issue.
24 Despite the fact that science has prove Orcas don't
25 in-breed in their natural habitat, these social

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1 mechanisms break down in captivity. Taku in-bred
2 his mother, and Keto, who killed Alexis Martinez,
3 and the uncle of Kohana, has currently in-bred her
4 twice by the age of eight resulting in two calves.
5 She rejected both calves and the second died within
6 their first year of life.
7 Important to note is that natural breeding
8 in the wild occurs between 13 to 15 years of age.
9 This brings me to discuss the artificial
10 insemination program at SeaWorld, which began in the
11 year 2000, and I was on the team that performed the
12 first successful AI procedure in the world on
13 Kasatka. I have trained this procedure many times
14 through the years and in control of the whales for
15 their procedure when performed.
16 There are two very disturbing aspects about
17 this. First, SeaWorld continues to ignore science
18 by artificially inseminating females with sperm from
19 Orcas they would never interact with in the wild,
20 and certainly not breed with. By forcing this
21 unnatural behavior on these captive Orcas, SeaWorld
22 is creating hybrid Orcas that have no true social
23 identity and do not exist in the natural world.
24 Kalia at the age of eight in 2013 was
25 forcibly artificially inseminated. At only eight

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1 years old she is just a kid, and years away from her
2 body being fully developed. This abomination has
3 led the world-renowned and respect Dr. Jane Goodall
4 to come forward and issue a public statement just a
5 few months ago stating, "SeaWorld's breeding program
6 is no longer defensible by science and should be
7 shut down."
8 SeaWorld still states they do not separate
9 mothers from their calves, even posting an image of
10 Takara and her calf Kohana on their SeaWorld
11 website, even though Takara is in Texas and Kohana
12 is in Spain.
13 (Audience interruption.)
14 MR. HARGROVE: After taking Takara from her
15 mother, Kasatka at age 12, even though they would
16 stay together for life in the wild, SeaWorld chose
17 not to tell the public the rest of the story. That
18 Kohana was taken from Takara at only three years old
19 when shipped to Spain to be in-bred by her uncle
20 Keto. Nor the fact that Takara was taken from her
21 second calf, Trua, also age three, when they shipped
22 her to Texas while she was seven months pregnant
23 with Sakari.
24 After I testified before the California
25 State Assembly for proposed legislation AB 2140,

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1 corporate vet Christopher Dold answered, "No, we
2 don't separate mothers from their calves," then only
3 to switch his story to say only in rare cases if the
4 calf is in imminent danger.
5 I am certain that SeaWorld is responsible
6 for taking at least 19 calves from their mothers,
7 and only two of these were medically necessary due
8 to extreme aggression by the mother toward the calf.
9 SeaWorld now attempts to classify a calf as
10 a nursing animal still dependent on their mother,
11 and therefore acceptable to separate them after they
12 stop nursing. Science has proven these animals stay
13 together for life in the wild, and SeaWorld
14 separated Keet from his mother, Kalina, when he was
15 only 20 months old and still nursing.
16 As an apprentice trainer in 1993, 1994, I
17 was responsible for detailed documentation of the
18 whales' behavior including calf nursing. It was
19 observed and documented that Keet still had milk in
20 his mouth, still nursing Kalina, when she was
21 shipped back to Florida.
22 Anyone who challenges or disagrees with
23 SeaWorld's business model of keeping captive animals
24 for entertainment and profit, are immediately
25 labeled as extreme animal rights activists in an

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1 effort to discredit them.

2 I reported potentially unsafe working

3 conditions at SeaWorld of California to CalOSHA. An

4 inspection by the agency resulted in current

5 multiple safety violations and for preventing

6 employees from reporting workplace hazards. I have

7 been named on the government's witness list for this

8 case.

9 One only needs to go to the official NOAA

10 government site to see all the ages and causes of

11 death of all SeaWorld-owned whales to realize that

12 despite what they try to sell you with their

13 commercials and what they told you today, these

14 animals are not living anywhere near their

15 equivalent of their wild counterparts and are dying

16 in painful and drastically premature ways. It's

17 documents. It's in black and white. You cannot

18 dispute it.

19 SeaWorld's proposed expansion is deceiving.

20 The expansion already includes existing real estate

21 or tank space, the already built Dymo Shamu pool.

22 Regardless, when you hear from the prominent marine

23 mammal scientist and researchers today, the

24 expansion does not offer any meaningful improvement

25 in the life of an Orca compared to the life the live

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1 in their natural habitat.

2 SeaWorld's world class veterinary care only

3 exists to treat the ravaging consequences from

4 living in captivity. Wild Orcas do not need their

5 teeth drilled or be pumped full of drugs to treat

6 infections, anxiety or ulcers. Hyper-aggression

7 between whales forced into confined spaces who would

8 never interact in the wild has resulted in a death

9 of an Orca in California which has never been

10 observed in the wild.

11 Under management direction, I lied to the

12 public for years, denying we used chlorine and other

13 lethal chemicals in our water with the animals. I

14 also lied about being disciplined for announcing

15 over the radio that we could smell elevated ozone

16 levels because we did not want the public to pick up

17 on that. We were also directed to lie about

18 circumstances about aggressions between us and the

19 whales, despite the fact our aggressions with the

20 whales were clearly documented.

21 The SeaWorld spokesperson directly lied to

22 the public, saying the trainers did not believe the

23 whales' behavior was aggressive, which was patently

24 false. There is a blatant lack of transparency by

25 this company and history of retaliating against

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1 anyone who speaks out against them is severe.

2 SeaWorld sent multiple legally-threatening

3 letters to me warning me not to publish my book and

4 threatened to file an injunction to stop it. After

5 SeaWorld publicly denied they sent any

6 legally-threatening letters to me --

7 (Audience interruption.)

8 MR. HARGROVE: -- a San Diego-based

9 journalist had one of the letters independently

10 verified as a legally-threatening letter.

11 Withholding fruit from the whales, this is very

12 important, for behavioral reasons is common by some

13 trainers including management. All five former

14 SeaWorld trainers also featured in Blackfish,

15 supported my claim and the animal training records

16 which SeaWorld refuses to release proves it. A

17 judge has already ruled SeaWorld cannot claim their

18 training techniques and protocols are trade secrets

19 when they perform these techniques -- because they

20 perform these techniques in front of thousands of

21 public guests.

22 Caging and enslaving these animals so that

23 you can have a fun day at SeaWorld is not the

24 answer. An expansion of any size does not benefit

25 the whales. SeaWorld has already stated they have

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1 no intention to stop their breeding program, nor

2 their artificial insemination program, which means

3 this incremental amount of space will soon be filled

4 with more whales and whales artificially engineered

5 that don't exist in the natural world.

6 Important to note about this construction

7 is that certain whales like Kasatka in California

8 have a long history of becoming serious agitated

9 during construction, escalating to coming out of the

10 pool attempting to aggressively grab unsuspecting

11 trainers.

12 Approval of this expansion will promote

13 this industry world wide and encourage wild captures

14 elsewhere. Captivity is still captivity, no matter

15 how gentle the jailer or size of the sail, these

16 animals belong in their natural habitat. Thank you.

17 CHAIR KINSEY: Thank you. Thank you both.

18 (Audience interruption.)

19 CHAIR KINSEY: That completes that

20 presentation. We will -- we will now be going into

21 our lunch recess and closed session. And I

22 anticipate being back in this room between 1:30 and

23 1:45. Thank you.

24 (Lunch recess and closed session.)

25 CHAIR KINSEY: Thank you. Welcome back.

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1 Thank you your patience. I hope you've been
2 enjoying your time waiting. We are going to
3 continue and as we know, we have a number of folks
4 who are interested in speaking right down to the
5 individual. We're still going through some
6 organized presentations, and I wanted to invite up
7 Jared Goodman from PETA who would have 15 minutes --
8 (Audience interruption.)
9 CHAIR KINSEY: There you go. Yeah. Get
10 that last, one last shout out because we're going to
11 not do that anymore.
12 (Audience interruption.)
13 CHAIR KINSEY: Okay.
14 (Audience interruption.)
15 CHAIR KINSEY: Enough. Okay.
16 COMMISSIONER GROOME: Need to report on
17 closed session.
18 CHAIR KINSEY: Thank you. That's only
19 fair. Before you begin, Jared, I wanted to make
20 sure that we have a report out of our closed
21 session, just to explain that. Turn to our chief
22 counsel.
23 MR. PEDERSON: Thank you very much, Chair
24 Kinsey. The Coastal Commission met in closed
25 session today to discuss the following matters of

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1 litigation. AES Southland Development versus
2 Coastal Commission, Marina Coast Water District
3 versus Coastal Commission, Aqua Legacy Development
4 versus Coastal Commission, City of Dana Point versus
5 Coastal Commission, and a matter of potential
6 litigation. The Commission received litigation
7 advice, but took no action on those matters. In
8 addition, given the Commission status at this stage
9 of SeaWorld's pending application, the Commission is
10 facing a risk of pending -- of litigation being
11 filed, so there was discussion of potential
12 litigation risks as well. The Commission took no
13 action on that. Thank you.
14 CHAIR KINSEY: Okay. Thank you all for
15 your courtesy. I'm going to invite Jared to begin
16 at this point in time.
17 MR. GOODMAN: Thank you. I'm going to be
18 taking only about 12 and a half of the 15 minutes,
19 and the rest is going to be ceded to Ms. Pamela
20 Anderson, who will be coming up here.
21 (Audience interruption.)
22 CHAIR KINSEY: All right. There are seats
23 for those who will be part of a presentation. I
24 encourage you to be sitting and ready to go. Thank
25 you.

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1 MR. GOODMAN: So thank you, Chair Kinsey
2 and Commissioners for hearing from us today. I am
3 Jared Goodman on behalf of PETA and the 130,000
4 people who have joined us in urging you to vote
5 against SeaWorld's Blue World project. It would be
6 the best decision for the Orca and for the state of
7 California.
8 Approving SeaWorld's plan would be an
9 enormous step backward for animals abused in the
10 entertainment industry at a time when public opinion
11 has shifted away from supporting captivity and
12 decisions makers in the state are working hard and
13 tirelessly to put an end to it.
14 In just the past year, Oakland and
15 Los Angeles have passed laws to prohibit bull hooks,
16 which are weapons used to abuse elephants in the
17 circus, effectively banning those circuses from
18 entering the state -- or from those metropolitan
19 areas. Also Ringling Brothers announced that it
20 would stop using elephants in circuses after nearly
21 150 years, acknowledging that consumers have turned
22 against the archaic practice.
23 SeaWorld is nothing more than a marine
24 circus, and the Orcas are their elephants. SeaWorld
25 admits that its plan is to breed more Orcas for

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1 these new tanks, which would effectively undo any
2 marginal improvements to the quality of life that
3 alleges that these tanks would offer.
4 According to SeaWorld, the tanks would be
5 designed to accommodate up to 20 Orcas, but it holds
6 only 11 of them in the tanks now. Even by its
7 self-imposed limitation, it may nearly double the
8 number of Orcas in these tanks, which would leave
9 the individual Orcas with less space than they
10 currently have.
11 This project is about desperately trying to
12 improve its badly-damaged reputation, not about the
13 lives of the Orcas who are currently confined there.
14 The Commission's exercise of its authority over
15 captive marine mammals is consistent with the
16 Coastal Act's language, its intent, the Commission's
17 own precedent, and its history of unwavering
18 vigilance over all coastal resources. Accordingly,
19 we are urging the Commission to deny SeaWorld's
20 proposal, which would fuel the unregulated growth of
21 the company's Orca breeding program and cement this
22 failing business' place within the coastal zone.
23 The Coastal Act was enacted to protect,
24 maintain, enhance and restore the overall quality of
25 the coastal zone environment and its resources,

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1 including marine resources and healthy populations
2 of all species of marine organisms. The legislature
3 considered it necessary to provide maximum state
4 involvement in activities that affect California's
5 coast and avoid long-term cost to the public, and a
6 diminished quality of life resulting from the
7 mis-use of coastal resources.

8 Although the Coastal Act focuses on
9 protecting open spaces in wildlife in their native
10 state, it contains no limiting language that would
11 exclude captive wildlife. Rather, the legislature
12 required that the Commission protect all resources
13 that exist with the coastal zone as the Orcas at
14 SeaWorld plainly do, which is why we're hearing this
15 today.

16 The Act applies to both natural and
17 artificial resources, whether they are on public or
18 private lands, to find that the Act protects only
19 open waters and free roaming animals would render
20 this language meaningless.

21 The Commission has exercised its
22 jurisdiction over every part of the coast, from
23 pristine preserves to abandoned and decaying
24 industrial areas, and just as the Commission still
25 controls natural spaces that have been spoiled, it

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1 also retains jurisdiction over Orcas within the
2 coastal zone who have been captured or who were born
3 in captivity.

4 The Commission doesn't just retain
5 jurisdiction over marine mammals, but has also
6 repeatedly exercised its jurisdiction without
7 fanfare or debate. Just last year when asked to
8 authorize the repair and replacement of aging pools
9 at the Long Brain (phonetic) Laboratory in Santa
10 Cruz, the Commission specifically considered where
11 the displaced dolphins would be held during
12 construction. Although the Commission didn't
13 include an analysis of its jurisdiction over these
14 dolphins, none was needed. The Commission had no
15 reason to question the scope -- the scope of its
16 authority either then or now.

17 To deflect controversy and criticism,
18 SeaWorld has for the first time tried to cast doubt
19 on the Commission's authority over captive
20 cetaceans. There was little doubt that the Act
21 applied to captive marine mammals when the
22 Commission considered SeaWorld's 2002 Splashdown
23 project that we've discussed, and in fact the
24 Commission specifically invoked Section 30230 of the
25 Act and noted, "It protects marine resources and is

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1 the most applicable Coastal Act policy with regard
2 to marine mammals that are held in captivity at
3 SeaWorld.

4 The Commission just asked the noisy ride
5 that was built might affect the captive dolphins.
6 Again, SeaWorld didn't challenge jurisdiction, but
7 simply provided a report that said there will be no
8 greater impact on the animals after as before the
9 ride was being built.

10 Even now, as the Commission has come to
11 examine its jurisdiction over captive marine
12 mammals, its conditioning approval of SeaWorld's
13 expansion on noise mitigation efforts that must be
14 taken to protect these very same captive animals.

15 In fact, the Commission has even exercised
16 its authority to prevent racial discrimination in
17 the coastal zone. In 1985 the Commission refused to
18 issue the Jonathan Club coastal development permit
19 unless the private club, which occupied a public
20 beach front, disavowed its discriminatory membership
21 policy.

22 The club took its fight all the way to
23 court and lost, and like the club, SeaWorld is a
24 private organization that occupies coastal zone, it
25 profits from a practice that has become widely

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1 recognized as unethical, and aims to curtail the
2 Commission's power through a narrow reading of the
3 Coastal Act.

4 The Blue World project, however, represents
5 a far more tangible harm to marine resources of the
6 coastal zone than the Jonathan Club did.

7 Since Orcas are due special protection
8 under the Act, any uncertainty about the
9 Commission's jurisdiction pursuant to the Coastal
10 Act must be resolved in the Orcas' favor.

11 In an attempt to repair a fractured
12 reputation for its unethical business, SeaWorld is
13 misleading members of the public and hoping they
14 will believe that superficial aesthetic changes to
15 its tanks will lead to a better quality of life for
16 the Orcas who are confined to them.

17 As you can see in SeaWorld's new plans that
18 they showed us today, the changes that the company
19 proposes are designed to attract more guests, not to
20 improve the lives of Orcas. In the wild, Orcas dive
21 up to 1,000 feet below the ocean surface, but the
22 tanks that SeaWorld is requesting permission to
23 build would reach only 50 feet at their very deepest
24 points. And SeaWorld wants to increase the depth of
25 its current tanks by only 15 feet from what it is

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1 currently, which is not even the body length of an
2 adult Orca.

3 This new glass enclosure and horticulture
4 outside the tanks would do nothing to benefit the
5 Orcas or enhance their quality of life. SeaWorld's
6 proposed new tanks are only 350 long, that's only
7 .07 miles. By contrast, as Dr. Visser told us,
8 Orcas have been observed swimming 138 miles in a
9 single day. SeaWorld has said that Orcas will swim
10 long distances in the wild only because they are
11 required to in order to search for food.

12 But in fact, also as Dr. Visser noted,
13 these animals have evolved over millions of years
14 into far-ranging, deep diving top marine predators.
15 They travel in tight-knit groups, hunt
16 cooperatively, and pass down behaviors and unique
17 dialects to their young from generation to
18 generation. But at SeaWorld they're confined to
19 small concrete tanks and fed dead fish.

20 This is indisputable. These conditions
21 lead to a number of abnormal types of behavior among
22 the Orcas including incessant logging or resting for
23 long periods at the surface of the tank, biting on
24 the sides of the tanks, and excessive aggression
25 directed towards trainers and each other.

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1 We've heard from others on these
2 detrimental effects of captivity, so I will only
3 address them briefly.

4 Dr. Heather Rally, a PETA Foundation
5 veterinarian who has marine mammals, visited
6 SeaWorld San Diego in September and October of 2014,
7 and the other two SeaWorld facilities earlier this
8 year. Her observations confirmed the damage caused
9 by a life of deprivation at SeaWorld.

10 Although in the wild Orcas spend up to 95
11 percent of their time submerged and are in motion
12 almost constantly, the male Orca Ikaika was observed
13 lying motionless at the surface of the tank for at
14 least 15 minutes, occasionally lifting head and
15 opening mouth as if he were trying to swallow air.
16 And another Orca floating motionless in a corridor
17 near the exit of the pool. A third Orca who is
18 housed in isolation was observed exhibiting a
19 repetitive swimming pattern which is uncommon in the
20 wild and believed to be a sign of psychological
21 stress and boredom in captivity.

22 Dr. Rally identified rake marks on several
23 of the Orcas, these occur when the teeth of dominant
24 Orcas scrape against less aggressive animals, and in
25 the wild, while this certainly does happen on

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1 occasion, the Orcas who are involved in the
2 altercation can simply swim away from each other.

3 In captivity there's no way for them to
4 escape, which results in chronic stress and painful,
5 serious injuries as were observed on several of the
6 Orcas performing at SeaWorld. In fact, SeaWorld's
7 own veterinary records reveal that Orcas have been
8 given Diazepam or Valium to reduce the aggression
9 brought on by captivity, we heard Dr. Nollens that
10 the Orcas are not given anti-depressants. And given
11 Valium only when necessary for a medical procedure.

12 SeaWorld's veterinary records show that
13 three Orcas were administered Diazepam because, one,
14 a new mother with a days-old calf was acting
15 aggressively towards her baby; another Orca was also
16 acting aggressively towards that calf; and a third
17 was trying to breed with him. Excuse me. With her.
18 This was a male Orca trying to breed with an
19 approximately 11-day old calf.

20 Many of the Orcas including one as young as
21 five years old showed signs of dental trauma,
22 including missing and worn and broken teeth that
23 you've heard from others about today. Again,
24 according to SeaWorld's own veterinary records, the
25 drilling that they do and the flushing that they do

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1 is often unsuccessful. It means animals still often
2 suffer from chronic dental infections to the point
3 where pus will be exuding from the tooth and you
4 could feel the heat from the infection without even
5 touching the tooth.

6 As observed by Dr. Rally and indicated by
7 Dr. Visser, every single captive adult male had a
8 collapsed dorsal fin, a condition that rarely occurs
9 in the wild, and in captivity is believed to be a
10 result of space limitation and extended time spent
11 at the surface of the water.

12 These conditions take their toll on the
13 animals. In the last ten years, seven Orcas owned
14 by SeaWorld averaging under 13 years of age have
15 died, whereas in the wild Orcas have an average life
16 expectancy of 30 to 50 years and some can live to be
17 over 100. Again, these are facts, these are the
18 animals who have died at SeaWorld within the last
19 ten years, and the average age was less than 13.

20 While SeaWorld is spending millions of
21 dollars desperately trying to repair its devastating
22 image, it spends less than one percent of its
23 revenue on rescue and conservation. The \$95 million
24 that SeaWorld is propose to spend to construct these
25 new tanks is based on its 2014 spending more money

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1 than it projects to spend on rescue and conservation
2 over the next 13 years. In fact, several studies
3 conducted by members of the zoological community
4 have concluded that unnatural portrayal of animals
5 used in entertainment actually undermines the
6 legitimate scientific welfare and conservation goals
7 of those who seek to protect them.

8 While other studies have shown that seeing
9 animals in captivity actually fosters disrespect for
10 them rather than reverence. First and foremost,
11 SeaWorld is a business with profit as its goal, not
12 an educational or conservational institution.

13 SeaWorld lost 1 million visitors last year.
14 Its second quarter earnings dropped 84 percent, and
15 more than 130,000 have already asked the Coastal Act
16 to vote against the park's plan to continue keeping
17 Orcas in tanks.

18 If SeaWorld truly cares about the
19 well-being of Orcas, it will build state of the art
20 augmented or virtual reality experience that that
21 would allow visitors to observe an interactive
22 marine life in new and innovative ways as well as
23 offering actual educational value to a new
24 generation of people who don't want to see marine
25 mammals held captive and forced to perform

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1 circus-style tricks. And they'd invest in coastal
2 sanctuaries where marine mammals can experience the
3 ocean, engage in natural behavior and live in an
4 environment that provides them with the physical and
5 mental stimulation that's crucial to their
6 well-being.

7 In an effort to save the Commissioners
8 time, I'm going to ask that everyone who urges the
9 Commission to deny this permit to please stand up
10 quietly to show your support for this position.
11 This is in addition the hundred people outside who
12 simply couldn't fit and are watching from the
13 screens outside the building. Thank you.

14 MS. ANDERSON: Hello.
15 (Audience response.)
16 MS. ANDERSON: Hi. I'm Pamela Anderson.
17 (Audience interruption.)
18 MS. ANDERSON: That's good. That's good
19 news. I am a California resident of Malibu,
20 actually, I was born and raised on Vancouver Island,
21 I was surrounded by this natural beauty, I was
22 surrounded by Orcas my whole life and I really love
23 them and appreciate them in the wild. There's
24 plenty of opportunities to see these beautiful
25 animals in the wild, which is much more education,

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1 and I do look back and I see, you know, educate,
2 inspire and conserve, and those are three words that
3 do not describe SeaWorld.

4 I often look out at the beautiful ocean and
5 wish the whales confined at SeaWorld had freedom, as
6 nature intended. SeaWorld's proposed expansion is
7 out of step with the times. L.A. has banned bull
8 hooks used to beat elephants, San Francisco banned
9 animal circuses altogether, and last month a judge
10 upheld the government's ruling bearing -- barring a
11 marine park from importing Beluga whales from
12 Russia, an issue I spoke about at a Russian forum
13 just a few weeks, just before the ruling.

14 Approving a permit for a new awful Orca
15 tank would a major step backwards. Look closely at
16 SeaWorld's plan. It is designed to enhance the
17 tourist experience, not the animals' existence.
18 SeaWorld says it will use the extra space to breed
19 and imprison more Orcas. Approving this project
20 will mean immense suffering for the ocean's most
21 sophisticated animals.

22 The construction alone will be very
23 distressing to SeaWorld's captive Orcas. Only one
24 of the existing tanks is being replaced, so the
25 Orcas will remain the others, and be subjected to

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1 constant loud machinery. For marine mammals who
2 communicate through sonar vibrations, this is
3 torture. SeaWorld's own records reveal that
4 construction stresses the whales out. SeaWorld is
5 clinging desperately to the past, before people
6 understood these intelligent animals. But we now
7 know that captive go insane. And suffer terrible
8 depression when they are separated from their babies
9 and their families.

10 If SeaWorld truly cared about animals, they
11 would remove -- they would move the Orcas to sea
12 sanctuaries which would be much less expensive, and
13 where they live some semblance of a normal life,
14 feel the ocean currents, perhaps even communicate
15 with their pods, even if they can never be released.

16 As a resident of California I urge you,
17 please vote against SeaWorld's Blue World project.
18 I have --

19 CHAIR KINSEY: Thank you.
20 MS. ANDERSON: -- unique situation, I get
21 to speak all over the world and I would love to tell
22 the world how the California Coastal Commission made
23 this really wonder, forward thinking compassionate,
24 and that I could tell everybody all over the world
25 just how it started here.

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1 CHAIR KINSEY: Think you.
2 MS. ANDERSON: And I know SeaWorld will be
3 a thing of the past very soon. Thank you.
4 CHAIR KINSEY: Thank you.
5 (Audience interruption.)
6 CHAIR KINSEY: Hey, hey, hey, hey, hey
7 guys.
8 (Audience interruption.)
9 CHAIR KINSEY: Thank you. The next item is
10 Kathleen Dezio from the Alliance of Marine Mammal
11 Parks and Aquariums, and you'll have 15 minutes, and
12 you'll be followed by the Earth Island Institute's
13 International Marine Project.
14 So is Kathleen available? Great. And any
15 other speakers who come with you are welcome to sit
16 beside you there, and we'll get this started. Thank
17 you.
18 A VOICE: The last name?
19 MS. DEZIO: Dezio, D-e-z-i-o.
20 Chairman Kinsey and members of the Coastal
21 Commission, thank you for the opportunity to speak
22 to you today in support of the Blue World project.
23 I'm Kathleen Dezio, I'm executive director of the
24 Alliance of Marine Mammal Parks and Aquariums. We
25 are an international association, an accrediting

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1 body from marine parks, aquariums and zoos
2 throughout the world. Our mission is to support the
3 highest standards of care for marine mammals and to
4 contribute to their conservation in the wild
5 through public education and scientific research.
6 We have 58 accredited members in the U.S.,
7 Mexico, Canada, the Caribbean, Europe and Asia. And
8 four research institution members. Alliance members
9 together possess the largest body of marine mammal
10 expertise and experience in the world, and our
11 accreditation standards are the most comprehensive
12 and stringent anywhere.
13 SeaWorld San Diego is an accredited member
14 of the Alliance, and as such it must meet or exceed
15 our rigorous standards covering a dozen different
16 areas, including animal husbandry, animal training,
17 enrichment, water and environmental quality,
18 breeding, transportation, scientific research,
19 conservation and education among others. These
20 standards optimize the welfare of and the
21 environment conditions for marine mammals in our
22 members' care and maximize their education and
23 scientific value.
24 In our work with SeaWorld San Diego over
25 many years, they have demonstrated world class

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1 animal care in state of the art habitats, pioneered
2 important scientific research on cetaceans, lent
3 amazing time and resources to extensive rescue and
4 rehab work with entangled animals along the coast of
5 California.
6 These high standards have rightfully earned
7 them their stature as a global leader in the
8 zoological community. However, despite meeting
9 these high standards, in the days leading up to
10 today's hearing, SeaWorld has been continuously
11 attached and vilified in a stream of misinformation
12 from organizations that do not believe there should
13 be any -- any animals in human care at all. Not in
14 zoos, not in aquariums, not in marine parks, no even
15 as your pet.
16 (Audience interruption.)
17 MS. DEZIO: That is a view that is outside
18 the mainstream of the American public, and it's not
19 shared by most Americans.
20 (Audience interruption.)
21 MS. DEZIO: Many of these organizations
22 make no secret of their desire to see SeaWorld in
23 similar and similar institutions be forced out of
24 business. And in a breathtaking display of
25 hypocrisy, while many in these organizations have

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1 for years criticized the size of SeaWorld's habitats
2 and welfare of its animals, these very same people
3 are now spending considerable amounts of money and
4 time and resources to oppose the very project that
5 would give SeaWorld's Orcas much larger, more
6 dynamic and enriched environments and make possible
7 greater animal welfare. That's just wrong.
8 Even the San Diego Union Tribune today,
9 editorial board, said that they -- they couldn't
10 understand how the activists could possibly believe
11 the whales at SeaWorld would be better off without
12 this project. And they said there is no legitimate
13 reason to deny them a permit.
14 These groups are also advocating, though,
15 for a ban on breeding, as you've heard, of
16 SeaWorld's Orcas, and to be clear, that prohibition
17 would not be in the best interest of the 11 Orcas
18 there, but it also would not be in keeping with
19 professional best practices in the accredited
20 zoological community, and it would impede SeaWorld's
21 ability to fulfill it's obligations under alliance
22 accreditation standards and guidelines.
23 Which, among other things, require them to
24 optimize genetic diversity and maintain a sufficient
25 population to serve current and future conservation

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1 and education commitments.

2 Successful breeding programs minimize the

3 need to collect from the wild. SeaWorld's

4 successful breeding, research and husbandry over 35

5 years have led to a thriving Orca population in

6 human care, and they are the reason SeaWorld has not

7 collected a killer whale since then from the wild.

8 As you consider this permit application, we

9 urge you to keep in mind the tremendous benefits it

10 will bring in the -- if the permit is granted as the

11 Staff has recommended. It will improve animal

12 welfare by giving them a much larger and innovative

13 new environment. It will bring one of the most

14 sophisticated spectacular killer whale habitats in

15 the world to California. It will ensure that

16 SeaWorld's cutting edge scientific research with

17 Orcas is able to continue to benefit Orcas in the

18 wild, and it will enable SeaWorld to maintain its

19 impressive veterinarian expertise and facilities

20 that make possible the always-on-call large scale

21 rescue and rehab work with stranded animals along

22 California's coast.

23 In closing, people love what they know and

24 they understand. While killer whales were once

25 feared by some and used as target practice by

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1 others, today they are one of the most iconic

2 creatures. People know and love them and want to

3 protect them. That is in no small part due to the

4 work of SeaWorld over the last 51 years.

5 On behalf of the Alliance of --

6 (Audience interruption.)

7 MS. DEZO: -- Marine Mammal Parks and

8 Aquariums, I urge you to vote in a way that supports

9 that work for the next 50 years, and I want to cede

10 the rest of my time to my colleagues.

11 (Audience interruption.)

12 CHAIR KINSEY: Cut it out, please.

13 (Audience interruption.)

14 COMMISSIONER SHALLENBERGER: Go out and

15 watch outside, because this is very disrespectful to

16 the people testifying, regardless of their position.

17 CHAIR KINSEY: Thank you. And so we've

18 asked a number of times, please, I'm going to ask

19 again, be respectful of all speakers, there's plenty

20 of ways and plenty of opportunity to show your

21 appreciation for the points of view. Let's give Mr.

22 Berry our attention. Thank you.

23 MR. BERRY: Thank you Chairman Kinsey, and

24 members of the California Coastal Commission. Thank

25 you for the opportunity to speak here, I appreciate

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1 it. My name is Patrick Berry, I'm a board member of

2 the Alliance of Marine Mammal Parks and Aquariums.

3 Current chair of the Planning and Policy committee,

4 and I've led the review of our standards and

5 guidelines each year to continually strengthen and

6 improve them and ensure they are current with best

7 practices.

8 I have also been an accreditation inspector

9 for the Alliance for many years, and in this

10 capacity have personally inspected two SeaWorld

11 facilities myself.

12 Alliance-accredited facilities must

13 demonstrate they meet our requirements every five

14 years through a comprehensive two-day on-site

15 inspection by a team of experienced professionals.

16 Our standards and guidelines encompass 42 pages with

17 12 sections and 217 provisions.

18 I would like to take a moment to touch on a

19 couple points about our standards in the area of

20 breeding programs. Accredited facilities such as

21 SeaWorld must develop a comprehensive written

22 propagation plan covering all aspects of breeding,

23 designed to maximize the potential for successful

24 breeding efforts in rearing of offspring.

25 Breeding programs of accredited facilities

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1 must include a range of elements such as the

2 provision of appropriate maternity pools and

3 monitoring pregnancy, calf delivery and rearing.

4 Living animals require a substantial commitment of

5 resources and thoughtful management and cannot be

6 managed using short-term strategies.

7 It is essential that facilities maintain

8 healthy, genetically diverse populations that ensure

9 their long-term sustainability, maximize the

10 facility's contributions to research, and the

11 public's knowledge of marine mammals and concern for

12 their conservation in the wild.

13 It's unfortunate that activist opponents of

14 this project oppose breeding, because a ban on

15 breeding is both impractical and unwise from an

16 animal care and animal welfare standpoint. Breeding

17 is natural. It is a vital part of an animal's life,

18 and an indication that animals are healthy, thriving

19 and compatible.

20 To groups of animals that depend on

21 extensive social contact and cooperation, offspring

22 are significant and enriching. Any call to ban

23 breeding is nothing more than a thinly-veiled

24 attempt to force zoos -- to force zoological

25 institutions to manage their animals into

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1 extinction.

2 The result, of course, is no more animals

3 in zoos and aquariums. Studies of reproduction and

4 calf development in human care are have provided

5 important scientific advances that have assisted

6 rescued animals and have the potential to be used in

7 the field to protect endangered populations.

8 Raising calves in marine parks and

9 aquariums also provides the knowledge and practical

10 hands-on skills for rescued and stranded animals.

11 In closing, the Blue World project is a

12 ground-breaking new venture that will enhance the

13 welfare of SeaWorld's Orcas, and dramatically

14 enhance guest experiences of these incredible

15 animals, so guests leave inspired to help conserve

16 these animals in the wild at a critical time.

17 I appreciate your attention today. Thank

18 you.

19 MS. HENNESY: Good afternoon, ladies and

20 gentlemen of the CCC. I shall be brief. My name is

21 Carolyn Hennesy, I am a working actress, a

22 best-selling author and host of my own radio

23 podcast, Animal Magnetism, focusing on real world

24 problems and rational solutions. I am also not paid

25 to be here.

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1 There is a common perception about actors

2 in show biz, that we may tend to speak before we

3 think. Or learn. Or know. Regarding animals, it's

4 for fear of being labeled cruel, abusive and

5 uncaring by radical activists. I have taken great

6 pains to learn and understand the facts, the stats,

7 who wants what and why. And what is ultimately in

8 the best interest of the animals in question,

9 because what is in their best interest is also in

10 ours.

11 I have explored all of SeaWorld. Watching

12 humans and animals experience bonding, enrichment

13 and education, SeaWorld is the very opposite of

14 cruel and inhumane. It is, in fact, a national

15 treasure. The request --

16 (Audience interruption.)

17 MS. HENNESY: -- to approve SeaWorld's

18 massive Blue World expansion ought to be met with a

19 resounding "yes" for all who want the best for these

20 few animals thriving in San Diego. Yet animal

21 rights groups are determine to deny improvements

22 that will enhance the lives of animals you, your

23 children and your grandchildren have come to know

24 and love. Blue World will nearly double the size of

25 the current Orca habitat and includes a fast swim,

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1 underwater current for both exercise and enrichment.

2 This alone is of tremendous benefit to the health

3 and well being of the animals as trainers will

4 expand and enhance their world-class training and

5 enrichment programs, a seminal point.

6 The critics know that the MMPA prohibits

7 releasing cetaceans born into human care as most

8 SeaWorld killer whales are back into the ocean. The

9 call to set them free is pure nonsense and nonsense

10 is the more diplomatic word.

11 (Audience interruption.)

12 MS. HENNESY: So why do they oppose bigger

13 habitats for animals that will by federal law and

14 common sense always live in human care. PETA, the

15 lardest -- the largest of these animal activist

16 groups, values its own agenda, which includes as a

17 video which Ingrid Visser shows, starting its own

18 amusement part using sea pens and purloined Orcas

19 from SeaWorld values it much more it does improving

20 the lives of animals. Not surprising given the

21 thousands of adoptable animals this organization

22 kills each year at its so-called shelter --

23 (Audience interruption.)

24 MS. HENNESY: -- according to Virginia

25 state records. And these are the people who want to

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1 tell you what to do with these whales. Most of what

2 we know about killer whales comes from the research

3 done by SeaWorld over the past five decades. The

4 interconnected pools of Blue World reaffirm

5 SeaWorld's commitment to continue to study and

6 protect Orcas in the wild as well. Blue World is

7 supported by numerous animal welfare, veterinary,

8 zoological and academic experts.

9 In closing, I ask that you vote with the

10 recommendations of your own staff to ensure the

11 zoo's ongoing dedication to the well being of its

12 Orca population. To do otherwise would do immense

13 harm to much-needed cetacean research, public

14 education and conservation efforts.

15 Blue World will enhance the lives of

16 SeaWorld's killer whales. Expand the experience for

17 park guests and students, provide much-needed jobs

18 to the citizens of Southern California, and provide

19 even greater opportunities for important scientific

20 research.

21 A final thought. If you would like to know

22 successful was the story of Keiko. I invite you to

23 read Killing Keiko by Mark Simmons, the truth is an

24 entirely different and horrifying story. Thank you.

25 (Audience interruption.)

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1 DR. LUKE: Good afternoon. My name is
2 Dr. Deborah Luke, and I am the Senior Vice
3 President for Conservation and Science with the
4 Association of Zoos and Aquariums, often referred to
5 as the AZA. I earned my doctorate degree in
6 cognitive neuroscience, and have over 20 years of
7 animal research and conservation experience,
8 including with marine mammals, in both wild and
9 zoological settings. AZA is a non-profit
10 organization whose independent accreditation
11 commission oversees the world's toughest and most
12 comprehensive standards and review processes for
13 accrediting aquariums and zoos.
14 SeaWorld San Diego is a member of the AZA
15 in good standing that meets and exceeds AZA's
16 accreditation standards. Within the scientific
17 community we know that we learn the most about a
18 species when we study animals both in the wild and
19 in human care.
20 By studying animals in the wild we are able
21 to gain information about long-term observable
22 patterns of behavior, ecology, and ethology for a
23 species or a population.
24 By studying animals in our care, we are
25 able to gain more detailed knowledge about how their

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1 physiology allows them to thrive and how they
2 perceive their environment. These two areas of
3 study are complimentary. And when considered
4 together offer an unparalleled scientific knowledge
5 with substantial implications for conservation of
6 animals in the wild. ACA accredited aquariums and
7 zoos are devoting a constantly increasing amount of
8 time, effort and resources to conservation and the
9 protection of threatened and endangered species
10 including marine mammals. They devote equal energy
11 towards always improving standards of care and
12 protection of the animals in their care.
13 SeaWorld San Diego like all AZA-accredited
14 zoos and aquariums dedicates itself to caring for
15 all animals, including Orcas in everyday life.
16 CHAIR KINSEY: Thank you for your comments.
17 We'll now go to Mr. Palmer from the Earth Island
18 International Marine Project.
19 MR. PALMER: Close.
20 CHAIR KINSEY: You'll have ten minutes.
21 MR. PALMER: Close. Mr. Chairman, before
22 the actresses here devolve down into a cat fight,
23 I'd like to talk a little bit about, so my money, by
24 the way, is on Pamela.
25 CHAIR KINSEY: Is your name --

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1 (Audience interruption.)
2 CHAIR KINSEY: -- Mister --
3 (Audience interruption.)
4 MR. PALMER: Excuse me, sir, yes. Mark
5 Palmer, I'm Associate Director of the International
6 Marine Mammal Project, of Earth Island Institute.
7 CHAIR KINSEY: Okay. Thank you.
8 MR. PALMER: Where to begin. We have a lot
9 of discussion about the saving of endangered
10 species, there is only one Orca species, subspecies
11 actually, that is endangered, this is the Pacific
12 Northwest population of Orcas that is found off the
13 Puget Sound area of the United States. The reason
14 why it is endangered is because of it had been
15 seriously depleted by SeaWorld and various other
16 people, we have Corky banner here coming up.
17 The only reason why this species is
18 endangered is because of the collection of animals
19 back in the 1970s and '80s which depleted the
20 population; therefore the animals have not been able
21 to grow, we have a number of pollution problems as
22 well, which SeaWorld is not dealing with. We have a
23 number of other problems within Puget Sound, ship
24 strikes, noise pollution, et cetera, which SeaWorld
25 does not deal with or does not even mention in their

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1 presentations.
2 So I don't think that they're doing much
3 for conservation. I don't think they're doing
4 anything at all, and I can make an argument that
5 they are doing a lot of -- great deal of damage to
6 the people of the state of California through their
7 mis-education of the public, their misstatements
8 about what's going on.
9 They talk about Corky, and here we have the
10 Free Corky banner. Corky was captured in the
11 Pacific Northwest, it is one of the only animals, I
12 guess there are two animals at SeaWorld San Diego
13 that was caught in the wild. We do have a
14 possibility of returning Corky back to the wild
15 because we know where Corky's brothers and sisters
16 are. They've been watched and they've been studied
17 for a number of years by biologists up in the area,
18 so Corky is a possibility indeed for returning a
19 wild Orca back to its home where it was once ripped
20 off from.
21 Remember, when you take an Orca out of the
22 environment you are taking it away and putting it
23 into captivity, you're taking it away from the two
24 most important things in that animal's life. Its
25 environment and the freedom of the seas, and the

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1 whole aspect of the environment which as molded that
2 animal into the animal that it is. You remove that
3 from them.

4 Even the Orcas that are born in captivity,
5 they are not meant for captivity. They are not
6 supposed to be there. Unfortunately as the people
7 said earlier, we can't release those animals, they
8 will have to be in public and private ownership for
9 the rest of their lives because they can't be
10 released. However, I will note that under the
11 Constitution of the state of California, this is
12 something California Coastal Commission should take
13 very close to your heart, under the Constitution of
14 the state of California, wildlife belongs to the
15 people. Those Orcas do not belong to SeaWorld. The
16 only reason SeaWorld has them is they have a permit
17 for --

18 (Audience interruption.)

19 MR. PALMER: -- them for their ownership,
20 for their care, but they belong to the people if
21 they belong to anyone. I would also point out
22 you've heard some of the put-downs from the SeaWorld
23 people coming into this. This is typical of
24 SeaWorld, they call us extremists, they call us --
25 and various other names that you've heard today,

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1 including from the nice actress. And it seems to me
2 that we should take that into consideration as the
3 Commission can you trust SeaWorld, and I would tell
4 you that you cannot. They call us extremists, and
5 you have a letter before you from a number of
6 scientists including the terrible extremist
7 Dr. Laurie Moreno, Dr. Jane Goodall, Jean Michel
8 Costeau, they could not be here today, the reason is
9 no doubt that they're out doing something extreme.

10 (Audience interruption.)

11 MR. PALMER: We are not extremists. We are
12 organizations that are very deeply concerned about
13 these issues. We've been working on these issues
14 for years and years, we provided you with a copy of
15 Blackfish, each of you was sent one from Earth
16 Island Institute. Blackfish is not an animal
17 extremist documentary. Those were former SeaWorld
18 employees who spoke into it.

19 Now, if SeaWorld has a problem with them,
20 they ought to look at their own employment policies
21 rather than claiming that they're animal rights
22 extremists or some other sort of derogatory language
23 that we've heard today. We are not extremists,
24 we're looking for a way to resolve this issue, the
25 solution indeed is not to release these animals back

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1 into the wild, most of them cannot be released back
2 into the wild. We do think that a sea pen operation
3 which is a natural enclosure, not an artificial
4 expansion of the concrete tanks, the expansion of
5 the prison is still a prison. What we want to see
6 is sea pens out in the ocean where these animals can
7 thrive, where they can feel the tides, where they
8 can feel the winds, where they can chase fish, where
9 they can do things that Orcas do instead of doing a
10 show each and every day on the hour, which is what
11 they do now --

12 (Audience interruption.)

13 MR. PALMER: -- in captivity.

14 (Audience interruption.)

15 MR. PALMER: These animals are not free,
16 they are working for their food. They will not do
17 their tricks if they're not hungry. So therefore
18 they have to be kept hungry in order to be fed.
19 Yes, they get the food at the end of the day, but if
20 they weren't hungry, they would not do the tricks
21 that you see before you in SeaWorld.

22 I would also mention the litigation that's
23 ongoing that is going to test some of these issues.
24 We are working with the law firm of Covington and
25 Burling in San Francisco, Earth Island Institute in

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1 Anderson versus SeaWorld which is in Northern
2 California court, which challenges these very claims
3 that SeaWorld has been making as a violation of
4 unfair business practices and violations of consumer
5 protection laws.

6 That litigation is ongoing as I say, and
7 we're hopeful that we will get it, we're not asking
8 for a big chunk of money from SeaWorld, what we're
9 asking for is a court order against them making
10 these statements, these false statements that
11 they've been making, and indeed making the truth
12 available to the public about their Orcas in
13 captivity.

14 And that's what we want to get out of it.
15 You can be a part of this effort to phase out the
16 captivity of Orcas in the wild, in captivity in the
17 state of California. We're working with the state
18 legislature, we've got the courts involved, here the
19 California Coastal Commission has a chance to make a
20 stand on this issue, you can deny the permit, which
21 the nice actress would like you to do, or we could
22 condition the permit on ending the breeding in
23 captivity of Orcas in the state of California.

24 And you will hear more about that proposal
25 from Sara Wan when she gets up to speak with you.

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1 One more mention on the Corky banner, thanks to the
2 volunteers who put it up. If we could run it around
3 so everybody else in the room could see it, and
4 I'll, it looks like I've beaten the clock, so I'll
5 say thank you very much for your time, and I hope
6 you do the right things.
7 (Audience interruption.)
8 CHAIR KINSEY: And I'd like to invite Dr.
9 Naomi Rose, from the Animal Welfare Institute, and
10 those who will be speaking with her.
11 DR. ROSE: Hello. I have a presentation.
12 Thank you very much for inviting all of us to speak
13 with you today on this important issue. And I am
14 here to ask you on behalf of the Animal Welfare
15 Institute to vote no on this proposal. And I know
16 that this might seem a strange thing for an animal
17 welfare advocate to propose that we don't give these
18 whales more space.
19 Well, the reason I'm voting -- I'm asking
20 you to vote no is because giving them incrementally
21 more space is ill advised at this time. There's a
22 number of reasons, I've written a letter to you on
23 this topic about the waste of resources this might
24 prove to be. If you put \$100 million into this big
25 hole in the ground at this point, events are

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1 starting to move forward on several different
2 levels, including in the legislature here in
3 California, and there's a drought going on, and
4 public opinion is changing, and quite frankly it
5 might be best at the very least to reconsider the
6 timing of this to at least wait, you know, until
7 certain events play out and we see where things
8 stand in two or three years.
9 Building this enclosure now and SeaWorld
10 investing this kind of money and the City of
11 San Diego and the state investing this kind of money
12 into this enclosure, just seems bad timing to me.
13 And I think it will be in the end, events will
14 overtake this decision here today, and it will be
15 waste of resources if you vote yes on this.
16 I think I have the ability move my own.
17 Yes.
18 So there are 58 Orcas on display in eight
19 countries in the world, most of them are here in the
20 United States, but there are some all over the --
21 all over the world, there is some in Asian, there's
22 some in Russia, there's some in Europe. So in
23 Russia, there's a capture operation going on right
24 now. They've taken -- I found it very interesting
25 that SeaWorld said that they don't know anything

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1 about those captures in Russia. I know a lot about
2 those captures in Russia. It's not actually really
3 hard as an advocate for conservation to know about
4 those captures in Russia.
5 They should more about those captures in
6 Russia, they are providing Orcas for the public
7 display industry, which they are a member of. I'm
8 rather surprised to hear that. That they don't know
9 very much about it. There have been 15 captures in
10 the last, since 2012, so that's the last three
11 years. Two were just this year, and ten of those
12 were before the date on the condition for this
13 permit. So even though I've heard today that they
14 are pledging additionally not to take those animals
15 or their offspring or genetic material from those
16 animals, it isn't clear to me that they are talking
17 about the ten before February 12th, 2014, or just
18 the five after February 12th, 2014.
19 So I do think that those Russian Orcas are
20 relevant to the discussion here, when it comes to
21 their welfare. I'm going to just run really quickly
22 through some free ranging versus captive animal
23 differences. This is something I've spent a lot of
24 time discussing in my job. I have been addressing
25 the issue of the public display and the welfare of

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1 captive marine mammals including Orcas since 1993.
2 So for 22 years I've been working on this
3 issue, I am an Orca biologist, I studied them in the
4 Pacific Northwest, I'm most familiar with the
5 northern residents, which are threatened under
6 Canadian law, but I'm always familiar with the
7 southern residents, which are endangered under U.S.
8 law.
9 So in terms of space, you've seen this
10 slide already so I won't spend too much time on it.
11 As Dr. Visser pointed out, this is one short period
12 of a day what one Orca did, he dove to 600 feet and
13 he moved a great deal of horizontal distance and
14 that little blue box in the upper corner is what the
15 whales at SeaWorld have to move around in.
16 And so no matter what they do in terms of
17 building larger concrete enclosures, they cannot
18 give the animals what they need. This is a species
19 that is very high on the list of species that don't
20 belong in captivity. There are some species that
21 are too large, too socially complex, too intelligent
22 to thrive in captivity, and Orcas top that list.
23 Elephants are also on that list. Polar bears are on
24 that list because they're so wide ranging. They
25 simply do not thrive in captivity.

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1 We're not talking about all zoos and
2 aquariums. I've heard that also today, that we're
3 somehow or other radically trying to close down all
4 zoos and aquariums. That's not the case. We're
5 talking about a species that does not thrive in
6 captivity, and I think this slide is real indicative
7 of why.

8 There are a lot of researches who work with
9 Orcas in the wild who are opposed to their public
10 display. Who support the legislation by Assemblyman
11 Bloom for example. They wrote a letter supporting
12 it. Because of this very simple math. Large
13 animal, small concrete enclosure.

14 Social groupings. Their family bonds are
15 broken. No matter what you've heard about the
16 separation of mothers and calves, they do separate
17 mothers and calves. Depends on how you define a
18 calf. If you're just talking about a dependent calf
19 that's still nursing, sure, they don't break those
20 bonds unless there's some medical need. But once
21 they stop nursing, SeaWorld is free to move these
22 animals under their own policy.

23 Well, the fact is is that in nature, even
24 with the populations that do have some dispersal, a
25 young Orca will not leave its mother side until ti's

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1 five to ten years old. All right. So there are
2 some populations that show some dispersal, but not
3 until they five to ten years old. That is the
4 earliest you should be separating any calf from its
5 mother. But in fact the populations which form the
6 basis, the foundation of the SeaWorld collection as
7 they call it, are in fact North Atlantics and North
8 Pacific whales.

9 And those whales show long term family
10 bonds that last for life. So to take a calf that is
11 ten years old, 12 years old, 15 years old, 20 years
12 old, and move it to a different park is breaking a
13 family bond.

14 Environmental quality and complexity.
15 Well, that's the tank at SeaWorld that's going to be
16 the equivalent of the tank at SeaWorld that's going
17 to be demolished. This is G pool in Orlando. It
18 used to have rock features. It used to have
19 landscaping. They took all of that out when the
20 trainer was, Dawn Brancheau was killed in February
21 2010. They removed those rock features. I actually
22 was foolish enough to believe that those were
23 permanent rock features, but they in fact were just
24 an overlay that they very easily just lifted out and
25 removed. That was so that they could put in the

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1 fast-rising floor, which is so far luckily not been
2 tested, but in fact they removed all of the features
3 from this enclosure to put in that fast-rising
4 floor.

5 If you look at these architectural designs,
6 which are part of the application, you will notice
7 that most of the features, most of the landscaping
8 is on land. It's for the people. There's not very
9 much marine-scaping going on there.

10 This is still just going to be a concrete
11 tank with a lot of glass. It's going to be for the
12 viewing public, not really for the whales. Just one
13 of the examples of why this is so different for
14 them. If you notice in those artistic -- artist's
15 renderings that SeaWorld showed, the visibility in
16 those tanks is wonderful, you can see all the way to
17 the back and all the way to the bottom, it's utterly
18 clear to maximize the visitor's experience.

19 That's not natural. The ocean is turbid,
20 it's got a lot of other features in it that cause
21 visibility to be low, and then of course there's
22 just depth where the light drops out. If any of you
23 are divers, you know how fast the light drops out.
24 30 feet, 40 feet, you're getting into darkness.
25 These animals routinely drive -- dive as yo

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1 saw in the slide I showed, to 600 feet. They're in
2 pitch black darkness, and they use their echo
3 location to navigate. This tank is a completely
4 unnatural environment for them. And it's the
5 biggest one they're ever going to build for these
6 animals.

7 One of the reasons we were hoping to
8 encourage the promotion of sea -- sea pen -- not sea
9 cage, I thought that was pretty funny, actually, sea
10 pen sanctuaries is because it will allow them to
11 live in more natural environment. It still won't be
12 perfect, it won't be as deep as they should be
13 diving, it won't be as big as they should be -- you
14 know, in terms of horizontal distance that they
15 should be swimming, but it will be bigger than this,
16 and this is as big as they can financially feasibly
17 make it. All right?

18 But it will be -- if we are able to work
19 together to create sea pen sanctuaries, it will be
20 larger than this. And we are going to have a
21 workshop at the Society for Marine Mammalogy in
22 December this year. I invite all of you to attend,
23 it's open to the public, on sea pen sanctuaries, and
24 we will have speakers from a wide variety of
25 disciplines to talk about the logistics, the actual

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1 nuts and bolts of what it would mean to have a sea
2 pen sanctuary in operation, whether it's the state
3 of California or Oregon or Washington or Maine, for
4 that matter, we don't know where it will be, it will
5 be carefully located so it won't have all of the
6 problems that Dr. Nollens talked about.

7 I hope he's been talking to the U.S. Navy
8 about these problems, because there's a sea cage
9 facility right next to SeaWorld which they don't
10 seem to have a problem with, but then I'm not sure
11 why they have a problem with the concept that we're
12 proposing.

13 And finally, behavioral restrictions.
14 These are predators. The ocean's top predators. So
15 you've got this, this is what they should be doing,
16 and I've got a picture in a moment of them herding
17 fish, so don't -- don't think I'm trying to say
18 they're all marine mammal hunters, some of them are
19 fish eaters. But this what they should they should
20 be doing, and this is what they do in captivity.

21 Again, what about those teeth? Okay. The
22 wearing down of the teeth. It's not from what they
23 eat, okay? It's not how they eat. Because their
24 teeth never touch their food. All right. They have
25 fish dropped right down into their gullets. Yes,

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1 occasionally they'll pick up a fish that has fallen,
2 you know, into the water, but basically they are not
3 touching the fish with their teeth. This is not how
4 they wear their teeth in the natural sort of way,
5 either through their feeding methods, they wear
6 their teeth from other neurotic behaviors.

7 And one of the reasons I have trouble with
8 SeaWorld isn't because of any cruelty. I don't
9 think they're being cruel to these whales, I think
10 they love these whales. I think they really do,
11 especially the trainers. There's no doubt about it
12 they feel an extremely strong bond with these
13 animals, but they don't understand them. They think
14 they do. They think they're the world's experts,
15 but they have never spent any time observing these
16 animals in the wild, and if they don't know what
17 normal is, then they cannot know what abnormal is.
18 They cannot recognize abnormal if they don't know
19 what normal is.

20 All right. And you actually, if you talk
21 to some of them, you'll find out they've never even
22 seen a wild whale. Those are the people who are
23 responsible for their welfare. People who've never
24 seen a wild whale. That disturbs me, all right, and
25 so they can't know that, you know, the chewing on

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1 the walls and the gates is actually abnormal.
2 That is not what they do in the wild. They
3 don't chew on logs or rocks in their environment.
4 They don't do that. All right. Now, this is fish
5 herding in Norway, a very cooperative behavior, they
6 make a big herring ball and then they cooperatively
7 take turns moving through it and feeding on these
8 animals -- feeding on these fish. It's a family
9 affair when they do it, and that's what happens in
10 captivity, right down the gullet.

11 How do they wear their teeth? Not through
12 handling their prey. I would love SeaWorld to do a
13 scientific study on why their whales wear their
14 teeth. There's almost no literature on this, and
15 it's not certainly not coming from SeaWorld.
16 SeaWorld has published 50 Orca papers in the last 50
17 years, which is a very low output, incidentally. A
18 50 year scientific career should produce 200, 300,
19 400 papers, not 50.

20 But nevertheless, not one of them is about
21 dentition. Not one of them is about why their
22 whales break and wear their teeth. Instead of
23 explaining what's going on in captivity, they tell
24 you it's normal. And so they don't have to study
25 it. But it's not normal. That's normal. That's a

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1 stranded resident whale in the Pacific Northwest, so
2 it's dead. That's why it looks so terrible, it is
3 dead. But look at its teeth. Absolutely gorgeous.
4 That's a resident whale eating salmon in the Pacific
5 Northwest. Those are captive whales. Now, there
6 are wild populations of killer whales with worn
7 teeth, Dr. Visser mentioned them, Dr. Nollens
8 mentioned them.

9 There are such populations, but their teeth
10 wear at the population level. All the whales in
11 that particular population have worn teeth. It's
12 because of the way they feed, and we're still trying
13 to figure all of that out. Is it because they -- of
14 the type of prey they handle, is it because of the
15 way they're handling the prey? We actually don't
16 know, but it's at the population level. Most
17 populations have those beautiful, gorgeous teeth.

18 So if in some populations they have tooth
19 wear it's because of the way they're handling their
20 prey, or because of their prey. Maybe they're very
21 abrasive. We don't know yet. Why are they like
22 that in captivity? Why are they broken? Why are
23 they worn down to the gums? It's probable that in
24 the wild populations it's a health problem.
25 It's probably causing problems for those

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1 populations that suffer from that tooth wear because
2 of the way they handle the prey. So when SeaWorld
3 tells you there are no health problems to this
4 condition, that's imply not logical. Bad teeth
5 affect human beings. Of course bad teeth are a
6 problem for their health.

7 Why isn't there more literature on this in
8 the zoo biology journal or the veterinary journals
9 out there?

10 So you also heard about survivorship, the
11 paper by Drs. Jeff and Ventre, and also by Dr.
12 Robeck. Look at the last line there, "Survivorship
13 rates in captivity are comparable to populations in
14 the northeastern Pacific Ocean that are endangered
15 and threatened."

16 That's as good as it gets at SeaWorld.
17 SeaWorld's habitat allows their whales to survive
18 just as well as endangered and threatened
19 populations. That's who they're comparing their
20 whales to in that paper. They say that they live as
21 long as they do in the wild. Yes, but those whales
22 in the wild are endangered and threatened. So
23 that's not actually something to shout about.

24 Then finally in conservation I'm going to
25 wrap up really quickly here, because I only have a

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1 minute, these are the captures in Russia. All
2 right. As I said, 10 of those were before February
3 12, 2014. Five of them have been since. They are
4 in China and Russia. Again, SeaWorld's Dr. Nollens
5 told you he had no idea where these whales were.
6 Well, I know where these whales are, why doesn't he
7 know where these whales are? He should know. This
8 is something that the public display industry is
9 doing, he should know what his brethren are doing.
10 All right.

11 The fact is is that we now know that eight
12 of them are in China. I am going to be Beijing later
13 this year to do a press conference to announce a
14 campaign to address the welfare of those whales. It
15 is not a good thing that they're going to China, but
16 that's where they are, and I happen to know that, so
17 I'm just confused as to why SeaWorld does not.

18 All right. If they're a conservation
19 organization they ought to know where these captive
20 whales are going. And that is all I have to say,
21 and thank very much again for having us here.

22 (Audience interruption.)

23 CHAIR KINSEY: Thank you. Mr. Berry,
24 Christopher Berry will be here for ADLF (sic), and
25 they will have 15 minutes for their presentation.

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1 MS. NASSER: Good afternoon, Commissioners.
2 My name is Carney Ann Nasser, I am the legislative
3 counsel for the Animal Legal Defense Fund, and I'm
4 just going to take a couple of moments and then pass
5 the baton over to Christopher Berry, litigation
6 attorney at ALDF and Sara Wan, who as you all I'm
7 sure have had the opportunity to talk to, is here on
8 behalf of ALDF and as a former chair of this
9 commission.

10 I just wanted to reiterate our position,
11 that this permit should not be granted. But if it
12 is, that the Commission is compelled to absolutely
13 mandate the end of the captive breeding program at
14 SeaWorld San Diego. And I -- I would like to add
15 one -- one footnote, just as a mother. I have a
16 five year old and I have an 18 month old. And I
17 have read the reports by medical doctors who
18 specialize in early child development, and they have
19 spoken at length and unequivocally about the fact
20 that there is not only no education value to taking
21 our children to a facility like SeaWorld or to a
22 circus like Ringling Brothers.

23 It actually sends our message to our kids
24 that other living beings, whether they are animals
25 or humans, are merely here for our amusement, they

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1 are here for us to manipulate, control and use for
2 our own personal whims.

3 And so at that, I would appear to you as a
4 parent and hand over the rest of our time to
5 Christopher Berry and Sara Wan. Thank you.

6 MR. C. BERRY: Thank you for the
7 opportunity to speak, Commissioners, my name is
8 Christopher Berry, and I'm a staff attorney at the
9 Animal Legal Defense Fund, and I would like to spend
10 a couple minutes of time just talking about your --
11 your legal authority to act, and in particular I am
12 very concerned about the staff report's refusal to
13 account for the welfare of captive Orcas as marine
14 resource impacts under the Coastal Act.

15 The report's refusal to consider captive
16 Orca welfare skews the balance of the entire
17 analysis, and its recommendation that you approve
18 the permit with the very limited conditions, and in
19 particular Section 30230 of the Public Resources
20 Code requires that marine resources shall be
21 maintained, enhanced and where feasible restored.
22 Unquestionably this extends to animals, and moreover
23 there is no distinction in the statutory language
24 between captive animals and animals in the wild.

25 In fact, the Coastal Act and other

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1 environment laws are regularly concerned with
2 environmental and other impacts that happen in urban
3 areas. The commission itself as the Staff report
4 points out has in fact considered captive marine
5 mammal welfare in the past in conjunction with --
6 with other permits that it has granted, so there is
7 precedent for the Commission to take that into
8 account.

9 While the best reading of Section 30230 is
10 that it requires impacts on captive wildlife to be
11 considered, at the very least the staff report
12 points out that the issue is open to interpretation.
13 In other words, as Commissioners you, at the very
14 least, have the discretion to consider the misery of
15 captive Orcas at SeaWorld and the future Orcas that
16 it will breed into existence if the -- if breeding
17 is not limited by your possible approval the permit.

18 Now, the Commission not only is authorized
19 to consider captive Orca welfare in making its
20 decision, but is uniquely situated to do so, and in
21 light of fact that the federal government isn't
22 strongly regulating this, nor is the Fish and
23 Wildlife regulations in the state of California.

24 A couple of hours ago SeaWorld attorney
25 David Watson stood up here and told you

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1 unequivocally that the Marine Mammal Protection Act
2 expressly preempts this Commission from imposing
3 Orca captivity standards. However, comments
4 submitted by SeaWorld to the National Marine Fishery
5 Service in opposition to some proposed amendments to
6 the Marine Mammal Protection Act in 2007. SeaWorld
7 said and I'm quoting verbatim here, "The 1994
8 amendments to the Marine Mammal Protection Act
9 unequivocally established that the National Marine
10 Fishery Service has no role in the care, maintenance
11 and general oversight of marine mammals, once they
12 leave the wild and enter into the United States."

13 SeaWorld also said that NM at best would be
14 overreaching and improperly extending its
15 jurisdiction and authority by regulating Orcas and
16 other marine mammals once they are out of the wild.

17 So it seems as though SeaWorld is willing
18 to say whatever it needs to say when it's
19 commercially expedient.

20 Of course, the Animal Welfare Act does
21 provide some minimal baseline standards, but it
22 encourages explicitly state and local governments to
23 go further and to do more, which is exactly what the
24 Commission should do here. And of course
25 California's Fish and Wildlife regulations don't

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1 extend to Orcas, leaving the ball in your court, and
2 putting you in a unique and special situation to
3 take the welfare of captive Orcas and do what
4 counts.

5 Accordingly, we implore the Commission to
6 consider the inherently inhumane nature of Orca
7 captivity in making its decision today, and SeaWorld
8 must not be empowered to build more tanks that allow
9 it to collect and breed more Orcas who will fatally
10 suffer and languish in captivity.

11 (Audience interruption.)

12 MS. WAN: My name is Sara Wan, speaking on
13 behalf of ALDF. The keeping of Orcas in captivity
14 for entertaining is cruel and totally unjustified,
15 regardless of what SeaWorld says. It is
16 inconsistent with current thinking and what we now
17 about what happens to these whales in captivity. I
18 will not repeat what others have said about federal
19 law or the absurdity of considering a tank to be
20 habitat.

21 I will focus on what I know best. The
22 Coastal Act. And your ability to use it. The Staff
23 has stated you cannot apply 30230 to animals in
24 captivity as your standard of review. But frankly,
25 that's false. Not only is the application of 30230

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1 up to interpretation, which Staff admits, and the
2 Coastal Act states that 3009, that this division
3 shall be liberally construed to accomplish its
4 purposes and objectives. But you have applied it
5 previously, and you cannot simply ignore that fact.
6 Particularly since that was the one instance that I
7 am aware of where the issue of impacts to captive
8 marine resources was an issue, and I've at this, at
9 the Commission for over 30 years.

10 Once you use 30230 and you did use it and
11 apply it, I was on the commission when you did, you
12 cannot now say you do not have the right to use it.
13 In fact your Staff goes on to use 30203 by making
14 the claim that Special Condition One makes the
15 project consistent with 30230. And relative to
16 noise impacts, that the propose project is in
17 conformance with the marine resource protection
18 policies of Chapter 3, i.e., 30230.

19 It is completely up to you, the
20 Commissioners, to decide what makes the project
21 consistent. If you don't agree with the Staff's
22 position about what constitutes consistency, you are
23 free to substitute your judgment as to what does.
24 In this instance, there is no way that Condition One
25 makes this project consistent. Condition One gives

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1 SeaWorld free rein to use the new tank as a breeding
2 tank, because there are no marine mammal accredited
3 reproductive guidelines.
4 The only two professional accredited
5 programs for cetacean facilities that exist, and
6 they were here and they didn't tell you they have
7 those kinds of guidelines that the staff refers to,
8 they don't have any reproductive guidelines specific
9 for Orcas. And what this means is that the
10 condition that you have in front of you from your
11 staff does not place any limitations on SeaWorld's
12 ability to breed as many Orcas as they wish.
13 Your Staff has said that the tank can hold
14 up to 94 whales. So even if SeaWorld should agree
15 to put an upper limit of 20 on it, which they
16 indicated, on the number of whales, the new tank may
17 hold according to them what amounts to twice as many
18 Orcas as there are, and it doesn't change anything
19 relative to what we've been talking about.
20 It would mean that even with that, that the
21 current whales will not have any additional room.
22 More importantly, whatever number they choose, that
23 would only limit how many whales they could keep at
24 any one time. They would be free to breed and ship
25 and breed again.

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1 By the way, putting a cap on the number of
2 whales that they will be -- what they can breed just
3 proves that the purpose of this tank is for breeding
4 and for the public to view, which is what we've
5 always suspected. It's not to benefit the whales.
6 And contrary to your Staff's contention that captive
7 breeding lessens the need to capture Orcas from the
8 wild, the opposite is true, as long as breeding is a
9 business that generate income by breeding and
10 selling the Orcas there will be a need for taking
11 the whales from somewhere to avoid problems with
12 in-breeding.
13 Does the Virgin Pledge take care of that?
14 Frankly, not. Okay. It doesn't deal with breeding
15 at all. And regardless, this Commission can put in
16 place a condition that does have a meaningful
17 impact. And that's what I said. Okay. Okay.
18 That does have a meaningful impact. While
19 still allowing SeaWorld to continue exhibiting those
20 whales already in their possession, the condition we
21 asked for will result in the gradual phasing out of
22 the use of Orcas and actually providing more room to
23 the existing Orcas by failing, by prohibiting
24 breeding, that's what you do.
25 We ask that SeaWorld only be permitted to

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1 hold or display the currently existing whales in its
2 park, I won't go through their names, and that
3 SeaWorld be prohibited from the captive breeding of
4 Orcas either through mating or artificial
5 insemination, including the collection of gametes.
6 This is what would make the project
7 consistent with 30230. And it is the only way that
8 the new tank will ever give the Orcas any more room.
9 If SeaWorld says no to this, then it really does
10 show their real intent.
11 This condition would send, also send a
12 statement that the Commission is in agreement with
13 the current view that using these whales for
14 entertainment purposes is not acceptable.
15 The state of South Carolina has banned it.
16 The nation of Canada has banned it. Assemblyman
17 Bloom's bill is seeking to have California join
18 South Carolina in banning this. And the nation of
19 India has declared Orcas to be non-human persons.
20 How can this Commission in good conscience turn its
21 back on them? You have heard about how these
22 beautiful, intelligent beings literally live their
23 captive lives being tortured. You have the
24 opportunity to be on the right side of history. I
25 urge you not to turn away from your responsibility

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1 to give them the protections that legally can be
2 provided to them, and you can give it to them
3 legally.
4 Unless this condition is substituted in its
5 entirety for the current Condition One, there will
6 be no additional room for the existing Orcas, and
7 then the project should be denied. Thank you.
8 (Audience interruption.)
9 MS. WAN: And I'm going to hand this out,
10 this is our substitute motion that we'd like you
11 to -- to substitute for Condition One. Thank you.
12 CHAIR KINSEY: Thank you. Okay. I'm going
13 to ask Jennifer Fearing to come forward from the
14 Humane Society. You'll have three minutes, and that
15 would be followed by Scott Andrews from (inaudible).
16 MS. FEARING: Hi, good afternoon, Chairman
17 Kinsey and Commissioners. My name is Jennifer
18 Fearing, and I'm here today on behalf of the Humane
19 Society of the United States, the nation's largest
20 animal protection organization.
21 I flew down this morning from Sacramento,
22 where just four days ago Governor Brown signed
23 Speaker Atkins' landmark legislation cracking down
24 on the pernicious trade in elephant ivory and rhino
25 horn. In recent years California legislators and

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1 regulators have, among numerous new legal
2 protections for animals, seen fit to stop the cruel
3 and wasteful trade in shark fins, phase out toxic
4 lead ammunition when shooting wildlife, restrict the
5 use of super poisonous rodenticides, and end
6 commercial bobcat trapping.

7 There can be no doubt, as a consequence,
8 that Californians are deeply about the plight and
9 conservation of wild animals here and elsewhere,
10 stopping needless suffering and improving welfare,
11 and we look to our policymakers to curb business
12 activities which violate these values.

13 You have an opportunity to be part of this
14 legacy today, because progress is not accomplished
15 by legislation alone. As regulators, you play a
16 vital role in advancing the goals of the policies
17 you are entrusted to implement, and as Commissioner
18 Bochco said just last night when discuss the Newport
19 Banning Ranch Project, the Coastal Act is a very
20 broad act, it invites interpretation in many areas.

21 The plight of captive Orcas is your
22 business. SeaWorld has made it your business by
23 bringing this project to you. And captive Orcas
24 deserve better. They have paid an enormous price, a
25 price too high for nearly any justification one

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1 might try to make, but certainly for human
2 entertainment. And it's not enough to pull the plug
3 on dangerous human handling and silly shows, it's
4 not enough to give the a bit more room to pace, and
5 it's not enough to say that no more wild caught
6 Orcas will be subjected to captivity.

7 For these amazing creatures, a captive
8 setting, any captive setting is insufficient to meet
9 their physical, social and behavioral needs
10 regardless of where they were born. You have the
11 opportunity today to begin the end of this sad
12 chapter. You can vote to approve SeaWorld's request
13 to enlarge this habitat for 11 captive Blackfish.
14 The Humane Society of the United States urges you if
15 you are inclined to support that project to do so
16 only with the requirement that these are the last of
17 the Orcas to suffer in California tanks.

18 (Audience interruption.)

19 MS. FEARING: If you approve without this
20 condition, you are dooming an untold number of Orcas
21 to miserable captivity, and you will only be punting
22 to legislatures in Sacramento what you are more than
23 capable of doing today.

24 Prohibit the breeding and transfer of
25 whales, your legal authority allows you to take this

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1 step, and your moral compass insists that you do.
2 After all, this is California, and we are used to,
3 actually we're proud of getting on the right side of
4 history early. Thank you.

5 (Audience interruption.)

6 CHAIR KINSEY: Thank you. Scott, thank you
7 for being present and ready to go. Appreciate it.
8 You have five minutes.

9 MR. ANDREWS: For our Commissioners, I'm
10 referring to this handout, it's a colored map of
11 South Shores, which is the project site, I'm going
12 to talk briefly about land use. As you can see on
13 the right hand, there is a vast expanse of acreage,
14 the city of San Diego in that acreage cancelled
15 South Shores Park, and they cancelled a Ramada Inn
16 resort project. They cancelled these projects
17 because the area is contaminated with toxic waste
18 and has methane and hydrogen sulfide gas from end to
19 end.

20 Now let's go to where the circles are.
21 Those are technically outside the landfill
22 boundaries. You'll see the boat launch ramp, the
23 backhoe operator hit hydrogen sulfide gas, a pocket
24 of it, and he was -- he died in the hospital.
25 Because the gas destroys your organs.

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1 You'll see, and this is SeaWorld's own
2 studies, by the way they did not provide those
3 studies on the project checklist to Staff. So
4 you'll see one of their wells, seems like whenever
5 they drill in their area, outside the official
6 boundaries of the garbage landfill, they hit gas.
7 Up top I have the LE well where they hit hydrogen
8 sulfide and methane, and had to evacuate under
9 emergency status.

10 The middle wells show that this is
11 attributable to an aerospace industry dump heavy
12 metals, a plume of trichloroethane, chromium and
13 2 butanone. Those are toxic waste from industrial
14 processes. Just so you know, that's from World War
15 II plants nearby that produced 25,000 bombers. The
16 last one I'll refer to, the J well hit hydrogen
17 sulfide at 1820 parts per million. It can kill you.
18 It is in fact fatal at 100 parts.

19 So we wonder why Staff does not require at
20 minimum EIR and for these -- this reason, the fact
21 that gas forms unpredictably over time, you need to
22 deny the permit for a project that keeps people
23 underground where the gas will see vapor intrusion.

24 MR. HERMAN: Good afternoon, Commissioners.
25 Patrick Herman, counsel on behalf of Sea Shepherd,

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1 just like to follow up on a couple of points that
2 Mr. Andrews made. I -- I run down in Mission Bay
3 and the South Shores Park area on a regular basis.
4 I see families down there with their kids splashing
5 around in that water. And I'm sure that they are
6 unaware of how contaminated that water really is.
7 The -- it's well known among long-time
8 San Diegans that this was a municipal dump from at
9 least 1947 to 1959. What's less well known is that
10 it was an industrial dump that Mr. Andrews just
11 mentioned. They -- the aerospace industry was
12 depositing barrels and barrels of heavy metals,
13 acetone, thallium, arsenic, and other toxic
14 chemicals, which are now buried beneath an earthen
15 cap, which is somewhere between 12 and 15 feet
16 thick, which covers these toxins.
17 The proposed Orca tank by SeaWorld is going
18 to go down 50 feet. They will be churning up all of
19 this toxic material, and it will be subject to
20 release in the Mission Bay both from tidal flushing
21 and from the dewatering which will have to take
22 place as they're pumping water out of this project
23 as it's going forward.
24 This will further pollute Mission Bay and
25 further expose the residents and visitors to

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1 San Diego. The EPA did a study of this site in June
2 of 1990 and they compared to be as contaminated as
3 the Stringfellow acid pits up in Riverside. This is
4 a Class 1 industrial waste site, which really should
5 have Superfund money going in to remediate it.
6 So -- so there's no way that this
7 excavation is not going to be penetrating into the
8 toxic contaminants that are there. By the way, the
9 worker who died as a result of the gas leak, his
10 name was Harrison Carter, and he was exposed on
11 October 6th, 1988, along with seven other workers.
12 The other seven survived, but Mr. Carter
13 unfortunately did not. And the same factors that go
14 into creating these gas plumes are still present
15 today. So I urge you to deny the permit. Thank you
16 for your time.
17 CHAIR KINSEY: Thank you. I'd like to
18 invite Sea Shepherd representatives up, and you will
19 have 12 minutes, and that will complete the public
20 organized presentation, so we'll move into the
21 public comments, and we'll begin with Deanna Spain.
22 MR. HANCE: Good afternoon, Commissioners.
23 Thank you for hearing us. My name is David Hance, I
24 am the campaign coordinator for Sea Shepherd
25 Conservation Society.

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1 And I'm here on behalf of Sea Shepherd as
2 well as the hundreds of thousands of supporters who
3 back what we do on a daily basis. All of those
4 supporters urge you strongly to deny this Blue World
5 application by SeaWorld.
6 If you grant this to SeaWorld, this would
7 disregard strong public opinion that has come about
8 against captivity, against the cruel practices
9 associated with forcing these highly intelligent
10 beings into tiny tanks and forcing them to do tricks
11 on a daily basis just to get their food.
12 Now, SeaWorld has argued that this matter
13 lies outside the jurisdiction of the Commission. I
14 think we've shown that that's not true. They've
15 also argued that this is preempted by federal law,
16 but you guys cited earlier Section 30411(b) which
17 shows that it is within your authority to address
18 this.
19 What we're urging is to listen to the
20 hundreds of thousands of people who have beseeched
21 you to deny this. Here's a few reasons why you
22 should deny this.
23 Regardless of the size of the tank,
24 captivity is cruel, inhumane and absolutely
25 unjustifiable. Sea Shepherd is a global leader in

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1 cetacean protection, and we have spent decades
2 bearing witness to and working to end cetaceans in
3 captivity, including Orcas. And I don't know if
4 you've seen the way these animals are brought into
5 slavery but it is definitely something that is not
6 nice to witness. I myself have been in some of
7 these countries and I've watched this, and I've
8 watched these babies ripped from their mothers, and
9 I've listened to the cries of the mothers as their
10 babies are taken away from them.
11 Imagine if you will, Ms. Bochco, if next
12 year at your familiar reunion there's a hundred
13 Bochcos standing around, and a group of armed men
14 come in and they take your uncle and they put him in
15 a prison pen, and they take your brother and they
16 put him here, and they kill your father in front of
17 you. What's the difference between that and what
18 happens here?
19 SeaWorld has told us these are highly
20 intelligent beings, they're very similar to humans,
21 they show feelings they show empathy, so you tell
22 me, what's the difference?
23 You know, since the release of the movie
24 Blackfish, SeaWorld has -- has been reeling from
25 profit losses, loss of attendance, and they've gone

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1 on a big campaign to green wash. And if you look at
2 the things that they're doing, everything that they
3 talk about is highly contradictory. When they're
4 talking about this Blue World project, on one hand
5 they're claiming, oh, the Orcas are going to have
6 more space.
7 But in the same breath, they're admitting
8 that they every intention of enslaving even more
9 Orcas. So I'm sorry, someone buy me a new
10 calculator --
11 (Audience interruption.)
12 MR. HANCE: -- by my calculations, more
13 Orcas means less space.
14 (Audience interruption.)
15 MR. HANCE: SeaWorld tells you that their
16 Orcas engage in natural behaviors. If that's not
17 the most absurd statement I've ever heard, find me
18 another one. You tell me that these magnificent
19 creatures are forced to spend their day leaping
20 through hoops and sliding up onto platforms holding
21 their mouth open to get food when this is something
22 they could do naturally in their own environment,
23 you tell me how that's a natural behavior.
24 SeaWorld claims they are educational. I
25 don't see anything educational about seeing whales

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1 jump through hoops or carry a trainer around on
2 their back. What are we learning from that? They
3 say they want to educate their children. Children
4 can be educated about whales through film, through
5 classrooms, through books, they can go out on
6 whale-watching expeditions.
7 You know, the price of a ticket to SeaWorld
8 is very close to the price of a ticket on a
9 whale-watching vessel. If you can go to SeaWorld in
10 Orlando or in San Diego, both of which are right
11 next to the ocean, you certainly buy a ticket and go
12 out on a whale-watching vessel. SeaWorld is not and
13 never has been an educational facility.
14 The last speaker has already mentioned the
15 environmental contaminants. This -- this project is
16 slated to be built on one of the most polluted areas
17 of California and SeaWorld already has the
18 unenviable position of being one of the largest
19 pollutants in California. If they -- if they go
20 forward with this project, what they do here
21 could -- could blow all of the other polluters out
22 of the water. And I mean that quite literally.
23 We have very serious concerns about the
24 safety of marine animals in captive facilities in
25 general. But particular here in Southern California

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1 where natural disasters are just a heartbeat away,
2 and this is something that no one has talked about
3 yet.
4 Consider what happened last week in Europe
5 at the French Riviera, when torrential rains and
6 floods washed through one of the largest marine
7 parks in the world, certainly the largest in Europe,
8 Marine Land.
9 Since that flood, sharks, rays, turtles
10 have been swept away, some of them buried, some of
11 the never found. There's still some killer whales
12 that may be missing. The takes of the Orcas from
13 this flood still to this day remain buried in mud,
14 their filtration systems are completely useless.
15 Now, we're talking about the french Riviera, but if
16 you think that can't happen here, you need to think
17 again.
18 Yes, we are the land of the four-year
19 drought, I know we're all hopeful for El Niño, but
20 let's say we don't have torrential rains? What
21 happens if there's just a slight tremor from the
22 Rose Canyon fault line that runs right through the
23 middle of San Diego what's going to happen to these
24 poor animals? What about a mid-size wave, tsunami
25 wave from a distant tremor off the ocean? What's

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1 going to happen then? What about rise in sea level?
2 The list goes on as to why this is -- this
3 is not a good idea for SeaWorld, if -- if
4 Marineland, Europe's largest captive marine facility
5 can't stave off Mother Nature, I'm certain SeaWorld
6 cannot either.
7 We did some research and we found out that
8 when people are talking about these conditions, and
9 one of the things we found out is that right now you
10 guys have nearly 2,000 pending Coastal Act
11 violations. Some of them going back almost ten
12 years. If you issue these conditions for SeaWorld
13 how do we know that -- that this committee will be
14 able to monitor them if you -- if you're already
15 backdated ten years, I don't see how you can follow
16 up on any further violations by SeaWorld.
17 All we're doing is merely asking that you
18 stand by your mission. And I went on your website
19 last night, because I wanted to make sure that I got
20 it correct, and your mission states you are here to
21 protect, conserve, restore and enhance environmental
22 and human-based resources of the California coast
23 and ocean for environmentally sustainable or prudent
24 use by current and future generations.
25 The only way to uphold your mission is to

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1 deny this permit outright. Now, I look around today
 2 and I see these signs from SeaWorld, "Educate,
 3 inspire, conserve." I think we've already seen and
 4 shown that there's no such thing as education. Not
 5 when it comes to this place. Inspire. I think the
 6 only thing that's being inspired is people around
 7 the world are being inspired to stop spending their
 8 money at these horrible facilities that do nothing
 9 for animals.

10 And the biggest joke of these signs is the
 11 word "conserve." "Conservation." The only thing
 12 they're concerned about conserving is their bottom
 13 dollar.

14 (Audience interruption.)

15 MR. HANCE: It has nothing to do with
 16 animals. Now, all these signs, somebody had
 17 everyone stand up. You see all the signs opposing
 18 this motion. All of these people are here on their
 19 own, we didn't have to bus them in, we didn't have
 20 to give them free t-shirts, we didn't have to give
 21 them free tickets to SeaWorld, we didn't have to buy
 22 them lunch.

23 (Audience interruption.)

24 MR. HANCE: They came here on their own
 25 because they believe in what is right and because

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1 they want you to uphold your mission. So please
 2 listen to them and not the paid people, and uphold
 3 your mission. Thank you.

4 CHAIR KINSEY: Okay. Thank you. We're
 5 going to move into public comments, we'll have to
 6 minutes per speaker from this point on, and I want
 7 to just encourage, before we begin, we're going to
 8 start with a number elected officials and their
 9 representatives and move into others, but you know,
 10 if, even if you've signed up for a speaking card, if
 11 you feel as though your voice has been expressed,
 12 the reason we gave this organized presentations, the
 13 time to go first and go give them an extended period
 14 of time, is to get information to our commission.
 15 So if you don't feel you have anything to add other
 16 than your strong support, you do not need to take
 17 the time to speak.

18 But if you do want to speak I'm going to be
 19 calling out a number of names, and I'd encourage you
 20 to come up and be sitting in the chairs here so that
 21 we can move more quickly. So after Deanna speaks,
 22 I'm going to invite up Guy Strong, and then
 23 Councilmember Lorie Zapf. Welcome, Deanna.

24 MS. SPAIN: Thank you. I'm Deanna Spain,
 25 I'm special assistant for policy for speaker of the

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1 assembly, Toni Atkins. She sent a letter in for the
 2 record that you should already have, but she wanted
 3 me to reinforce her beliefs for this project.

4 "Chairman Kinsey and members of
 5 the Commission, I write in strong
 6 support of the coastal development
 7 permit that would enable the replacement
 8 and expansion of the existing killer
 9 whale habitat with the marine
 10 aquarium-themed exhibit and immersive
 11 killer whale habitat experience.

12 "The proposed design is consistent
 13 with the existing master plan and will
 14 expand the swimming opportunities or the
 15 killer whales due to the significant
 16 increases in the side of the pools.

17 "Replacing a set of restrooms and a
 18 bakery from the 1980's that is
 19 approximately 5500 square feet in size
 20 with a new 2900 square foot restroom
 21 facility that will use sea water rather
 22 than fresh water will save over one
 23 million gallons a year and reduce the
 24 bulk and scale of the building. New
 25 pathways for the public to use, lighting

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1 and audio enhancements are welcome
 2 additions.

3 "SeaWorld has its own storm water
 4 treatment facility and all storm water
 5 will be treated on site.

6 "The process as proposed will not be
 7 visible outside of the SeaWorld
 8 leasehold, and will be consistent with
 9 the 30-foot height limit.

10 "I encourage the Commission's support
 11 of the coastal development permit that
 12 will enhance the experience for both the
 13 killer whales and the public. Warmly,
 14 Toni G. Atkins, speaker of the
 15 Assembly."

16 CHAIR KINSEY: Thank you. Guy, then
 17 Councilmember Zapf, and then Andrea Cardenas, and
 18 then Dave Grubb.

19 MR. STRONG: Good afternoon, Chairman
 20 Kinsey and Commissioners. I'm Guy Strong, the
 21 legislative director for Assemblymember Richard
 22 Bloom. And he apologizes he couldn't make it today,
 23 he's outside the country. I'm going to read his
 24 statement from him, it's:
 25 "Assemblymember Bloom introduced AB

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1 2140 in 2014. AB 2140 sought to
2 prohibit all captive breeding Orcas and
3 to limit SeaWorld's display to the 11
4 whales currently in their" that they
5 have. I'm sorry.
6 "Assemblymember Bloom elected to
7 study the issue (inaudible) AB 2140, for
8 the more we learn, the more committed we
9 are to phasing out the display of
10 captive Orcas. He fully intends to
11 pursue this objective such it would be
12 extremely unfortunate and counter
13 productive if the Coastal Commission
14 were to grant an entitlement to SeaWorld
15 to expand their captive breeding
16 program. (Sic)
17 "Fortunately, your broad
18 jurisdiction under the Coastal Act gives
19 you the authority to advance protective
20 measures for these magnificent marine
21 mammals and play an important role in
22 phasing out captivity practices.
23 "Your staff report does an
24 excellent job of establishing that you
25 are not legally preempted by any state

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1 or federal law from regulating these
2 activities.
3 "The staff report also correctly
4 identifies 30230 as the applicable
5 Coastal Act section giving you specific
6 authority over SeaWorld's marine mammal
7 breeding and display practices."
8 Sorry.
9 "But your staff's recommendation
10 does not go far enough. Prohibiting the
11 display of the whales captured offshore
12 California the display of utilization of
13 wild-caught whales or gametes with wild
14 individuals capture after February 12,
15 2014 is largely symbolic. It will do
16 little to protect the wild whales and
17 nothing that will limit the continued
18 production of captive Orcas who will
19 live out their lives in grossly
20 inadequate circumstances. (Sic).
21 Again, we come to this thing where it's 11
22 whales if the tank gets better it's better for those
23 11 whales, but if they're adding more whales, it
24 doesn't get better for them. Thank you.
25 CHAIR KINSEY: Thank you. Councilmember

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1 Zapf and then Andrea, then Dave, and then James
2 Duff.
3 MS. ZAPF: Thank you. Hello,
4 Commissioners. I am Lorie Zapf, and I am a San
5 Diego City Councilmember. I represent District 2,
6 which includes Mission Bay where SeaWorld is
7 located. SeaWorld has always been a great partner
8 to the City of San Diego and a part of the fabric of
9 our community for the past 50 years.
10 The park provides thousands of jobs, and is
11 one of the largest employers of youth. For so many
12 high school and college students, SeaWorld is their
13 first employer, their very first paycheck. It has a
14 huge economic impact on the city of San Diego, in
15 fact the entire region. SeaWorld provides tens of
16 millions of dollars in sales tax, payroll tax,
17 property tax, TOT as well as lease -- lease
18 payments. SeaWorld is also a leader in
19 environmental conservation. They voluntarily
20 eliminated plastic bags and polystyrene products at
21 their own expense because it was better for the
22 environment as well as the marine animals.
23 Animal care is clearly a top priority for
24 SeaWorld, and after visiting SeaWorld myself and
25 taking a look and visiting with the trainers, the

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1 animal care experts, the vets and their research
2 center, I saw firsthand just how much the SeaWorld
3 employees really love their jobs, but more
4 importantly I saw how much they truly loved the
5 animals that they care for.
6 I saw surgery centers and animal care labs
7 that were as sophisticated as any I have seen at
8 human hospitals. Over the years SeaWorld has
9 rescued, rehabilitated and released back to the
10 ocean tens of thousands of animals, well over 900
11 just in the past year alone. They surely would have
12 perished, these animals would have perished were it
13 not for SeaWorld.
14 They also are very generous to the
15 community. They give back through nonprofits and
16 educational outreach.
17 CHAIR KINSEY: That's your time, so if you
18 just would wrap up your comments.
19 MS. ZAPF: Absolutely. I encourage you to
20 please support the Blue World project. I timed
21 this, I don't know what happened. I came in at
22 1:59.
23 CHAIR KINSEY: That's okay.
24 MS. ZAPF: So thank you, it will improve
25 not only their quality of life, but enhance

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1 education and research opportunities. So thank you
2 very much.
3 (Audience interruption.)
4 CHAIR KINSEY: Thank you. Andrea, then
5 Dave, then James Duff.
6 MS. CARDENAS: Thank you, Chairman and
7 Commissioners. I am going to keep my remarks short.
8 I am here on behalf of San Diego Mayor Kevin
9 Faulconer to offer our support for SeaWorld
10 San Diego's new Blue World project. I also want to
11 echo the same sentiments as Councilmember Zapf on
12 the partnership that we've always had with SeaWorld
13 San Diego.
14 We recognize that this project will expand
15 educational opportunities at SeaWorld San Diego by
16 promoting deeper knowledge of whales and their ocean
17 environment.
18 Additionally we believe that this project
19 will help further conservation and research efforts
20 and benefit SeaWorld's goal to protect marine life
21 in the wild. Our office appreciates your
22 consideration and respectfully urges you to approve
23 this application. Thank you so much for your time.
24 (Audience interruption.)
25 CHAIR KINSEY: Thank you. Please, come

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1 forward. That's great. Yes.
2 MR. GRUBB: Good afternoon, Chair Kinsey
3 and Commissioners. My name is David Grubb, I am
4 representing Sierra Club California. And the many
5 other organizations that signed on to the group
6 letter which I'm sure you have all seen.
7 Since I'm sure you've seen the letter, I'm
8 not going to repeat all of the points that are made
9 in it. And try to just boil this down to the
10 essential element. If you look back at human
11 history, there are many, many examples of casual and
12 thoughtless cruelty to animals. I'm thinking about
13 dog fights, cock fights, bull fighting, bear
14 baiting, all of those gruesome spectacles speak to a
15 dark side of human nature that is part of our being
16 that allows us to laugh at a cripple trying to walk,
17 or applaud as an animal is tormented for our
18 amusement.
19 But we can do better than that. We are
20 better than that. Our social norms have evolved,
21 our ethics have evolved, and there is a growing
22 understanding that SeaWorld's animals and particular
23 the Orcas are suffering.
24 So essentially what I'm here to ask is it's
25 time to stop torturing animals for people's

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1 amusement and to make money.
2 (Audience interruption.)
3 MR. GRUBB: So I would ask you as
4 Commissioners to do everything in your power to end
5 this practice of torturing animals for fun and
6 profit. Thank you.
7 (Audience interruption.)
8 CHAIR KINSEY: Thank you.
9 (Audience interruption.)
10 CHAIR KINSEY: James Duff, followed by Pam
11 Heathering, Lexal Bree, and Lindsay Lares, and then
12 CeeCee Kumar.
13 MR. DUFF: Good afternoon, my name is James
14 Duff. Thank you for listening. I'm here because
15 it's been brought to my attention that nobody really
16 has talked about the earthquake issue, and they're
17 building a disaster here between two earthquake
18 zones. David Hance mentioned one of them, he
19 mentioned the Rose Canyon fault, there's another
20 fault called the Point Loma fault. And this
21 information is all factual and it's found in the
22 City of San Diego's seismic safety study published
23 in 2008.
24 This map is from grid 20, it shows nothing
25 but yellow, high potential liquefaction zone, is

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1 probably one of the worst seismic dangers you can
2 have in the entire state of California. San Diego
3 has done this study, the science is there, I'm not
4 making it up, it's factual. And it's liquefaction
5 and it says "high potential of hazard." It's been
6 completely ignored, I haven't seen anybody else talk
7 about it except David Hance.
8 And you would be doing yourselves a favor
9 to look into this subject before you make any
10 decision. If there's an earthquake, and a 40-foot
11 hole, you can imagine what would happen with the
12 people trying to get out of that hole, let alone the
13 animals, they'd be stuck, there's no disaster plan
14 to move five million gallons somewhere else. So I
15 want to leave you with that thought and introduce
16 you to Joe. He's from Bell, California.
17 (Audience interruption.)
18 MR. MORENO: Hi, it's an honor to be in
19 front of you guys because I've always dreamt of this
20 day. Excuse me for my poor speech, I just got my
21 braces, I'm sorry.
22 (Audience interruption.)
23 MR. MORENO: But it seems like all you guys
24 are kind of like bored out of your mind, because
25 everybody is saying something, and somebody is

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1 saying something else. But I actually have proof
2 and as many has thought, that we're trying to tell
3 you do your job. What -- what I'd like to do is I'd
4 like to give the people an opportunity to decide for
5 themselves. I -- and I've done an experiment and
6 I've told kids in my class about SeaWorld. I've
7 told them what they do to these animals, and even
8 one of my friends, I told him ten things about
9 SeaWorld, and after those ten things, she looked at
10 me like (indicating) and I told my friends this is
11 exactly what they do, and my friend told me she
12 would never go again, and I've been doing this for
13 years and years.
14 (Audience interruption.)
15 CHAIR KINSEY: Thank you, Joe. We've got a
16 whole of folks who want to speak, but I want to
17 thank you for taking the time to speak today. Very
18 well done.
19 MR. MORENO: Thank you.
20 (Audience interruption.)
21 CHAIR KINSEY: Okay. So this is Pam and
22 then Lex and then Lindsay and then CeeCee.
23 MS. HETHERINGTON: Thank you, Chair Kinsey
24 and Commissioners. My name is Pam Hetherington, and
25 I'm speaking today on behalf of the Environmental

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1 Center of San Diego. I want to take a few minutes
2 to talk about the moral dimension of why we are here
3 today. When we talk about animals in captivity, we
4 generally don't grant them a moral sense. But it's
5 not a question of can they reason or can they talk.
6 But rather can they suffer. We know Orcas in
7 captivity suffer.
8 Cruelty to animals is contrary to man's
9 duty to himself. Because it deadens in him the
10 feeling of sympathy for their sufferings. And thus
11 a natural tendency that is very useful to morality
12 in relation to other humans is weakened. The
13 assumption that animals are without rights and the
14 illusion that our treatment of them as no moral
15 significance is positively outrageous.
16 (Audience interruption.)
17 MS. HETHERINGTON: Western cruelty and
18 barbarity, universal compassion is the only
19 guarantee of morality. The Commission has an
20 opportunity to set a moral compass today that will
21 save -- serve generations to come, and a couple
22 points on these compass -- on this compass needs to
23 be the cessation of Orcas as entertainment, and the
24 prohibition of captive breeding, whether by mating
25 or artificial insemination.

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1 Your mandate is to protect whales and other
2 marine mammals. Short of transferring the existing
3 captive Orcas to sea pens, your next best
4 alternative is to help SeaWorld exit their current
5 business model of using creatures for entertainment
6 into a model of education and compassion.
7 Humanity's true moral test, its fundamental
8 test consists of its attitudes towards those who are
9 at its mercy, the animals. Thank you.
10 (Audience interruption.)
11 CHAIR KINSEY: Thank you. Lex -- thank
12 you.
13 MS. LEX (No last name provided): I think I
14 had time ceded to me, I don't know that I'll need
15 it.
16 CHAIR KINSEY: You do. You have eight
17 minutes.
18 MS. LEX: Okay. Oh, I don't think I need
19 that much. Thank you.
20 CHAIR KINSEY: Yep.
21 MS. LEX: I'm here --
22 CHAIR KINSEY: Thank you.
23 MS. LEX: I'm here on behalf of the 5,000
24 members of Unite Here local 30 in San Diego. We are
25 not extremists, we are actually a labor

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1 organization, just to point that out, and we support
2 the respectful humane treatment of all species,
3 human and animal. We are very concerned that
4 captive display for entertainment purposes sends the
5 wrong message to society and to our children. That
6 wild animals are primarily for our amusement, no
7 matter how unhappy and unhealthy the are in
8 confinement.
9 We're also concerned about the way in which
10 SeaWorld treats its employees. There are multiple
11 safety violations CalOSHA has filed against SeaWorld
12 as well as a violation for preventing employees from
13 reporting workplace hazards or workplace safety
14 relative to the handling and training of Orcas.
15 SeaWorld's argument that its safety
16 protocols and operant conditioning program provides
17 sufficient protection to its trainers is disproven
18 by the 600 pages of incident reports. We have heard
19 that SeaWorld has been attempting to harass and
20 intimidate at least one of the witnesses against it.
21 This is unacceptable to our union.
22 We expect respect for all and their
23 behavior towards their present employees and
24 ex-trainers is not acceptable. Neither is their
25 treatment of Orcas. A concrete tank is not a

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1 habitat, it is a concrete tank, and these Orcas will
2 be subjected to all of the cruel treatment required
3 to keep them in captivity and performing.
4 Blue World is only marginally acceptable if
5 it is coupled with the message that SeaWorld will be
6 required to phase out its use of Orcas and actually
7 provide some additional swimming room. Allowing
8 them to continue breeding will prevent this from
9 happening.
10 The Commission should only approve this
11 proposal if there are conditions on it to allow use
12 only by the current Orcas and to prohibit breeding.
13 The current staff recommendation does just the
14 opposite. We are therefore asking that you delete
15 Condition One and substitute the Condition One by
16 the Animal Legal Defense Fund. This will make the
17 project consistent with the Coastal Act and provide
18 some benefit to the existing Orcas.
19 And just as a resident of San Diego
20 separate from my comments on behalf of the
21 organization, SeaWorld is not a national treasure,
22 SeaWorld is an international disgrace. Thank you.
23 (Audience interruption.)
24 CHAIR KINSEY: Lindsay.
25 MS. KIRCHEN: Actually can I take some of

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1 Lex's --
2 CHAIR KINSEY: No.
3 MS. KIRCHEN: -- her time --
4 CHAIR KINSEY: You can't.
5 MS. KIRCHEN: -- local 11 --
6 CHAIR KINSEY: But you do have five
7 minutes.
8 MS. KIRCHEN: Yeah, well, I'm with local 11
9 Unite Here as well. Can I make a brief comment?
10 CHAIR KINSEY: I'm going to give you -- oh,
11 I see what you're saying.
12 MS. KIRCHEN: Yeah, I'm sorry, it was a
13 little confusing.
14 CHAIR KINSEY: Please, you're (inaudible).
15 MS. KIRCHEN: All right. Well, my name is
16 Carly Kirchen, I'm a boycott organizer with Unite
17 here Local 11. I live -- I work out here in Long
18 Beach. I'm going to make a brief statement, I'll
19 read a letter from Janine Pierce.
20 "I'm with Los Angeles Alliance for
21 a New Economy, and the Long Beach
22 Coalition for Good Jobs and a Healthy
23 Community."
24 So she says: "Dear Chairman Kinsey
25 and Coastal Commissioners. I'm writing

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1 on behalf of Lane working since 1993 for
2 good jobs, Thriving communities and a
3 health environment for all. Part of a
4 healthy coast including marine animals.
5 Regarding the project before your
6 SeaWorld's Blue World project, we urge
7 this Commission to take strong steps to
8 prevent the breeding of captive Orcas
9 and to prevent the sale or transport of
10 Orcas to any location other than a sea
11 pen.
12 "Even the proposed extended enclosure
13 is not a sufficient home for these Orcas
14 given that certainly no additional
15 animals should be housed in this
16 project.
17 "Prior to any approval of this
18 project, conditions should be placed
19 that would prohibit this breeding, sale
20 or transport given how studies have made
21 clear that captivity has substantial
22 negative consequences to Orcas health.
23 "The Coastal Act protects our
24 communities' coastal access and the
25 protection of coastal resources like

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1 these animals. Institutions like
2 SeaWorld should foster respect for a
3 healthy environment, not put worker and
4 animal at risk through dangerous
5 practices. This Commission has the
6 opportunity help protect Orcas in our
7 coastal environment by conditioning this
8 projet to require the use of captive
9 Orcas to be phased out. Sincerely,
10 Janine Pierce."
11 Thank you.
12 CHAIR KINSEY: Thank you. Lindsay. Will
13 be followed by CeeCee Comer, and then Susan Millis.
14 A VOICE: And Lindsay. He said Lindsay.
15 MS. COMER: CeeCee Comer?
16 A VOICE: Lindsay first, right?
17 CHAIR KINSEY: Lindsay first.
18 MS. COMER: Oh.
19 CHAIR KINSEY: That's fine. Lindsay, then
20 CeeCee.
21 MS. LARRIS: Hi, I'm Lindsay Larris, I'm
22 the regional director in Southern California for the
23 Animal Legal Defense Fund. I feel like everybody
24 has pretty much said what I would want to say, so
25 I'm going to give my time to Pam over here.

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1 CHAIR KINSEY: Thank you, but, you know, I
2 am going to object a little bit. We gave the Animal
3 Legal Defense Fund a number of minutes for an
4 organized presentation just so that we wouldn't have
5 individual speakers coming up as well.
6 So it just -- it's in fairness to the
7 presentation today. Thank you.
8 MS. PRICE: Do you have my speaker slip,
9 Pam Slater Price?
10 CHAIR KINSEY: I'm sure that we do. We
11 have hundreds of speaker slips.
12 MS. PRICE: Okay. Well --
13 CHAIR KINSEY: When that time comes.
14 MS. PRICE: I just wanted to make sure you
15 do.
16 CHAIR KINSEY: Thank you.
17 MS. PRICE: And I'll wait.
18 CHAIR KINSEY: So, CeeCee will be followed
19 by Susan Millis, and then Dr. Reese Holter, and then
20 Ron Braden.
21 MS. COMER: Hello, members of the board, my
22 name is CeeCee Comer, and I'm from San Diego. I
23 live in Claremont, very close to SeaWorld. I go to
24 SeaWorld during my lunchtime, I just go there and I
25 love the animals. I support what SeaWorld does,

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1 that's just my personal opinion, and also want to
2 say hello to all the PETA people and all the
3 SeaWorld people that are here, this is amazing, I
4 never been to one of these things before, and I'm so
5 glad that there is different sides. You know,
6 because every (inaudible) has two sides, but I love
7 SeaWorld, I love Shamu, and I do want to see Shamu
8 in a bigger pool. There's 11 whales, we have a few
9 additions for babies, and I will really, that's my
10 opinion, I would love to see a bigger pool so my
11 whales can have more fun and I can go there and say
12 hello. Thank you. Go Blue World.
13 CHAIR KINSEY: Thank you. Susan? Okay.
14 I'm going to go through this. Susan Millis, if
15 you're not here, I'm going to keep moving.
16 Dr. Reese Holter, Ron Braden, Elizabeth Lamm,
17 Graciela Paraguirre (phonetic). Okay. And I would
18 ask people to come up and sit until you have an
19 opportunity speak. And then Vicky Seravo. Just
20 please have a -- one of you come forward it would be
21 just fine. If your name was just called, yeah. Any
22 of the speakers whose names were called. Thank you.
23 MS. PARAGUIERRE: Graciela Paraguirre,
24 West Hollywood. Good afternoon. Please vote on the
25 SeaWorld application. The new 50-foot-deep pool

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1 would be extremely shallow and very tiny for Orca,
2 which are at least 24 feet long and six tons of
3 weight that like to dive as deep as 1,000 feet, swim
4 hundreds of miles per day, and live with their
5 families.
6 Tanks are horribly inadequate -- inadequate
7 for the needs and size of Orca. This new tank will
8 create lifelong physical and psychological torture
9 for even more Orca. We are robbing these animals of
10 everything. The joy of experiencing the ocean,
11 traveling great distances, group life, deep diving,
12 they have a natural and social life, keeping this
13 alive.
14 We have no right to exhibit them or have
15 them entertain us. By keeping Orca in prison in
16 these times what we are really doing is teaching our
17 children that it is fine to torture, enslave, abuse
18 and exploit other beings. For the good of Orca and
19 of people, please vote no.
20 (Audience interruption.)
21 CHAIR KINSEY: Thank you. Please state
22 your name for the record.
23 MR. BRADEN: Yes, my name is Ron Braden,
24 you folks all deserve medals for going through this
25 process, but we do appreciate it. I have three

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1 things to say. First of all, I've heard that
2 there's objections that you don't have jurisdiction.
3 That's a bogus argument.
4 Number one, SeaWorld wouldn't have
5 submitted their project to you if you didn't have
6 jurisdiction.
7 Number two, you wouldn't have accepted it
8 if you didn't have jurisdiction.
9 The second thing is, is that speakers
10 opposing this project have come up here with example
11 after example after example. Bent dorsal fins,
12 broken teeth, slashed lacerations in their skin, and
13 not one person from SeaWorld or those supporting it
14 have come up with any evidence that that was not
15 caused by SeaWorld. That silence is an admission on
16 their part that they are harming these animals.
17 The third thing is is that if you took you
18 folks in this room on the Commission either
19 individually or collectively, locked these doors,
20 and kept you in here for the rest of your life, or
21 anybody else in this room, or all of us --
22 (Audience interruption.)
23 MR. BRADEN: -- collectively, that would be
24 cruel and unusual punishment. For those reasons I
25 urge you to vote no on the SeaWorld tanks.

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1 (Audience interruption.)
2 CHAIR KINSEY: Thank you. I'm going to
3 call out a number of other names now. Cherie
4 Shankar, Cheney Dowd, Kirby Kottler, Lauren Boucher,
5 Martha Sullivan. Any of those speakers coming
6 forward, we will speak -- you can just speak and
7 identify your name as you do speak, it would be
8 helpful, I'll also invite up Bill Cohen and Teran
9 Baylor. And any of you who has arrived, you can
10 speak and just state your name so I can grab it.
11 Thank you.
12 MS. SHANKAR: Hi. Cherie Shankar. Thank
13 you all for your patience today on this issue.
14 Everybody has a lot to say. I just want to point
15 out that SeaWorld can still educate, they can do
16 marine life rescue, they can rehab and continue to
17 employ people without subjecting these intelligent
18 and magnificent creates to a lifetime of captivity.
19 (Audience interruption.)
20 MS. SHANKAR: Listen to your gut. Do you
21 really think the biggest mammals in the world belong
22 in any type of confinement? Where do you think we
23 can learn more about conservation and the natural
24 lives of whales. I bet many of you have already --
25 have been on a whale-watching tour or even seen a

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1 video, and you know how breathtaking it is to see
2 them in their true home, the big blue ocean.
3 Please either vote on the expansion or if
4 you do, please make sure it's on the condition that
5 there is no more breeding. Thank you for your time.
6 CHAIR KINSEY: Thank you. I'll just take
7 any of you next and then just state your name for
8 the record after you've been called. Please come
9 forward.
10 MS. SULLIVAN: Hello, I'm Martha Sullivan,
11 I'm a resident of San Diego and a small business
12 owner. And I want to just make an observation.
13 Social media, today is Throwback Thursday, and
14 that's exactly what SeaWorld's proposal is. It's a
15 throwback to an old business model, it's a throwback
16 to a toxic waste dump. It's a throwback to a time
17 when we didn't know better than to build in seismic
18 liquefaction zones. And it's time for us to look
19 forward, it's time for us to be part of the 21st
20 century. And to that end, I'm going to let Joe --
21 Joseph Moreno here speak to the 21st century and
22 what we need to be doing. And what you can help to
23 bring about.
24 CHAIR KINSEY: You know, Joe has already
25 spoken, I'm going to let him speak a little bit

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1 more, but we're not going to be able to extend the
2 time. Thank you. Joe, go ahead.
3 MR. MORENO: Okay. So I think that we all
4 need to play our parts in life. Because life is not
5 just about one individual, it's about all of us
6 together united. Because that is what we are, the
7 United States of America, the land of the free. And
8 look, it's not just free, isn't just for us. It's
9 for animals as well. Because animals deserve
10 freedom, whether humane or not, because you know
11 what? Animals were here long before humans. And we
12 took over this world like nothing. And we left them
13 aside like if they were garbage.
14 But now we have the opportunity to speak
15 up. And SeaWorld, they have a lot of money to do
16 this, but they have chosen not to. So we took
17 action, and we are not people who are bad, we are
18 people who try to speak out for those who cannot.
19 Thank you.
20 CHAIR KINSEY: Thank you.
21 (Audience interruption.)
22 MR. COHEN: Joe is a tough act to follow.
23 My name is Bill Cohen, and I own a company here in
24 Long Beach called Edge Systems, and employ about 150
25 people and speak for quite a few of them.

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1 I wanted to really point out to the people
2 in blue here where your boss has asked you to come
3 up and paid you to wear your shirts and be here,
4 during --
5 (Audience interruption.)
6 MR. COHEN: -- '13 to 2014, your sales have
7 dropped 14 percent. At the same time, California
8 amusement park at Disneyland has risen 3.5 percent,
9 and Universal Studios has gone up 11 percent. The
10 Hail Mary in the hundred million dollars you're
11 investing into a pool, you might want to consider
12 SeaWorld, you have a pathetic nine rides.
13 Disneyland has 58 rides.
14 CHAIR KINSEY: If you could please speak to
15 us, just for both transmission and --
16 MR. COHEN: Sure. My -- my kids, my
17 family, they like the rides. Nine rides versus 58,
18 Disneyland continues to grow. At the same time, the
19 hundred million that you're spending, you could look
20 at a different vision. You could move toward an
21 amusement part and an entertainment park where you
22 invest perhaps in a movie, must like Walt Disney did
23 back in the '60's, you could tie your movie into one
24 of your rides or the experience there at Disneyland,
25 but hanging on to the Orcas just isn't the future of

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1 Dis -- of SeaWorld, it isn't in the best interest of
2 SeaWorld and people don't really want to go to it.
3 One thing to ask yourself is when you go to
4 Las Vegas, how many of you go to a live animal
5 circus? No one. There aren't any. Cirque du
6 Soleil has taken over, nobody really wants to go see
7 a chubby guy in a wetsuit ride a whale. People want
8 to go see Cirque de Soleil, that's what they go see,
9 and Disneyland. Something that the board should
10 consider is that in 10 to 15 years if this Hail Mary
11 doesn't work out, me as a taxpayer, and I pay a lot
12 of California state taxes, will be saddled with this
13 issue with this bankrupt company. I urge you to
14 vote no.
15 CHAIR KINSEY: Thank you.
16 (Audience interruption.)
17 CHAIR KINSEY: While the next speaker is
18 coming up, I'm going to also invite up Teren Baylor,
19 Pauline and Janine Noriega, and Bradley and Lindsay
20 Wells. Hi.
21 MS. BOUCHER: Good afternoon,
22 Commissioners. My name is Lauren Boucher and I
23 would like to donate my time to a fellow activist
24 who is here named Genesis.
25 MS. BUTLER: Hi, my name is Genesis Butler,

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1 and I'm eight years old. I'm here because I am
2 worried about the pollution Blue World project will
3 cause in this area. The ocean and land is already
4 polluted, and this will just add to it. It makes me
5 really sad to know the environment, how -- how come
6 adults don't do more to protect the earth for the
7 children? I want to ask you to please help protect
8 the environment for my generation and future
9 generations. You have the power to protect the
10 ocean, and you have the responsibility too. Please
11 vote know on Blue World project, and remember, we do
12 not inherit the area -- the earth from our
13 ancestors. We borrow it from our children. Please
14 protect the land and oceans. The future of children
15 like me depends on it.
16 (Audience interruption.)
17 CHAIR KINSEY: Thank you.
18 MS. BOUCHER: Thank you, Commissioners.
19 And with another -- please vote no.
20 (Audience interruption.)
21 CHAIR KINSEY: Please any of the other
22 folks that I have invite up, please come forward.
23 There are chairs available.
24 MR. BAYLOR: My name is Teren Baylor, I --
25 I have fallen -- I -- I -- I've listened to Genesis

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1 many times, and I -- I've been following her a
2 couple times, so it's always tough.
3 I just want to say that I am a volunteer
4 with Ric O'Barry's dolphin project, and I've spent
5 the last five weeks in Japan documenting and
6 witnessing dolphins being captured for captivity.
7 Ric O'Barry in the '60s was training Flipper, and if
8 you remember Flipper, I -- I -- you may remember the
9 TV show and the movie, but Ric O'Barry was
10 definitely involved with that, he trained all of the
11 dolphins that became Flipper in that TV show.
12 Well, this TV show is very popular in
13 Japan. And when I see what's actually happening
14 with the capture of dolphins, it really hurts me
15 because you can see the brutality of the process.
16 Now, SeaWorld hasn't taken any animals in
17 quite some time from the wild. But when they start
18 talking about genetic diversity, they are talking
19 about getting animals from the wild again. There's
20 no way you can do that. There's no way you can get
21 genetic diversity except for getting more animals
22 from the wild.
23 How are they doing it? They're not doing
24 it themselves. They're paying somebody else to do
25 it. So when they talk about genetic diversity and

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1 wanting to fill that new pool and produce more Orcas
2 that's exactly what they're talking about.
3 We need to stop this from occurring.
4 Because the Orcas that are in the wild are being
5 taken from the wild and their numbers are
6 diminishing rapidly. The Orcas in Washington state
7 were taken, over 50 were taken. Washington banned
8 SeaWorld from taking them ever again.
9 Somebody else mentioned Shamu. I just want
10 to mention one thing that SeaWorld did to the very
11 first Shamu. The way that they would capture
12 Shamu -- I'm sorry.
13 CHAIR KINSEY: Time is up.
14 MR. BAYLOR: I'm going to try and get it
15 out as fast as I can.
16 CHAIR KINSEY: Yep, please, just -- your
17 time is up, so just say where you land on this.
18 Thank you.
19 MR. BAYLOR: Okay. No on this project.
20 CHAIR KINSEY: Thank you very much.
21 MR. BAYLOR: Thank you.
22 CHAIR KINSEY: Joey Racano, Vince Lawler,
23 Alexander Sharruck, and Britney Holstrom and Cheryl
24 Nicole and Scott Nicole. Welcome.
25 MS. BRADLEY: Native California, Ann

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1 Bradley. I am begging you today to take a look at
2 something very important. I'm here for these
3 extraordinary animals, but this a failed business
4 model. Ladies and gentlemen, you're all incredibly
5 intelligent, and I speak particularly to Supervisor
6 and Commissioner Cox. I love the people of
7 San Diego. I care deeply about the workers in
8 San Diego.

9 You would be giving your yes to something
10 that would end up being a complete waste and a
11 failure. We are having business at the speed of
12 thought. Not my quote. But look at us here today.
13 This is a reflection of the millions around the
14 world. These parks are closing down because nobody
15 is spending their money there.

16 If you were only looking at this as whether
17 it will be good for the citizens of San Diego, if
18 you were only looking at this as a revenue producer,
19 this is a failed model. Vote no. Thank you.

20 (Audience interruption.)

21 MR. RACANO: Honorable Commissioners,
22 Staff, friends, friends at home, Joey Racano, I'm
23 the director of the California Ocean Outfall Group.
24 And we urge you to vote not, no conditions, no
25 nothing, just no.

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1 (Audience interruption.)

2 MR. RACANO: Now, let me make it absurd.
3 What if everyone wanted to have an Orca, what if we
4 all wanted an Orca in our swimming pool. This is a
5 private corporation. Why do they have Orcas? You
6 know. When everybody else couldn't have an Orca,
7 you know. Like I said, observe.

8 (Audience interruption.)

9 MR. RACANO: Now, the lady from the
10 aquarium business, she said this would minimize
11 SeaWorld's need to go out and bring in wild Orcas.
12 Yes, but minimize doesn't cut it. That means they
13 are going to go out there and deplete that resource
14 somehow, some way. Maybe not them, but they're
15 going to need that genetic diversity inflow.

16 And so it's a violation of 30230. Now,
17 SeaWorld isn't expanding a tank here, that's not
18 what this is. SeaWorld is expanding, period. Now,
19 tank expansion gives room for 94 Orca and they can
20 sell those Orcas and it doesn't matter if the Orcas
21 are whole fish or if the Orcas are in a sperm vial.
22 They sell them overseas and not just to -- to parks,
23 but to refrigerators. And -- and -- and that would
24 cause the building of parks that might not otherwise
25 be built making this growth inducing, a violation of

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1 the oversizing provisions of the Coastal Act.
2 So do the math, because it's -- it's --
3 it's -- it's 94 Orcas at \$8 million apiece, that's
4 \$758 million, that's a billion dollar business
5 without one person paying at the gate. And I urge
6 you to make the difference that you can right now.
7 You've done some great work, now it's time to stand
8 strong, because this is inhumane. And I thank you
9 for this opportunity to address you today.

10 (Audience interruption.)

11 CHAIR KINSEY: Please. Keep coming. Yes.
12 Well, no, I'm just -- I have a number of
13 name cards. If you just come up next -- next and
14 state your name, please, it will help.

15 MS. WELLS: My name is Lindsay Wells, and I
16 came here from Salt Lake City, Utah, to speak on
17 this key issue, and I'm against the Orca expansion.
18 As a child, my family brought me there to SeaWorld
19 to visit these beautiful marine animals, which I
20 love. And upon watching the circus-like shows, I
21 just remember feeling saddened at the bathtub size
22 spaces they were living in. And all for our
23 selfish, brief enjoyment. I believe they should be
24 living in their natural environment with their
25 family.

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1 The only humane solution is for the
2 remaining Orcas to be released to seaside
3 sanctuaries where they can life with freedom and
4 boredom (sic) from loneliness and -- where they, you
5 know, loneliness and boredom where they can't
6 thrive. Also to cease breeding them in captivity
7 where they cannot thrive.

8 Finally, SeaWorld can continue to educate,
9 inspire and conserve through state of the art
10 technology, which simulates the lives of these
11 majestic creatures. There's no much with
12 technology, there's so many ways to do that without
13 having these live animals imprisoned.

14 You know, I think for SeaWorld employees to
15 say they do care about the whales, which I believe
16 they do, I do believe they work here because they
17 love animals. Unfortunately, I feel that maybe
18 they're misinformed or have the wrong idea about
19 what is happening here with the whales.

20 And I believe it's likened to prison
21 wardens saying they care about their inmates because
22 they're imprisoned.

23 So I would urge the people who work here
24 for SeaWorld to look inside their heart and think
25 about what it is they do, and if this does get shut

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1 to think of there's some other jobs they could get
2 that would be very worthwhile. They could still
3 make a living and they don't -- they don't need that
4 for their financial gain, and I would ask the -- I
5 would ask you as the counsel to look at this as
6 well. Thank you for your time.
7 CHAIR KINSEY: Thank you. Just keep
8 coming, please. Thank you.
9 MS. HOLSTROM: Hi, I'm Britney Holstrom
10 from Los Angeles. And I oppose SeaWorld's Blue
11 World project, and I hear a lot of people today
12 talking about profits and other reasons why we
13 should go forth with the Blue World project, but
14 instead of focusing on profits like SeaWorld saying
15 today, I think the issue really is focusing on the
16 well being of the Orca whales and animals here at --
17 or animals at SeaWorld, and if -- all I know is if I
18 was an Orca whale and I was in the place of an Orca
19 whale, and if I had the choice between a small, tiny
20 concrete tank, a marginally larger but still tiny
21 concrete tank or a seaside pen, I would undoubtedly
22 choose a seaside pen, so please vote no on
23 SeaWorld's Blue World project.
24 CHAIR KINSEY: Thank you. And while the
25 next speaker is coming up, I'll also invite up Tyler

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1 Starr, Caitlyn Hawks, Mariam Lehman, Anna Gerringer,
2 Emily Routan. Thank you.
3 MR. LAWLER: Good afternoon, Commissioners,
4 my name is Vincent Lawler, I'm a superintendent for
5 the Whiting-Turner Contracting Company. We have
6 regional offices in San Diego, Irvine and
7 Los Angeles.
8 With your approval I will be on site to
9 manage the construction of the Blue World project, I
10 have extensive experience managing previous projects
11 which have employed similar construction methods.
12 This unique project will be constructed
13 over the next two and a half years. During this
14 time the Blue World project will generate hundreds
15 of well-paid construction jobs which will equate to
16 several hundred thousand man hours for such trades
17 as carpenters, cement mason, laborers, ironworkers,
18 operating engineers, electricians, plumbers,
19 pipefitters, glazers, tile setters, roofers,
20 painters and landscapers. Along with the use of
21 local subcontractors comes the purchase of local
22 construction supplies and materials, which in turn
23 will also help support the local economy.
24 In addition to the hundreds of on-site
25 positions, the Blue World project will create, will

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1 also create numerous off-site positions such as
2 project managers, project administrators, project
3 coordinators, through all the aforementioned reasons
4 that Whiting-Turner supports this project, and we
5 encourage you to do the same. Thank you.
6 CHAIR KINSEY: Thank you.
7 (Audience interruption.)
8 MS. NICHOL: Hi, my name is Cheryl Nichol
9 and I am from Coronado and I'm here in support of
10 SeaWorld and I --
11 (Audience interruption.)
12 MS. NICHOL: -- first of all, the lie about
13 us being paid to be here is a lie. Anyway, I've
14 seen first hand the good that SeaWorld has done. We
15 have had a lot of animals come shore, baby sea
16 lions, especially this year, and sea lion -- or
17 SeaWorld is who they call. You don't see PETA.
18 SeaWorld is who comes and helps these animals.
19 (Audience interruption.)
20 MS. NICHOL: They do so much good. As a
21 child I went to SeaWorld and it's what gave me a
22 love for these animals. Otherwise it would just be
23 a big fish in the sea. My boys are the same way,
24 and hopefully my grandchildren will be that way. I
25 feel like it's just brought so much focus to these

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1 wonderful animals that our children I don't think
2 would have. So, and I think most of us are here
3 because of a love for these animals. Thank you.
4 CHAIR KINSEY: Thank you.
5 (Audience interruption.)
6 MR. NICHOL: Hi, my name is Scott Nichol,
7 I'm also from Coronado. SeaWorld wants to build an
8 additional space for a tank for its fish, for its
9 whales. They had these tanks, whales in tanks for
10 years, and now they want to give them more room.
11 That's all they're asking for. They're not asking
12 for anything in particular, anything else. They
13 want -- they want to be to give them room and learn
14 from the last tank they built, this one they'll add
15 more safety to it or, you know, what the whales
16 need. Also I know working for the shipyards and
17 stuff, the coast line, any time they do any kind of
18 construction along the water, the EPA is always
19 involved, so they're not going to let them build if
20 there's any problems with any kind of hazards.
21 Thank you.
22 CHAIR KINSEY: Thank you.
23 MR. CHARRIK: Good afternoon,
24 Commissioners. My name is Alex Charrik and I live
25 in Los Angeles, and I wanted to say that we live in

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1 a time when people deny science for their own
2 personal benefit. I think that's something to keep
3 in mind today as you consider this proposal. And
4 whether this project brings in ten jobs or 10,000
5 jobs, it doesn't make it right. Doesn't make it
6 good, it's wrong to the core, and the bottom line is
7 that this is about the Orcas and we care about the
8 Orcas and we want them in their natural habitat
9 where animals belong, in the wild. So please vote
10 no on this proposal. Thank you.

11 CHAIR KINSEY: Thank you. And as the next
12 speaker is coming I'll invite Lola Kay, Jim Green,
13 Wendy Morris, Dan Fullen, and Gabby Soto.

14 MR. STARR: Commissioners, thank you all so
15 much for your time, it's very much appreciated, and
16 I would like thank all of the animal protection
17 organizations who have come to voice their concerns
18 as well.

19 CHAIR KINSEY: Your name?

20 MR. STARR: Tyler Starr from Los Angeles,
21 California.

22 A wise man once said there will come a time
23 when you will have to choose between what is easy
24 and what is right. I understand the pressure on you
25 all by SeaWorld to approve this, and I understand it

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1 may seem easy, but forcing Orcas to swim in endless
2 circles in a tank that is a little bit bigger in
3 chemically treated waters would not be what is
4 right.

5 People who oppose SeaWorld don't want
6 bigger tanks, we want empty tanks, and the Orcas
7 want it, too. I ask that you please vote no on
8 SeaWorld's Blue World. Thank you all so much.
9 (Audience interruption.)

10 CHAIR KINSEY: Thank you. The next --

11 MS. LEHMAN: Good afternoon, Commissioners.
12 My name is Mariam Lehman, and I live in San Diego
13 County. I strongly support the SeaWorld Orcas
14 inclusion expansion. After all, it's a home
15 improvement, yes. SeaWorld is home to the Orcas
16 that already live there. Growing up in the midwest,
17 my family and I never had the chance to observe any
18 sea life until we went to SeaWorld. Yes, we had
19 fun, but if there's anything I can remember from
20 that first trip is being taught a lesson on
21 conservation and respect for our oceans, and all the
22 sea life.

23 SeaWorld taught my husband, my children and
24 I a lesson in conservation that resonated throughout
25 our lives. I'm hoping these lessons can now be

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1 ought to my grandchildren. In order to maintain
2 this high standard of conservation, care and
3 education that I experienced, my family experienced,
4 my friends from the midwest experienced, that impact
5 millions of people a year, I believe that SeaWorld
6 should be allowed to expand the Orca enclosure.
7 Thank you.

8 CHAIR KINSEY: Thank you.

9 MS. KAY: Hi, Commissioners. My name is
10 Lola Kay, I live in El Segundo, California. I think
11 everything has been said, so I don't have a fancy
12 speech. Just an observation. SeaWorld claims they
13 want to build a Blue World. I would like to remind
14 them that Blue World already exists. It's the
15 ocean, and that's where the Orcas belong. They
16 don't belong --
17 (Audience interruption.)

18 MS. KAY: -- in swimming pools. So what
19 SeaWorld is trying to build is a glamorized prison
20 cell in which they intend to exploit their prisoners
21 for their own profits. Please vote no on this
22 horrible, horrible idea, because we know that
23 enslaving intelligent animals is wrong, and no
24 corporate profits can justify it. Thank you.
25 (Audience interruption.)

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1 MR. FULLEN: Good afternoon, Commissioners.
2 My name is Dan Fullen, I'm a resident of San Diego.
3 Speaking of a member -- as a member of the San Diego
4 Hospitality Community that employs 173,000 people in
5 the city of San Diego, I would assert that SeaWorld
6 is an essential lynch pin and has been for 50 years
7 to our hospitality, our tourism economy.

8 Speaking as a neighbor on Mission Bay, I
9 know first hand of SeaWorld's stewardship of the
10 environment including the rescue of many, many
11 hundreds of distressed animals in Mission Bay this
12 year alone, and beyond Mission Bay.

13 And as a father of three sons, I thank
14 SeaWorld for the education provided them over their
15 development, over their developmental years. One
16 of -- one of those boys grew up and began a career
17 in veterinary medicine recently influenced in no
18 small measure by his experience from innumerable
19 trips to SeaWorld. I urge you to support this
20 petition, and I thank you for your time.

21 CHAIR KINSEY: Thank you.
22 (Audience interruption.)

23 CHAIR KINSEY: As the next speaker comes
24 up, I'll invite Catherine Sanders, Michael Hammers,
25 Kathy Cohen, and Robin Curry. Thank you.

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1 MR. GREEN: Good afternoon and thank you.
2 My name is Jim Green, I'm the general manager of the
3 Bahia Resort Hotel on Mission Bay. Evans Hotels is
4 fully supportive of SeaWorld's Blue World project
5 proposal for which Coastal Act Commission Staff has
6 recommended approval.
7 Evans Hotels and SeaWorld have been
8 pioneers and long-term partners in helping to make
9 Mission Bay the fun, leisure and entertainment
10 center it is today. Evans and SeaWorld have been
11 mutually supportive for more than 50 years. The
12 Bahia was built in 1953, SeaWorld was built in 1964.
13 It is one of the top attractions coming into
14 San Diego, and it is the number one requested
15 activity of our hotel guests at the Bahia and
16 Catamaran Hotels, and draws visitors wanting to stay
17 at our Mission Bay properties, so that includes all
18 hotels.
19 I employ over 400 people at the Bahia
20 alone, who have had service with me for 25, 30, or
21 35 years that have indirect support from SeaWorld
22 and their families. We believe the Blue World and
23 expanded exhibits space will improve the health and
24 welfare of Orcas in human care.
25 We also believe that Blue World will

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1 provide enriching interactive and inspiring programs
2 for families that they could not enjoy in the wild.
3 SeaWorld shows an unwavering commitment to marine
4 science and animal conservation, which is why it
5 enjoys such a broad base.
6 I have two blind seals that cannot be
7 released back into the wild, and SeaWorld gladly
8 comes over and assists them, any time we need help
9 with their health issues.
10 Evans Hotels is proud to join the elected
11 officials, scientists, business leaders, community
12 groups, animals welfare organizations, veterinary,
13 zoological and academic experts along with more than
14 35,000 individuals. Please approve this proposal.
15 Thank you very much.
16 (Audience interruption.)
17 CHAIR KINSEY: Thank you.
18 (Audience interruption.)
19 MS. SOTO: Hello, my name is Gabby Soto,
20 and I would like to donate my time to Tracy Reiman.
21 CHAIR KINSEY: Thank you.
22 MS. REIMAN: Hi, I'm Tracy Reiman, and I
23 live in South Pasadena. I'd like to share a very
24 brief story about one of SeaWorld San Diego's
25 prisoners, Corky. Corky has suffered seven forced

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1 pregnancies, and none of her calves, all of who were
2 father by her cousin, survived more than 46 days.
3 Her last stillborn fetus was found at the bottom of
4 her holding tank. Corky was continuously pregnant
5 for almost ten years. As a mother, this is a true
6 heartbreak, but this SeaWorld's breeding program.
7 Corky was taken from her home and her
8 family in 1969 when she was about three years old.
9 She has endured the longest captivity of any wild
10 captured Orca trapped in a tank for more than 40
11 years. Corky is reportedly blind in one eye, and
12 she has worn teeth and decay like so many others.
13 She has known nothing but misery for almost 50
14 years.
15 Commissioners, I hope that you agree that
16 Orcas do not deserve a life sentence and I urge you
17 to vote no on SeaWorld's Blue World project. Thank
18 you.
19 (Audience interruption.)
20 CHAIR KINSEY: Thank you.
21 MS. SANDERS: Hi, I'm Catherine, and I'm
22 going to cede my time Stephanie Shaw.
23 MS. SHAW: Good afternoon, my name is
24 Stephanie Shaw, I'm a California resident, a
25 California voter. Today I'd like to share the story

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1 of SeaWorld San Diego prisoner Kasatka, who was
2 captured off the coast of Iceland when she was just
3 a year old. Instead of being nurses and nurtured by
4 her mother, Kasatka was shipped to SeaWorld
5 San Diego where she has lived for the last 36 years,
6 forced to perform as many as eight shows each day.
7 Like any other would, Kasatka becomes
8 extremely agitated when separated from her calves.
9 A former SeaWorld trainer describe Kasatka crying
10 out in anguish as one of her calves was taken from
11 her. She is aggressive towards her tank mate --
12 excuse me, tank mates, and reached her breaking
13 point in 2006 when she nearly killed a trainer.
14 SeaWorld's own log notes acknowledge that
15 Kasatka becomes agitated by construction noise and
16 commotion. Please, Commissioners, do not doom more
17 Orcas to this grim existence. Vote no on the Blue
18 World project.
19 (Audience interruption.)
20 MR. DAVIS: Hello, my name is Eric Davis
21 and I run a large conservation website called
22 Osmotion (phonetic) and I want to put some context
23 to what you've heard today. We have two sides right
24 now, you have one side full of people who dedicate
25 their lives, their time and energies to the rescue,

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1 rehabilitation and care of marine mammals, 26,000
2 animals rescued and rehabilitated at SeaWorld over
3 the past 50 years. Incredible effort.
4 On the other side we a number of people who
5 have agendas that one might find dubious, one might
6 be, you know, Earth Island, for example, they had an
7 Orca named Keiko, they had a sea pen where Keiko
8 was, and they had a plan to set him free. They ran
9 out of money. When AHUS, who also spoke, their
10 senior scientist, Naomi Rose, who was in charge at
11 the time, when Keiko chose humans and chose to
12 interact with humans, she chose a solitary life for
13 him where Keiko died sick, and a painful death. A
14 horrific death for an animal that loved humans and
15 loved interaction.
16 We then look at Ingrid Visser, who right
17 now is booking a cruise in Norway where tourists can
18 snorkel with killer whale, for 3100 Euros. This one
19 is profiting off of wild whales, and interacting
20 with wild whales while condemning a safe environment
21 with humans in captivity. This is repugnant, this
22 double standard that these people have.
23 They look at John Hargrove, someone who
24 said the N word five times, seven times in five
25 minutes.

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1 (Audience interruption.)
2 MR. DAVIS: It's repugnant. These people,
3 again, they're asking you, they're pleading with
4 you, they're pulling with your heartstrings, they're
5 saying a number of things. But look at what the
6 agenda really is. They had their chance with Keiko
7 and they killed him. And now they come here
8 condemning SeaWorld. How dare they? I stand with
9 the people who rescue and rehabilitate animals. I
10 stand with people who care for them. They give up
11 their holidays, their weekends, these people have
12 the best of intentions and when they say they
13 want -- they want compromise, SeaWorld gives little.
14 When you ask activists like Ellen Erickson,
15 like I did today, is there any compromise? She said
16 no, there is no compromise, it's her way. So again,
17 i ask you to please stand (inaudible) vote yes and
18 support conservation in San Diego. Thank you very
19 much.
20 (Audience interruption.)
21 CHAIR KINSEY: Thank you. While the next
22 speaker is coming up I'm going to invite up Illan
23 Rancer (phonetic), Josh McFarren -- McFarred, Jim
24 Cunningham, Ciet (phonetic) and Genesis Butler.
25 Please.

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1 MS. COHEN: My name is Kathy Cohen, I live
2 in Los Alamitos, California. The following video
3 was captured by a documentary film crew at SeaWorld
4 just yesterday, October 7th, 2015.
5 CHAIR KINSEY: We're awaiting -- that's
6 fine.
7 (Video played.)
8 MS. COHEN: I urge you to vote no on this
9 application.
10 (Audience interruption.)
11 CHAIR KINSEY: Thank you. I'm just going
12 to encourage folks once again, please be
13 considerate. We have a long -- we have many more
14 speakers to come. Thank you. Welcome.
15 MR. HAMMERS: Hi, I'm Michael Hammers, I
16 live in the Los Angeles area. I think we have a lot
17 in this commentary that SeaWorld offers a lot of
18 jobs and they help rehabilitate a lot of animals,
19 which I think is definitely true, and I think no one
20 here would deny that, but the issue here are the
21 resources and the impact this product will have on
22 the coast and also the animals at SeaWorld.
23 I just want to say that if you vote no,
24 there are so many organizations you've heard from
25 here today that would be willing to make the sea

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1 pens a reality. The only two options aren't just
2 leave the Orca in the old pens or do the new ones.
3 You've seen other alternatives here, and everyone
4 here today would be willing to make that happen. We
5 want to see the best case scenario for these Orcas.
6 And I believe that the best way to do that is to
7 vote no on this proposition so that they can further
8 investigate those other opportunities. Thank you.
9 (Audience interruption.)
10 MR. MCFARLAND: Good afternoon,
11 Commissioners. My name is Joshua McFarland, I live
12 in Whittier, California. I don't represent any
13 organizations, I just came down here today because I
14 heard about what's going on. Yesterday I was
15 walking where I live in the Whittier Hills and I was
16 just thinking, you know, how great it is to be able
17 to be free and just to be able to move around and
18 make the choices about where I want to go, and I
19 realize that these creatures, they don't have that,
20 you know, and I thought, am I going to come down
21 today? And I thought, I am going to come down
22 today, because it is important, because they can't
23 speak and I'm going to offer my voice for them, you
24 know.
25 I think we got a lot of issues going on in

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1 our country right now, you know, we had the thing in
2 Roseburg last week, and, you know, even the
3 president standing up and he's asking, you know, why
4 is this going on, maybe we need to think about our
5 choices with compassion, and I think a lot of what
6 we lack is just -- it's just simple compassion, you
7 know, and the children got up here, I think if we
8 filled up this room with kids, and we just asked
9 their simple opinion about whether they think it's
10 wrong or right, I think the answer would be pretty
11 clear.

12 I don't think any of them would want to see
13 these creatures in a tank, you know, and I feel the
14 same way. And I found it interesting the
15 correlation between one of the slides that showed
16 that in the United States we had the highest number
17 of imprisoned Orcas versus the other countries, and
18 as I was just sitting here thinking, I thought isn't
19 that interesting how we're in a country where we
20 have the highest number of prisoners, you know,
21 there's something that's going on here and I'm not
22 trying to go down a whole bunch of different alleys
23 here, but I'm just saying, please be compassionate,
24 you know, like I said, I don't have an agenda to be
25 here, I didn't get paid to be here, I didn't get a

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1 free lunch, and I didn't even eat lunch. You know,
2 and I'm thirsty right now, you know.

3 (Audience interruption.)

4 MR. MCFARLAND: I'd probably do a trick
5 right now if I was going to get a fish, you know.
6 But the main thing is is just I don't know if your
7 decisions are already made, you know, I've wondered
8 about that, and I've thought about that before I
9 came down here, I thought, you know, does it even
10 make a difference, is there a point, but I thought,
11 you know what, I'm going to do it. So I'm just
12 asking you, you know, please when you're thinking
13 about it and whatever it is, other thoughts and
14 everybody's arguments which have been, you know,
15 beautiful, just please choose compassion. Thank
16 you.

17 CHAIR KINSEY: Thank you.

18 (Audience interruption.)

19 MS. RAMSER: Hi, I'm Alana Ramser, and I'd
20 like to cede my time to Liam Cronin.

21 MR. CRONIN: Hi, my name is Liam Cronin,
22 I'm a Los Angeles resident. I urge you to vote no
23 on SeaWorld's Blue World project. SeaWorld never
24 intended to be an organization with a mission to
25 protect and conserve. SeaWorld is and always has

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1 been a for profit amusement park. It's only in
2 recent years after a growing public concern for
3 animal welfare has SeaWorld started including their
4 marketing strategy a pretense that they business is
5 vital to wild conservation efforts. But there is no
6 evidence, there is not quantifiable results from
7 their decades of capturing and breeding Orcas
8 besides research that only helps SeaWorld keep Orcas
9 in captivity that suggests this claim is true.

10 The fact is, SeaWorld intends to use new
11 tanks, this new tank to breed new Orcas. Please do
12 the right thing and vote no on the Blue World
13 project. Thank you.

14 (Audience interruption.)

15 MR. BREWER: Hi, my name's Scott Brewer
16 from the Los Angeles area. I'd just like to echo
17 what Liam just said and say please vote no. Think
18 of the Orcas and think of the future.

19 (Audience interruption.)

20 CHAIR KINSEY: Thank you. Please come
21 forward.

22 MR. CUNNINGHAM: Good afternoon,
23 Mr. Chairman, thank you. My name is James
24 Cunningham, I'm business representative with
25 Plumbers and Pipefitters Local 230 in San Diego. I

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1 represent 1700 union members in San Diego and
2 Imperial Counties. I rise in support of the Coastal
3 Commission's recommendation for approval of the
4 SeaWorld's Blue World project. Moving forward with
5 this -- with this project will in the short term
6 create hundreds of well-paying construction jobs,
7 and in the long term provide a better quality of
8 life for these magnificent Orcas. Thank you.

9 CHAIR KINSEY: Thank you. While your next
10 speaker is coming up, I'll invite up Jerry Sanders,
11 Connie Pearson, Janine Noriega, Cathy Myrick, Daniel
12 Prater, and Liam Cronin.

13 MS. LAMM: Hello, Chairman Kinsey, I
14 apologize, I was called earlier and didn't hear.

15 CHAIR KINSEY: That's fine.

16 MS. LAMM: My name is Elizabeth Lamm. I
17 was out in the lobby.

18 CHAIR KINSEY: That's fine.

19 MS. LAMM: I'm hoping that I can cede my
20 time to Allison Chow, who is a small business owner
21 in San Diego. Thank you so much.

22 CHAIR KINSEY: Thank you.

23 MS. CHOW: Do we have permission to do so?

24 CHAIR KINSEY: Please, just go ahead.

25 MS. CHOW: Okay. Sorry I'm a little

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1 unprepared for this. But I'm --
2 CHAIR KINSEY: Your name again? Just --
3 MS. CHOW: Valerie Chow.
4 CHAIR KINSEY: Thank you.
5 MS. CHOW: I've been a San Diego business
6 owner, lived in San Diego for 21 years, I rely on
7 tourism for my business, I own an art gallery, and I
8 am unlike many of the people here, I am not a PETA
9 member, I am a conscious capitalist, I believe that
10 SeaWorld could reinvent and evolve. 17 -- 18 years
11 ago my daughter and I went to SeaWorld. And we left
12 in tears because of Opie, a walrus that was banging
13 his head against an enclosure. And it traumatized
14 me and 20 other children that left in tears that
15 day. And I had that experience with that walrus and
16 I'll never forget that. And my daughter left saying
17 she wanted to help the animals when she grew up.
18 And she's now studying to be a lawyer and wants to
19 be an animal rights activist, a lawyer.
20 (Audience interruption.)
21 MS. CHOW: So I think that you're charged
22 to be leaders, and Governor Brown appointed you
23 because you cared about the environment. I'm not a
24 Democrat but I voted for Governor Brown because I
25 wanted to protect the environment. And as trustees,

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1 you are given this amazing job to vote not in favor
2 of Blue World, because everything about Blue World
3 is wrong. It's wrong. It's wrong for San Diego,
4 it's wrong for environmental reasons that my
5 predecessors delineated, and as a conscious
6 capitalist, I want to see SeaWorld thrive for the
7 economy of San Diego, but they must do so with a
8 paradigm shift. They're living in a time warp of
9 the '70s, and they can't continue to operate like
10 this.
11 I drive by the park every day to go to
12 work, and attendance is down, and that's a
13 reflection of our society and humanity and the voice
14 of the people of San Diego, and all over the
15 country, so I hope that when you look in the mirror
16 tomorrow morning when you brush your teeth that you
17 feel you did the right thing, created a legacy for
18 future generations, and you know in your conscience
19 that you did the right to vote against Blue World.
20 (Audience interruption.)
21 MR. SANDERS: I'm Jerry Sanders, president
22 and CEO of the San Diego Regional Chamber of
23 Commerce. Thank you for taking the time to
24 thoughtfully consider SeaWorld's Blue World project.
25 At the chamber we work hard every day to create jobs

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1 and expand San Diego's economy. SeaWorld's an
2 integral part of the San Diego community, because of
3 the research efforts they lead and the jobs that
4 they create. SeaWorld is also an important part of
5 San Diego's tourism industry.
6 SeaWorld is one of our region's finest
7 corporate citizens, and one of the world's most
8 distinguished zoological organizations. They're
9 also a pillar of our region, drawing millions of
10 visitors every year and employing thousands of
11 San Diegans.
12 I've been to SeaWorld countless times and
13 have seen the dedication and commitment of the
14 employees there to the animals and to the
15 experience. I strongly urge you to support the Blue
16 World project. Blue World would be a tremendous new
17 attraction, and enhance SeaWorld's efforts around
18 education, conservation and research.
19 (Audience interruption.)
20 MR. PRATER: Hi. My name is Danny Prater,
21 I live in North Hollywood, California. First off, I
22 want to start by echoing the spirit of a comment
23 made by Commissioner Shallenberger earlier today. I
24 think it's a ridiculous and irresponsible time for
25 us to be talking about building swimming pools right

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1 now.
2 (Audience interruption.)
3 MR. PRATER: The Blue World project will
4 not enrich the lives of the Orcas held by SeaWorld
5 for one reason, and I'm going to tell the reason is
6 because what the Orcas at SeaWorld have can barely
7 be described as a life, not when you compare it to
8 the lives as all the facts we've seen today have
9 shown us, that Orcas in the wild have, I will tell
10 you that the only true approximately sized habitat
11 for these animals is the ocean, is a sea pen, and
12 that's what we need to be doing today. You cannot
13 enrich a life that you've stolen, that you've
14 bastardized and destroyed for profit, especially
15 when you're measuring that in feet.
16 The animals need to be retired immediately
17 to a seaside sanctuary, to the ocean where they
18 belong, and I hope all of you vote not today, if for
19 no other reason you've all got a better view than we
20 had in the back, and just what I've been hearing,
21 the flapping of yes fans versus no fans, you've got
22 no fans that are flapping when people are appealing
23 to compassion, appealing to these animals to what's
24 best for our state, and you've got yes, yes flags
25 that are flapping the hardest from what I've heard

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1 all day when we're talking about money or how crazy
2 animal rights activists are.
3 And that is not our of line with anything
4 SeaWorld has been doing, and I hope you can all
5 realize that. Thank you.
6 (Audience interruption.)
7 MS. PEARSON: Hi there. I will keep this
8 short and sweet. My name is Connie Pearson, there
9 is nothing educational about seeing whales in
10 unnatural conditions perform bizarre, unnatural
11 acts. Please don't give in to the greed of these
12 animal exploiters. Please vote no. You have the
13 power to greatly improve the lives of future
14 generations of Orcas. Thank you so much. By the
15 way, I fully support rescue, rehabilitation and
16 release. If that's all SeaWorld did, I would
17 support them myself. Thank you.
18 CHAIR KINSEY: Thank you. And as the next
19 speakers are coming up, I'll invite up Joe Kassaw,
20 Dr. Ann Bowles, and, excuse me, Harold Weiss and
21 Dr. Sam Dover, and Aaron Long.
22 (Audience interruption.)
23 CHAIR KINSEY: Welcome.
24 MS. PAULINE NORIEGA: Hi, good afternoon,
25 my name is Pauline. And this is --

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1 MS. JANINE NORIEGA: My name is Janine.
2 MS. PAULINE NORIEGA: And we are in support
3 of SeaWorld's blue conservation and tank, big tank.
4 First of all, if it's for benefit or the better of
5 the whales to be in a much bigger area to just get
6 their exercise and whatever it is that the whales
7 need, why not do it, I mean, it is their home and we
8 are susceptible also to be adoptable to places,
9 whether it be humans or pets, whales, everybody
10 is -- everybody is capable of being adoptable in
11 certain places or areas where, you know, everyone,
12 I'm sorry, where, you know, everyone is -- is
13 held -- or not held, I'm sorry, where everyone has a
14 place to live.
15 CHAIR KINSEY: Thank you.
16 MS. JANINE NORIEGA: I would also say if
17 the others want to not have Blue World, I say if
18 they put them out in the wild and the open ocean, I
19 just realized something, if they're over there,
20 they, you know how some hunters come, go over there,
21 they could kill them. So it's not safe for them.
22 But in SeaWorld they help prevent that happen --
23 from happening. They -- they help cure, curing them
24 from -- from -- and love them.
25 MS. PAULINE NORIEGA: Thank you.

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1 MS. JANINE NORIEGA: Thank you.
2 (Audience interruption.)
3 CHAIR KINSEY: Thank you. Yep. Please
4 come forward.
5 MR. LONG: Hello. Thank you for having me.
6 My name is Aaron Long, I'm from Salt Lake City,
7 Utah. I'm part of Direct Action Everywhere. First
8 I just want to say that the SeaWorld video that they
9 presented earlier was phenomenal, those 3D fake
10 animated whales looked so happy.
11 (Audience interruption.)
12 MR. LONG: I do have a speech prepared.
13 But first if I can just request whoever is speaking
14 yes, no, just please be respectful, let them speak
15 their heart. That's what they're doing here,
16 they're pouring their feelings out, just let talk.
17 All right? Stop being rude, no snide remarks. All
18 right? Please just let us talk. Thank you. All
19 right.
20 So --
21 CHAIR KINSEY: You're stealing my lines.
22 (Audience interruption.)
23 MR. LONG: So I'm here today to help
24 everyone here understand that by voting yes is only
25 aiding to more abuse and imprisonment. You need to

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1 understand that these animals that are locked up at
2 SeaWorld are prisoners. Forced to perform circus
3 tricks, and for SeaWorld profit for your
4 entertainment. I'm a six-year Air Force veteran,
5 I've used my military status to accept free
6 admission to SeaWorld numerous occasions. Before
7 the start a show SeaWorld would ask all military
8 past and present to stand so that they may recognize
9 us for our service to our country.
10 I would stand with pride, but now, as I
11 open my eyes, open my mind, I shamefully admit that
12 I was even there in the first place, contributing to
13 all the abuse. And I see here all the SeaWorld
14 people wearing the blue shirts, you know, those are
15 going to make fine dust rags in the future.
16 (Audience interruption.)
17 MR. LONG: They state educate, inspire and
18 to conserve. You need to implement that into
19 something real. You need to educate yourselves and
20 others about the abuse and imprisonment, open your
21 eyes, see what's actually going on. Yo were given
22 all the facts, all the numbers, all the statistics,
23 you had SeaWorld trainers that quit their jobs
24 because they could not face all of the abuse. They
25 told you exactly what was going on, you just need to

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1 accept the facts. Not just shut it out completely.
2 CHAIR KINSEY: Thank you.
3 MR. LONG: All right.
4 CHAIR KINSEY: Thank you for your comments.
5 MR. LONG: All right. Please vote no,
6 that's all I have to say, vote no.
7 (Audience interruption.)
8 DR. BOWLES: Chairman and members of the
9 committee, thank you very much for the opportunity
10 to speak with you. I am Dr. Ann Bowles and I have
11 37 years of experience in research, marine biology.
12 I lead the bio acoustics program at Hubbs-SeaWorld
13 Research Institute, a public charity that has
14 celebrated its 50th in 2013. I hold non-salaried
15 faculty and researcher positions at the University
16 of California San Diego, University of San Diego and
17 San Diego State University. I'm here to testify in
18 support of the research potential of the Blue World
19 project.
20 At SeaWorld I have had the opportunity to
21 make detailed observations of individual killer
22 whales interacting at close range and over long
23 periods. And I have made discoveries that could not
24 be made in the wild. I also know from participation
25 on standards setting and review panels that research

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1 in zoological environments provides essential
2 information for management, such as what animals can
3 hear and how they react to particular kinds of
4 sounds.
5 Propagation from the Blue World
6 construction activities in the pool will be first be
7 a function of distance and second a function of
8 barriers to sound propagation.
9 Among the sources SeaWorld has consulted is
10 my review of the scientific literature on
11 construction noise, which includes the potential for
12 sound attenuation or lessening associated with
13 barriers such as empty pools.
14 I have been deeply engaged with animals
15 since I was a child. A love fostered by zoos and
16 marine parks. And I want young people to have the
17 same opportunities I had. The whales at SeaWorld
18 are an important resource to help train young people
19 to develop the skills needed for careers with
20 management agencies, environmental consultancies,
21 and universities.
22 In summary, for their sake and for that of
23 the whales, I urge you to support the project.
24 (Audience interruption.)
25 DR. DOVER: Thank you, Commission. My name

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1 is Dr. Sam Dover, I'm a marine mammal veterinarian
2 with 27 years experience. I live in Santa Barbara,
3 California. And I operate Channel Islands Marine
4 and Wildlife Institute. I'm the founder and
5 executive director.
6 What I have here is I've heard a lot of
7 things about what occur in the park. I want to talk
8 about some of things SeaWorld does outside the park.
9 For example, the wild animal rescue. We've heard
10 nothing but support even from the detractors about
11 that. And what I'm going to do is give you some
12 examples of how I've worked with them and what
13 they've done to help us advance the science of
14 marine mammal medicine.
15 In the last three years alone, three years
16 alone we've had at least three humpback whales
17 entangled in fishing gear. SeaWorld sends a team,
18 plus has a boat, we provide training and we work
19 together to go out and identify these entanglements
20 and attempt to remove them. This is a very
21 dangerous thing, it's not simple, and it takes a lot
22 of experience. These people have that experience
23 and we're trying to teach others that same level of
24 experience.
25 Last spring in the Channel Islands Harbor

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1 there was a sea lion named Bubba, most of the news
2 crews were here for that. Bubba was impaled on a
3 homemade harpoon by some clearly deranged
4 individual. That animal, unfortunately, died
5 because that wound went inside to his abdomen and it
6 was unreparable. We spent all day, actually three
7 days chasing that animal before we able to
8 successful capture him. Unfortunately the treatment
9 was too late.
10 On May 19th, 2015, there was an oil spill,
11 seven miles from my facility in Santa Barbara. We
12 are all aware of this oil spill. Every single
13 mammal from that spill was transported to SeaWorld
14 for treatment and decleaning.
15 (Audience interruption.)
16 DR. DOVER: Every single one. The last
17 three years alone we've been dealing with an unusual
18 mortality event. That is an unusual number of sea
19 lines dying from unknown causes. Guess what? We've
20 learned the causes through the work together that
21 we've done. In summary, I support everything that
22 SeaWorld is trying to do, I support this project and
23 please let us continue to do our work.
24 CHAIR KINSEY: Thank you.
25 (Audience interruption.)

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1 CHAIR KINSEY: As the next speaker is
2 coming up I'm going to involve Tom Otten -- invite
3 Tom Otten, Simone Rindel, Martin Koskoff, Lindsay
4 Raight, and Jonathan Curry. Thank you.

5 MS. KOSOFF: Hi, my name is Jill Kosoff,
6 I'm a wife, mother, Southern California resident and
7 advocate. I suffer from two neurological diseases.
8 I was told that swimming with our having a
9 close encounter with a dolphin or Orca would lend
10 healing properties to me. I went to SeaWorld and
11 watched one of their shows. It was the last show of
12 the night as fireworks started to go off, a young
13 male Orca was chased by a female Orca. He was
14 pinned in the corner repeatedly, the explosions
15 obviously affecting the whales. The show ended.
16 I made my way down to the corner of the
17 tank where he was swimming. The was diving down and
18 them bobbing up at the surface. I looked him right
19 in the eye, I thought in that moment that it was
20 amazing, but ladies and gentlemen, that's just me
21 drinking the SeaWorld Kool-Aid.
22 I'm not in any better condition, and that
23 beautiful Orca is still trapped in SeaWorld's tank.
24 What is SeaWorld gaining? Money. It seems to only
25 be about money. That's what expansion of their

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1 tanks is all about. I have no doubt that they will
2 breed their Orcas. Then what? They'll want to
3 expand again? I refuse to, and I think my
4 daughter's generation will not accept another Orca
5 in captivity. Please do not give them any more
6 space to bring even more Orcas into this
7 environment. I urge people to see these beautiful
8 creatures in the wild with where their behavior is
9 natural. Orcas don't eat people in the wild, only
10 at SeaWorld.
11 (Audience interruption.)
12 MR. WEISS: I'm a resident of Pasadena. I
13 want to thank all of the brave voices who spoke
14 before me on behalf of the animals and the
15 environment and even the labor movement from Unite
16 Here, who employs hotel workers, who shows the voice
17 of labor, I don't know if they're still here,
18 actually is not unanimous on this issue as some
19 folks may think.
20 When I was a kid my parents brought me to
21 SeaWorld like a lot of American kids. And I was
22 splashed and I laughed at the trainers' corny jokes
23 and I even left with a Shamu doll. What I didn't
24 leave with was a shred of respect for Orcas who are
25 majestic and very, very intelligent creatures with

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1 deep social bonds. That respect didn't come until
2 years later.
3 That's the main reason that I'm here today,
4 to urge you to vote no on this issue, and I would
5 ask respectfully that you think of yourself as a
6 body when you consider this, you are public servants
7 who are stewards of the California coast and whose
8 job is not to perpetuate a failed business that
9 unfortunately still wields a lot of power in the
10 state. Thank you.
11 CHAIR KINSEY: Thank you.
12 MS. RAIGHT: My name is Lindsay Raight,
13 pretty good job of the pronunciation. Thank you. I
14 drove down all the way from Oakland, California
15 because I feel so strongly about this issue. And
16 today I'd like to share the story of one SeaWorld
17 San Diego prisoner named Orchid.
18 Orchid was born during a Shamu show in
19 front of thousands of tourists in San Diego way back
20 in 1988. Her father died of pneumonia three days
21 after she was born and her mother perished ten
22 months later after severing an artery. Orchid's
23 mother hemorrhaged from her blowhole for 45
24 excruciating minutes and bled to death as Orchid
25 helplessly watched.

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1 The orphaned Orca then befriended two other
2 young whales, both who also unfortunately died
3 prematurely. One from an ulcerated stomach and the
4 other from twisted intestines. Witnessing her
5 mother's gruesome death and the loss of her two
6 friends left Orchid emotionally scarred.
7 She's been involved in multiple aggressive
8 attacks on trainers, and SeaWorld's own logs show
9 that Orchid becomes anxious during construction,
10 like what we would see if they expanded the tanks.
11 Orchid's actions and behaviors speak
12 volumes. Orcas cannot thrive in tanks, so please do
13 not allow SeaWorld to subject more Orcas to this
14 misery. I've heard other speakers before me singing
15 the praises of some of SeaWorld's other work, but
16 that doesn't excuse the misery that they subjecting
17 other animals to.
18 (Audience interruption.)
19 MS. SHELBY: Good afternoon, thank you for
20 letting me talk to you today. I am an implant, I
21 come from England, but I'm now living in California
22 as a resident, and I just want to say I've learned
23 so much from living here.
24 CHAIR KINSEY: Your name, please.
25 MS. SHELBY: Sorry, Simone Randel Shelby.

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1 CHAIR KINSEY: Thank you.
2 MS. SHELBY: I am an implant from Carol
3 Shelby, one of your icons. And I've learned so much
4 from the compassion that the Californians have, I've
5 learned that from living here and being lucky to be
6 a resident. And thank you for that, I became one.
7 So I just want to say, please, again, show
8 your compassion again for animals because what I've
9 seen so far from living here, it took me seven years
10 to get here, but it's just incredible what you show
11 for animals compassion, and please let it carry on.
12 Thank you.
13 CHAIR KINSEY: Thank you. Before the next
14 speaker, I'm going to invite Tanya Lamp, Sean Barr,
15 Judy Crumpton, Liz Jacoberli and Jim Cunningham.
16 MR. OTTEN: Hi, my name is Tom Otten, I'm a
17 resident of Oceanside. I'm speaking to you as
18 someone who has been a marine mammal keeper, a
19 trainer, a curator and a zoo director. I have
20 served on the board and as president of the American
21 Zoo Association and chair of the Alliance of Marine
22 Mammal Parks and Aquariums.
23 I am here today to speak to why I believe
24 SeaWorld's Blue World project is very important and
25 would hope you would support this project as well.

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1 Education and public awareness may have been a
2 primary reason for such a project in the past, but
3 in today's world a project such as the Blue World
4 project takes on another level of importance. We
5 need to be looking to the future and to the
6 potential needs for animals living in the wild and
7 our ability to support them. And from what we have
8 learned from animals at our institution, the sad
9 truth is that there's very little wild left that we
10 humans have not significantly impacted in one way or
11 the other.
12 If we haven't outright destroyed an
13 environment we have significantly impacted the
14 remaining natural resources enough to make it
15 difficult for many animals to prosper.
16 We are all aware of the human population
17 growth projections. With this growth in human
18 population, what kind of world environmentally will
19 our children, their children and future generations
20 inherit from us? And what kind of ocean will the
21 whales and dolphins be swimming in? Will they find
22 food? Just this year alone, according to NOAA,
23 there have been over 3,000 stranded California sea
24 lion pups whose mothers could not find enough food.
25 Many of these animals and rehabilitated by

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1 SeaWorld. I want to tell you about another marine
2 mammal that lives only a few hours south of here,
3 it's called a Vaquita porpoise. It's a small
4 porpoise who lives in the northern part of the Gulf
5 of California. There are 100 individuals remaining
6 alive today, five times more people in this room
7 than there are Vaquita porpoises left.
8 With so low individuals, their extinction
9 is very probable. And what we have learned from
10 animals in our institutions and at SeaWorld, could
11 we save the Vaquita from extinction? The answer is
12 yes. The challenge will be will we still be
13 debating and having meetings like this.
14 Will it be possible that in the future
15 killer whales will find themselves in the same
16 situation.
17 CHAIR KINSEY: Thank you for your comments.
18 MR. OTTEN: Thank you.
19 CHAIR KINSEY: Thank you.
20 MR. KOSOFF: Good afternoon. My name is
21 Marty Kosoff and I'm a born and raised Southern
22 California native. I've lived here my entire life
23 and SeaWorld has always been a part of my life in
24 one way or another, as it has for most California
25 natives.

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1 As an Emmy-nominated Hollywood producer,
2 I've seen the ebb and flow of the film industry, and
3 how it had to adapt to changing attitudes over the
4 decades, and how it has morphed and grown based on
5 public opinion, public desire and technological
6 changes. And despite all these changes, it has
7 thrived.
8 My colleagues and I discuss Orcas' plight
9 regularly, and after being a part of Hollywood's
10 constantly-changing atmosphere, I would hope that
11 the California Coastal Commission could see that the
12 present business model of keeping highly intelligent
13 creatures for profit is an archaic practice and
14 there needs to be a paradigm shift for the future
15 education of the public and the betterment of the
16 cetaceans' lives.
17 When my family became aware of the plight
18 of Orcas in captivity, we wanted to assist in
19 raising awareness, so we created a product called
20 the Orca Ball. The Orca Ball is an antenna ball
21 with a collapsed dorsal fin designed to start
22 conversations and educate people about the direct
23 result of keeping these highly intelligent creates
24 captive.
25 Our product has been very well received and

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1 is presently selling around the globe with a
2 percentage of the profits going to two Orca
3 non-profit organizations. After creating the Orca
4 ball we went to SeaWorld to see the Orcas in person.
5 And we were devastated to see their state of being.
6 In between shows they were either floating around
7 motionless or showing stereotypical repetitive
8 behaviors, chewing their tanks or attacking one
9 another.

10 In closing we feel the expansion of the
11 Orcas' tanks is not progressive thinking, and it's
12 actually step back towards the betterment of these
13 cetacean creatures and the education of the general
14 public. We vote not on the SeaWorld tank expansion
15 plan. Thank you very much.

16 (Audience interruption.)
17 CHAIR KINSEY: Thank you.
18 MR. BARR: Good afternoon, members of the
19 Commission, my name is Sean Barr, I'm the senior
20 vice president of economic development for the
21 San Diego Regional Economic Development Corporation.
22 I want to first thank members of the
23 commission for your careful due diligence of this
24 important project for the San Diego region.
25 SeaWorld represents the heart of San Diego's vibrant

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1 tourism economy, employing over 100,000 -- 170,000
2 San Diegans which represents over 11 percent of our
3 total employment base.

4 Our mission at the Economic Development
5 Corporation is to maximize the region's economic
6 prosperity and global competitiveness, not only
7 includes a job growth plan or a job growth interest.
8 Over the past year we have partnered with groups and
9 partners such as the Equinox Center and CPI to
10 discuss the dynamic between environmental
11 stewardship and the health and growth of a vibrant
12 economy.

13 Because we understand the tie, there is no
14 better engine economically and a better
15 environmental steward than San Diego -- than
16 SeaWorld in the San Diego region, so on behalf of
17 the San Diego Regional Economic Development
18 Corporation, we ask you to vote yes on Blue World.
19 Thank you.

20 MS. CLEARY: Hi my name is Katie Cleary,
21 I'm the executive producer of the documentary Give
22 Me Shelter on Netflix. Also the founder of World
23 Animal News and Peace for Animals. I'm here to tell
24 everyone it's not a right thing to have these
25 animals in captivity. They swim hundreds of

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1 thousands of miles every year. As you saw in the
2 movie Blackfish that probably everyone here saw,
3 it's horrible in the 1970's what they did to capture
4 these Orcas and now they are breeding them in
5 captivity, and Tilikum is the number one Orca that
6 they're -- they have been taking the sperm from, who
7 has killed multiple people in captivity. This is
8 not right for Orca to be in captivity, they deserve
9 to be free and wild.

10 SeaWorld is making profit off of this.
11 They make money from this. That's why there are so
12 many people from SeaWorld here. The right thing for
13 SeaWorld to do would be to form a rescue and rehab
14 center similar to the California Wildlife Center,
15 who we work with. I'm also in touch with Ric
16 O'Barry who is actually in Taije, Japan right now,
17 and wants to give his love and support for the Orca
18 and dolphins at SeaWorld, and he wants us to vote on
19 Blue World. Please vote no and do the right thing.
20 Make compassion the thing that you vote for. Thank
21 you.

22 CHAIR KINSEY: Thank you. And before the
23 next speaker I'd like to invite Jocelyn Heany, Gary
24 Raymond, Tom Hurley, Matt Bruce, Mike Yaekle, and
25 Lindsay Raight -- Lindsay's been here before.

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1 (Audience interruption.)
2 CHAIR KINSEY: Lindsay Karris. Excuse me.
3 Go ahead.

4 MS. CABELLI: Good afternoon, Coastal
5 Commission, my name is Liz J. Cabelli, I have grown
6 up in San Diego and I've lived here all of my life,
7 and I did attend SeaWorld as a child, I remember my
8 favorite things was Captain Kid's World, the
9 playground, and I loved going in the Japanese
10 Village. I have no idea if those still exist there
11 anymore. I may be really aging myself. But all I
12 remember is seeing after the Shamu show seeing Shamu
13 in a tiny little tank and wondering how he could
14 turn around. And as a child wondering what was
15 going on and I just knew it wasn't right.

16 Well, as I became adult, as a lot of other
17 adults here, and some children here, we've become
18 more aware of the social and emotional aspects of
19 Orcas being kept in captivity. SeaWorld's tank
20 expansion is not the answer and will not benefit the
21 Oregons -- Orcas. Bigger tanks are bigger prisons.
22 Tank expansion is SeaWorld's way of glorifying a
23 false environment for the Orcas. The Orcas will
24 still be in captivity and they're still taken from
25 their normal family groups, even though they're not

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1 taken from the wild in captivity they are taken from
2 their normal family groups. They're still forced to
3 perform on demand only to be fed a diet of frozen
4 dead fish.

5 Imagine just eating something that was just
6 very foreign to you and -- Orcas are not able to use
7 their echo location. The Orcas deserve better.
8 SeaWorld could be a stepping stone and pioneers for
9 making a more human world for these highly
10 intelligent beings. This money could go towards sea
11 pens for the Orcas and they would have more of a
12 similar environment to their natural habitat and
13 maybe be rehabilitated into the wild. This would
14 allow children and families to learn what the life
15 of an Orca is really about.

16 SeaWorld has billions of dollars off these
17 Orcas. Please to not support the tank expansion
18 and --

19 CHAIR KINSEY: Thank you.

20 MS. CABELLI: -- this archaic practice.
21 Thank you for your time.

22 MR. RAYMOND: My name is Gary Raymond, I
23 live in Thousand Oaks, California. The quality of
24 the jailer is irrelevant. These creatures should
25 not be in captivity. North Korea has a policy of

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1 imprisoning the families and children of their
2 prisoners. Orcas are intelligent, feeling
3 creatures. It's really no different. We are their
4 stewards. The SeaWorld training supervisor who came
5 up here and said that she was looking forward to
6 experiencing with her kids the Orcas, I would like
7 to ask how would she feel if her children were taken
8 away from her and imprisoned for the purpose of
9 entertaining the public?

10 (Audience interruption.)

11 MR. RAYMOND: It's no different. It's a
12 matter of having empathy with all these other
13 creatures that we're blessed to be with. It's
14 empathy instead of greed. So I really do appreciate
15 your stewardship and your responsibility to try and
16 protect and do the right thing, and please vote no.
17 Thank you very much.

18 CHAIR KINSEY: Thank you.

19 MR. MONTVILLE: Hello. My name is Kenneth
20 Montville, I'm presenting on behalf of Matt Bruce,
21 who cannot be here. I just have a short story about
22 another prisoner at SeaWorld. SeaWorld San Diego
23 prisoner Ikaika. Story is one of pure heartbreak.
24 When he was just four he was shipped from SeaWorld
25 to Canada's Marineland to be used as a breeder.

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1 This is despite having to be dosed twice daily with
2 Diazepam, otherwise known as Valium to curb his
3 rampant aggression, including trying to mate with a
4 days old calf, as we heard earlier today.

5 Even though he is just still in his early
6 teens, Ikaika is suffering from chronic dental
7 problems, including exposed roots which require
8 antibiotics and pain medication. Ikaika was
9 separated from Marineland's female Orca because he
10 was biting her.

11 And SeaWorld brought Ikaika to San Diego.
12 Ikaika is a distressed Orca and SeaWorld's head
13 animal trainer, Chuck Thompkins, admitted that
14 Ikaika has a history of aggression.

15 Commissioners, the Orcas can never escape
16 their aggressive tank mates. Please do not let
17 SeaWorld house or breed any more angry or depressed
18 Orcas. Thank you.

19 CHAIR KINSEY: Thank you. Before the next
20 speaker, I'd like to invite up Vincent Lawler, Lisa
21 Robles, Rachael Owen, Liam Cronin, Isaiah Berry, and
22 Bill Evans.

23 MS. HEANEY: Good afternoon, my name is
24 Jocelyn Heaney and I'll keep my comments very brief.
25 I believe that future generations will look at

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1 SeaWorld as we now view the barbaric animal
2 spectacles of ancient Rome. Once seen, Blackfish is
3 not soon forgotten, but declining SeaWorld
4 attendance and revenues are not simply the so-called
5 Blackfish effect, but part of a wider awakening to
6 the cruelty of animal slavery in all its forms.

7 If they could speak, if they had a choice,
8 would Orcas chose Blue World or their world? Please
9 vote no. Thank you.

10 (Audience interruption.)

11 MS. OWEN: Hello, my name is Rachael Owen,
12 and I'm from Los Angeles, California. I am just
13 here today to urge you to deny this permit. Orcas
14 deserve better and the people of California also do.
15 And any bigger prison is still a prison. None of us
16 would want to be there and that's something we
17 should consider in making compassionate choices for
18 this area. Thank you very much.

19 CHAIR KINSEY: Thank you.

20 (Audience interruption.)

21 MR. BERRY: Hello, my name is Isaiah Berry
22 and I am in support of the Blue World expansion
23 project. I'm here in support of, of course,
24 SeaWorld, and not people who have sat down on their
25 couch and watched a two-hour documentary, and

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1 self-proclaimed themselves as a marine mammal
2 expert.

3 So basically I just to say that you guys
4 should take this into consideration, for it is for
5 better welfare and caring of these Orcas in
6 captivity, they're not nameless faceless beasts as
7 Mark A. Simmons once said, and I do believe that you
8 should take this into consideration as far as the
9 future generations, and not deprive them of the
10 ability to got to SeaWorld and to a place where
11 captive Orcas are held to see, you know, viewing
12 panels that are father than our reach, other than
13 having to go out into the wild on a boat that can
14 potentially disturb, harm wild Orcas. So, yeah,
15 please vote on the Blue World project.

16 (Audience interruption.)

17 CHAIR KINSEY: Thank you.

18 MS. ROBLES: Hi. Good afternoon and thank
19 you for the opportunity to speak today. My name is
20 Lisa Robles and I'm here from Oakland, California.
21 But I'm original from San Antonio, Texas, and I was
22 once a season pass holder to the SeaWorld park
23 there, but here I am today opposing the approval of
24 this permit. I share the anti-captivity concerns
25 and sentiments expressed by those who have spoken

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1 before me, so I'll get right to the Blue World
2 project. Pardon the expression, but you can't
3 polish a turd, and that's what this an attempt at.

4 (Audience interruption.)

5 MS. ROBLES: Making something appear more
6 appealing to park guests doesn't change the fact
7 that animals ill suited for captivity are still in
8 captivity. What's the point of increasing the tank
9 size if the plan is to add more Orcas anyway? How
10 is that beneficial to the current Orcas if they get
11 more space but more bodies are just going to be
12 added? This is just more manipulation and white
13 washing by SeaWorld. Please do not be fooled. The
14 best interest of the 11 Orcas currently held are not
15 being taken into consideration. This project is
16 only about securing more space for more breeding for
17 more performers for a dying industry.

18 The writing is on the wall the future is in
19 seaside sanctuaries. SeaWorld's money for this
20 project would be better spent on investigating those
21 options and constructing retirement facilities for
22 the remaining Orcas who have earned them billions of
23 dollars over the last 50 years. Thank you.

24 CHAIR KINSEY: Thank you. I'll also be
25 inviting up Marie Mitchell, Jean Horall, Corrine

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1 Sutherland, Jeannette Moreno, and Rory Pollek, and
2 Carrie Capiche. Welcome.

3 MR. EVANS: Thank you, Mr. Commissioner.
4 My name is Bill Evans, I'm from San Diego, and I
5 think there's one thing everybody has in common here
6 today, including commissioners, it's a lot of
7 emotion. I have not heard a single speaker here
8 today that was not speaking from their heart, and
9 was truly convinced of their permission. And I'm
10 even sure today, you commissioners are feeling
11 emotional arguments today.

12 But there is one group in this room that
13 has really no emotion in this aspect, and I really
14 hope that you will listen to them. And that's
15 Dr. Lester and the coastal staff. Since the
16 beginning of the coastal commission, and Peter
17 Douglas' leadership of that, the staff is really
18 about deliberate fact-based research. They don't
19 plan with the facts. They check them for accuracy.
20 They really don't trust any of the people that are
21 bringing projects to them.

22 They verify, they really have no emotions
23 that can pull them one way or another, and they have
24 no agenda. And they only have one job to do, and
25 that is to advise the commissioners as to what they

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1 think is under the law, what is best for the Coastal
2 Act of California.

3 Trust them. They have done their homework.
4 They have an unbiased and unemotional view of this,
5 and you should listen to them on this important
6 issue. Thank you.

7 CHAIR KINSEY: Thank you.

8 MS. CAPICHE: Good afternoon, I'm Carrie
9 Berbeck Capiche, I'm the senior vice president of
10 marketing at the San Diego Tourism Authority. I'm a
11 native San Diegan and a fifth generation
12 Californian.

13 Today, though, I'm here representing the
14 one in eight San Diegans who work in our tourism
15 community in San Diego and the over 900 businesses
16 who are part of our organization at the tourism
17 authority. Since opening in 1964, SeaWorld has been
18 a vital part of the global image of California.
19 As a visitor attraction, SeaWorld brings millions of
20 visitors to San Diego every year. In fact, after
21 our beaches, it's the number one most visited
22 attraction for visits and overnight guests to
23 San Diego.

24 Visitors report that they are highly
25 satisfied with their trip to San Diego thanks to the

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1 quality experience and education offered at
2 attractions like SeaWorld, the San Diego zoo and the
3 Safari Park.

4 The SeaWorld Blue World project is the
5 first of its kind research and conservation project.
6 It's commitment to conservation and the environment
7 is at the heart of what makes San Diego a very
8 special and inspiring place. Blue World is fully
9 consistent with all of the requirements of the
10 SeaWorld master plan, which has been approved both
11 at the Coastal Commission and San Diego City
12 Council. We really see this project as what is best
13 for the marine life, the San Diego community, and
14 our tourism economy.

15 The tourism industry in San Diego is
16 173,000 employees strong. It's through the tourism
17 economy that we not only provide jobs but also
18 much-needed tax revenues that support a high quality
19 of life for all of our residents.

20 So San Diego appreciates your consideration
21 and support for the Blue World project. Thank you
22 so very much.

23 MS. POLLEK: Good evening, Commissioners.
24 My name is Rory Pollek, I'm from Carlsbad,
25 California. I have been a 30-year past member.

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1 And --
2 (Audience interruption.)

3 MS. POLLEK: 30 years. And very proud, and
4 proud of all these people behind me that work for
5 SeaWorld, they have nothing but compassion and I
6 learn something new every time I go there.

7 On another note, I lived in Seattle for
8 seven years and worked with the southern resident
9 whales, and they have it tough there, and not
10 everyone, a family especially, can afford to take
11 someone to the Puget Sound to do whale watching.
12 And if it wasn't for SeaWorld our children, our
13 children's children, need them, please vote yes for
14 Blue World. Please. Thank you.

15 CHAIR KINSEY: Thank you. Please.

16 MS. HORALL: Hi, I'm Jean Horall, and I'm
17 going to turn my time over to my friend Ellen
18 Erickson.

19 MS. ERICKSON: Good day, Commissioners. My
20 name is Ellen Erickson, and I am a profound,
21 extreme, fringe radical activist from San Diego.
22 (Audience interruption.)

23 MS. ERICKSON: Today we come before you to
24 urge you -- no, to beg you to make the right
25 decision for the Orcas and not allow a new tank for

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1 these majestic, brilliant animals that are locked up
2 in San Diego SeaWorld. Imagine what it would be
3 like to be incarcerated for a lifetime for no crimes
4 ever committed. Imagine never being free to live in
5 your own surroundings, to eat when you are actually
6 hungry, and not have to perform for food. Would you
7 dream of days of being free, to live your lives as
8 it was intended, to be free?

9 We say that instead of making a newer
10 prison for the Orcas that this money, energy and
11 time be spent on rehabilitation, retirement and the
12 possible release of these Orcas so they can return
13 to the wild, which is where they belong, not in a
14 new sea prison.

15 CHAIR KINSEY: Thank you.
16 (Audience interruption.)

17 MS. MITCHELL: Hello, Commissioners, my
18 name is Marie Mitchell. I am just a human trying to
19 do my part, trying to do good in life. Don't you
20 feel that you should also do the right thing in
21 life? Please thing about what SeaWorld really wants
22 here. How can we ever consider any of SeaWorld's
23 requests until they stop putting these innocent
24 creatures on display for the public and forcing
25 performances out of them.

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1 We cannot consider their wants. We know
2 where their intentions lie. Profit. If you
3 purchase tickets on line there's actually a deal
4 where one adult day pass is only \$69. I looked it
5 up. It's always a big fight against large
6 corporations who yield significant funds and want
7 more. I know that they have a strong hand here
8 today as well, but together with other compassionate
9 intellectuals here, we aren't going to let them
10 bully, we're going to speak up for the innocent
11 creatures. Please remember why SeaWorld exists, it
12 is not for the Orcas.

13 You know, I went to SeaWorld as a small
14 child but I didn't know. My parents didn't know
15 back then. We cannot claim ignorance any longer,
16 people are waking up. People are learning the truth
17 about how Orcas come to be at SeaWorld, their mental
18 state, their intelligence in life as they suffer in
19 captivity there. Please keep in mind that the
20 Coastal Act and the Coastal Management Plan require
21 a protection of coastal and marine resources,
22 including these Orcas we are speaking of here today.

23 We have a chance to be an outstanding
24 example to the rest of the nation and the entire
25 world. We need to ban the breeding of Orcas in

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1 captivity and top Orcas from being captured from the
2 ocean.

3 The whole ocean in general suffers enough,
4 and that could be an entire other meeting. We need
5 to phase out SeaWorld and the suffering that is
6 created. And I feel so sorry for the Orcas already
7 in SeaWorld's dirty hands. Perhaps we can also work
8 on improving those lives.

9 You know, we can give SeaWorld a chance to
10 save face, you know, and the only way to do that is
11 if SeaWorld was to only be a rescue and rehab
12 endeavor.

13 Commission, I plead that you please
14 continue your tradition of showing concern for the
15 treatment and conservation of marine mammals.
16 Please uphold the foundation you started on, let's
17 do the right things, let's be good people. Thank
18 you.

19 CHAIR KINSEY: Thank you. Before the next
20 speaker I'd like to invite Karen Hoffberg, Michael
21 Reppe, Robby Stewart, Tanya Nicosell, Andrea
22 Addelman -- Adelman, and that will be enough for
23 now. Thank you.

24 MS. SUTHERLAND: Good afternoon, my
25 friends, nice to meet you all. My name is Corrine

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1 Sutherland and I'm a 30-year volunteer, 30 years of
2 counting gray whales off of our coast here. Now, I
3 do want to -- I'm worried that the person who talked
4 about Corky being pregnant, except for, I'm not sure
5 about the last one, but all the others were actually
6 at Marineland, they weren't at SeaWorld, so that had
7 nothing to do with SeaWorld at that time.

8 One thing I am quite interested in this
9 making bigger tanks for SeaWorld, there's one thing
10 that bothers me about their web page is they talk
11 about Orcas playing, which they don't, okay, I've
12 been watching them for 30 years. The cows, I'm
13 sorry, the calves and the juveniles do, but you're
14 only a juvenile for so many years. As adults they
15 don't play, they're social. So this thing about the
16 fast water that they have I believe is actually
17 wasted money, and I'd like to see them that out.

18 And one thing I think that the Orcas could
19 use is some shade, because we have changed climate
20 in California, it's a lot hotter and lot sunnier,
21 and that San Diego has no mercy when it beats down
22 on you. And so to save you from a sunburn and the
23 black oxide that they put on the skin, which is so
24 artificial, they could jut build like shading
25 stations, maybe, strewn through the tank as part of

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1 the structure, and let the whales, they can just
2 swim under that and maybe save on some
3 (unintelligible) or something like that, and be a
4 little bit more natural protection for them since
5 they don't have the darker water, then they could
6 have those shading stations maybe as part of the
7 structure, and that might help out a little bit.

8 I am for it, I'm a marginal for, I've heard
9 a lot of good arguments here, very interesting. But
10 just some arguments I don't agree with, PETA, and I
11 would just like to see and here more coming from
12 SeaWorld regarding this construction, but I'm going
13 to vote marginally for. Thank you.

14 MR. REPPE: All right. Hello, my name is
15 Michael Reppe, I'm from Mill Valley, and you've
16 heard a little bit about Corky. I want to add some
17 more story of Corky. You recently heard from
18 another speaker how her seven babies died in
19 captivity, none lived more than two months. Also I
20 want to tell you what happened to Corky at SeaWorld.
21 It's an example of deadly aggression that would
22 never happen in the wild. And the way it happened
23 was there was another female Orca named Kandu, and
24 Kandu rammed Corky. Kandu broke her jaw, was
25 spewing blood all over, you saw a picture, you may

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1 have seen that picture of her, it was up on the
2 screen.

3 She bled out and died in front of an
4 audience at SeaWorld.

5 Now, this type of aggression would never
6 happen in the wild. And I want you to know that a
7 larger tank would not be the answer. It would not
8 stop this type of unnatural aggression that happens
9 because of the stress of captivity. So I'm urging
10 you to take that very, very seriously a larger tank
11 is not the answer. It's the retirement, and
12 particularly of Corky, to her family. She comes
13 from the northern residence of British Columbia, she
14 has her family pod to return home to. There is a
15 great plan for a seaside sanctuary in a netted-off
16 bay called Freshwater Bay. And I urge you to
17 consider that especially for Corky and all the
18 others.

19 But Corky is from a wild capture, has a
20 family to go home to. So please, please consider
21 that when you make your decision, and I'd urge you
22 no on this proposal. Thank you.

23 (Audience interruption.)

24 MS. STEINHOWE: Hello, Commission. My name
25 is Ronnie Steinow from Encinitas. And I'm giving my

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1 minutes to Pam Slater Price.
2 MS. PRICE: Good afternoon, Pam Slater
3 Price, county supervisor to San Diego for 20 years,
4 from 1992 until 2012. I've heard a number of things
5 today that seem to be new information to the Coastal
6 Staff as well as to the Coastal Commission.
7 First of all, that there are numerous
8 outstanding violations which should be remediated
9 prior to any new permits, and these appear to have
10 been ongoing for ten years.
11 Seismic conditions that have not been
12 evaluated, and that was shown on a map. By the way,
13 the location of SeaWorld is -- is an area where
14 seismic conditions are of great concern. The closed
15 landfill and toxic materials must be considered
16 because there is already documentation that those
17 have been problematic and have caused at least one
18 human death.
19 Global warming will lead and is leading
20 right now to rising sea levels, and this area is at
21 ground zero for global warming and rising sea
22 levels. Also, fireworks are being set off every
23 night at SeaWorld and these animals are very
24 sensitive to sound, and so therefore that is another
25 thing that should be considered. Education has been

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1 mentioned for SeaWorld. What kind of education are
2 you giving? Is it that it's okay to imprison
3 animals for human entertain and profit? I don't
4 think that's very good education.
5 Social media has awakened the public to
6 these abuses and cruelty to innocent animals by
7 corporations for profit. They object and they
8 choose not to attend SeaWorld.
9 Your vote will reveal your character. If
10 you vote against this project, you are showing that
11 you are ethical and show compassion. If, however,
12 you choose to support the project you will reveal
13 that you put money and power above ethics and
14 (unintelligible) behavior.
15 If you choose not to act responsibly, this
16 is not over. We will not give up and we will
17 continue to educate the public about SeaWorld's
18 continuing abuses and will continue until such time
19 as SeaWorld if it really wants to rehabilitate, it
20 doesn't need Orcas on staff to rehabilitate. Thank
21 you.
22 (Audience interruption.)
23 CHAIR KINSEY: Please, as you approach, I'm
24 going to also invite up Debby Luke, Brenda Cabrillo,
25 Rose Park, Joanne Karth, Kelsey Eberly and Janell

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1 Pelacio. Thank you. Welcome. Please.
2 MS. STEWART: Hi. Thanks for having me
3 here. My name is Robbie Stewart, I come from
4 San Diego, I work at the lovely Bahia Resort Hotel.
5 And normally you would say, well, she's probably an
6 executive assistant to the general manager, and you
7 would be right, but my real title is Harbor Seal
8 Mom. I don't know how many of you have heard of the
9 Bahia or been to the Bahia, but we are a licensed
10 rehab facility for seals sanctioned by the U.S.
11 Government. And we currently two blind harbor
12 seals, Gracie, who's 11, and Billy, who's just one
13 year old.
14 And we were lucky enough to get Gracie from
15 SeaWorld when she was seven months old. She was
16 born here in the cover, in La Jolla Cove, and has
17 cataracts and is not able to be released. Billy
18 also is blind, we don't know at this point why, but
19 neither of them are deemed releasable. So we were
20 lucky enough to get them, but we don't know a lot
21 about sea lions, these are harbor seals, we've
22 learned kind of as we go. And we would be nothing
23 today with our seals if it weren't for the wonderful
24 care that we get from SeaWorld.
25 If we have an issue within 30 minutes of

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1 calling, they are here, coming over to help us with
2 our seals. And we have John Riley to thank for
3 that, and the fabulous Keith Yip, who is curator of
4 mammals at SeaWorld. And their fabulous veterinary
5 staff, their techs, everybody, we couldn't do it
6 without them.
7 So don't say and don't listen to that they
8 don't care. Because they do care. And thank you
9 for listening to me. I would vote yes on Blue
10 World. Thank you so much. Come to the Bahia and
11 meet Gracie and Billy.
12 CHAIR KINSEY: Thank you.
13 MR. RAMO: Hey, how you guys doing? My
14 name is Matt Ramo. And I'm from Los Angeles,
15 California. I'm here to ask you guys a question.
16 What are we doing? Right? What is this about?
17 It's simple. Okay. What it's about is very simple,
18 it's about money, it's about profits. It's about
19 jobs.
20 If someone told you you were going to be
21 locked in a closet and that the solution would be a
22 larger closet, what would you say? It's still a
23 closet and you're still locked in it. You're
24 trapped. The solution is to let these Orcas live
25 the way we live. Free. That's what we fight for,

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1 that's what we've always fought for, that's what the
2 country is about, is freedom. Why can't we grant
3 that to them?
4 To the construction workers, I've heard
5 your arguments. And I say there will be other
6 buildings to build, you will still make money. To
7 the researchers, there is no reason you cannot
8 continue to learn and educate yourselves in a
9 rehabilitating center for Orcas, for sea lions, and
10 to the employees of SeaWorld, I do not want you to
11 lose your jobs. I do not want SeaWorld to -- to not
12 exist. Instead, I want to see SeaWorld convert
13 itself from a prison into a rehab center.
14 That would be something I would support.
15 And I strongly urge you to vote no. Thank you.
16 CHAIR KINSEY: Thank you.
17 (Audience interruption.)
18 CHAIR KINSEY: Before the next speaker, I
19 just want to announce that we've been going at this
20 most of this day, there still remain, you know,
21 dozens and dozens of speaker cards, many of them are
22 you -- who have not spoken yet are associating with
23 organizations that had the opportunity for an
24 organized presentation. So I'm going to announce
25 that at 6:00 p.m., I've been going through these

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1 cards in the order in which they were submitted. We
2 will end the public comment at 6:00 p.m., and we
3 will bring it back to the Applicant for their final
4 comments, our Staff, and then our Commission. Thank
5 you.
6 Please, go ahead.
7 MS. CALVIA: Good early evening, my name is
8 Brenda Calvia, I'm a citizen in Huntington Beach,
9 California. I live three blocks from the coast.
10 The ocean is my life. I love the ocean. Along with
11 the ocean I also love freedom. I love freedom of
12 going to the ocean and being able to see pods of
13 porpoises at 6:00 o'clock in the morning swimming
14 freely, playing in the ocean.
15 The Coastal Commission's job is to assure
16 that the citizens of California have a clean
17 environment and to safeguard and assure that we have
18 a clean -- clean coast.
19 I grew up in Southern California, and in
20 all of my years, we never even dreamed of going to
21 Prison World.
22 (Audience interruption.)
23 MS. CALVIA: Not once second did my parents
24 ever even suggest let's go to Prison World because
25 that's exactly what it is. It's not the sea, it's

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1 not the ocean, it's not Blue World, it's Prison
2 World. Let's call it what it is. And expanding a
3 prison is still a prison. What have we learned in
4 the 50 years that the researches at SeaWorld won't
5 share with anybody? We've learned in 50 years that
6 the Orcas belong in the wild.
7 (Audience interruption.)
8 CHAIR KINSEY: Thank you. So I'm going to
9 invite up Vince Mudd, Bill Evans -- I think Bill had
10 actually spoken, Michelle Feinberg, Don Kent, Ellen
11 Erickson, Johnny Simpson. Please.
12 A VOICE: Ellen already spoke.
13 CHAIR KINSEY: Ellen spoke. Thanks for the
14 help. Please come forward, let's just keep it
15 going, we want to get as many of the speakers in as
16 we could. And welcome.
17 MR. KENT: Thank you, Mr. Chairman and
18 Commissioners, my name is Don Kent and I have the
19 honor of serving as the president of the
20 Hubbs-SeaWorld Research Institute, which for more
21 than 50 years has helped resolve problems arising
22 from the interaction between human and animal
23 populations and the habitats they share around the
24 world. I grew up in San Diego and as a grade
25 schooler was a frequent visitor to the Scripps

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1 aquarium, San Diego zoo and SeaWorld, but it wasn't
2 until I became a graduate student in 1977 and
3 started working at the institute's marine laboratory
4 that I realized that I realized the value of
5 zoological connections to conservation research.
6 When the founders of SeaWorld chartered our
7 institute, it was with the intent that a public
8 trust non-profit be dedicated to advancing our
9 understanding of marine animals toward their
10 conservation in the wild.
11 The Blue World project is simply SeaWorld's
12 latest manifestation of that vision and one that
13 will create a whole new capabilities in behavioral,
14 physiological, reproductive and animal health
15 research that will advance our ability to act as
16 wise stewards of the marine environment.
17 Much of the research conducted by my
18 institute colleagues is not possible outside the
19 zoological setting. Behavioral observations in the
20 wild, remote sensing devices and other instruments
21 cannot replace the access to marine species curated
22 in a zoological park. Research with animals at
23 SeaWorld including killer whales has been and is
24 still being used to help develop, refine, calibrate
25 and ground truth new techniques and instruments used

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1 to study wild populations.
2 In addition to providing an irreplaceable
3 resource for research, the students mentored by
4 scientists at our institute are applying the
5 knowledge they gained in their careers as cetacean
6 biologists at NOAA laboratories and as university
7 scientists and lecturers, environmental consultants
8 and veterinarians. Access to SeaWorld's thriving
9 zoological population of animals allows us to
10 address complex conservation challenges facing the
11 world's oceans, and I endorse the Commission's
12 adoption of the staff recommendations regarding the
13 Blue World project.
14 Thank you for affording me this opportunity
15 to comment.
16 CHAIR KINSEY: Thank you.
17 MR. SIMPSON: Good afternoon,
18 Commissioners, my name is Johnny Simpson and I'm the
19 business manager of IBEW local 569, representing
20 over 3100 electricians and their families in
21 San Diego and Imperial Counties.
22 The IBEW also provides training and career
23 opportunities for community members. We have
24 invested resources into the community to ensure
25 construction projects, create safe quality

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1 workplaces for our members. We also have great
2 wages and benefits. Today I speak in support of one
3 of these projects, Blue World.
4 I've heard Ms. Rose and several other
5 speakers today talk about it's a waste of money and
6 resources. My members and their families would beg
7 to differ. This project will create hundreds of
8 good-paying construction jobs for local residents.
9 (Audience interruption.)
10 MR. SIMPSON: Jobs that provide family
11 health care and retirement benefits. Jobs that help
12 grow and strengthen the surrounding communities by
13 investing in a local work force. SeaWorld is
14 putting a hundred million dollars on the table for
15 this construction project. This project will create
16 half a million man hours for construction workers.
17 The wages -- I'm sorry -- for local construction
18 works, and the whales will get a larger state of the
19 art habitat.
20 It seems like a win for everyone. Local
21 families and -- local construction workers and their
22 families, and more importantly the whales get a
23 larger environment to swim around in.
24 I urge your support. Thank you.
25 CHAIR KINSEY: Thank you. Marta Holmberg,

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1 Emily Rohr, Kimberly Johnson, Deidre Arro, Nina
2 Cohn, Lisa Lizeer, and Lester Smiley. Any of those
3 who are present please come forward and the first
4 person can come straight to the mic. Thank you.
5 MS. HOLMBERG: Hi. My name is Marta
6 Holmberg, and I am a resident of Los Angeles. I
7 almost didn't come up to speak right now because I
8 feel like pretty much everything has been said. And
9 to be honest, I'm pretty tired and drained from
10 being in this room all day. But then I remembered
11 that I get to go home tonight to my family and
12 that's something that Orcas at SeaWorld don't get to
13 do, ever. So on behalf of them and everybody who
14 couldn't be here at this meeting tonight, please
15 vote no on SeaWorld's Blue World project. Thank
16 you.
17 (Audience interruption.)
18 MS. ROHR: Good evening, Commissioners. My
19 name is Emily Rohr, I live in Los Angeles. To be
20 respectful of your time, I'll keep this brief. I
21 just wanted to urge you all to please vote no on
22 this and make the compassionate choice. Thank you.
23 (Audience interruption.)
24 CHAIR KINSEY: Thank you. I'm going to
25 also invite up Jamie Werten, David Seaberger,

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1 Brendon DeSmitt, Britney Pierce and Coffee Boyle.
2 Thank you.
3 MS. JOHNSON: Hi. I'm Kim Johnson, I'm a
4 California resident, and I just wanted to say I'm
5 fascinated by Orcas, I love them. I used to visit
6 aquariums like SeaWorld all the time because I love
7 marine animals especially. And I really wanted to
8 see them up close. I'm sure all the SeaWorld
9 employees that were here today also are also
10 fascinated and love Orcas as well, that's probably
11 why they applied for the job to be around them every
12 day, so I think that's something almost everyone
13 here can agree on that we all, you know, love
14 animals, we love these Orcas, but what I've learned
15 in recent years is that our desire to see the Orcas
16 up close and our curiosity of them is actually
17 hurting them.
18 SeaWorld can build a sea sanctuary for a
19 fraction of the cost it would take to complete this
20 project, and I think if SeaWorld truly cares about
21 animals, they would invest in a sea pen instead of
22 this project. And I'm just asking everyone to look
23 outside of our own desire to be close to the animals
24 and our curiosity of them and to actually do what's
25 really best for the Orcas instead of what's doing

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1 best for ourselves and our desire to be around them
2 and to fulfill our own curiosity.
3 So I'm just asking you to do the right
4 thing and the Orca tanks are selfish of us and
5 wrong, and please vote no. Thank you.
6 (Audience interruption.)
7 CHAIR KINSEY: Any of the other speakers,
8 please, you've been called.
9 MR. DESMITT: My name is Brendon DeSmitt,
10 I'm actually currently in Tucson, Arizona, but I
11 grew up here in Southern California, used to sit on
12 a surfboard out in Huntington Beach and enjoy the
13 environment, never once did it occur to me while I
14 was out there that I might prefer to see the
15 beautiful wildlife in a contained environment rather
16 than somewhere where we were sharing the freedom of
17 the ocean together.
18 I returned to Southern California where I
19 grew up, today, after an eight-hour drive from
20 Tucson just to make an impassioned plea to you folks
21 as somebody who loves this state where I grew up,
22 who remembers this state as progressive and is often
23 a beacon to the rest of the country and in fact the
24 rest of the world. Legislation and ideology that is
25 far and away, you know, before others make those

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1 decisions. This is a -- a, you know, a reverse kind
2 of approach that we're taking here, thinking about
3 giving SeaWorld an opportunity to build a bigger
4 pen. And it's a financial disaster just waiting to
5 happen.
6 We're talking about jobs, I hear a lot of
7 that, I got to say I really feel for the workers and
8 the unions that are representing them in that sense,
9 but construction jobs are temporary, folks, those
10 are jobs that are going to go away as soon as this
11 is built, the workers are going to be at risk of
12 losing their jobs as public opinion continues to
13 swell in disfavor towards this kind of operation.
14 And when that disappears, the public is going to be
15 left holding the bag.
16 In summation, I just want to say that right
17 now the tide of public is rising and it's rising in
18 favor of compassion, not captivity. Please vote no.
19 (Audience interruption.)
20 MS. PIERCE: Hello, my name is Britney
21 Pierce, and I have traveled here today from Tucson,
22 Airzona. I urge the Commission to deny SeaWorld's
23 permit. I'm here in support of Direct Action
24 Everywhere, Dr. Visser, PETA and Sea Shepherd, not
25 matter how big the tank looks to us, it is a kennel

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1 for them. Whether the depth is 35 feet or 50, any
2 take is too small and it's quite simply animal
3 cruelty.
4 It would be a travesty to allow more
5 suffering to occur which would be the direct result
6 of a new breeding tank. Please deny this permit.
7 Thank you.
8 CHAIR KINSEY: Thank you. Margaret
9 Kirkpatrick, Patty Jackson, Kath Rogers, Susan
10 Kirkpatrick, Eva Beroa, Matt Bruce, Luis Rodriguez,
11 Laney Stacks.
12 MS. JACKSON: Hi.
13 CHAIR KINSEY: Hi. Your name?
14 MS. JACKSON: Hello. My name is Patty
15 Jackson. I took the day off work today to speak up
16 for the animals. I'm not paid by anyone. Just a
17 concerned citizen. First of all I would like to
18 quite Martin Luther King. There is nothing more
19 dangerous than sincere ignorance and conscientious
20 stupidity.
21 I urge everyone here to watch two powerful
22 documentaries. The Cove and Blackfish. This is the
23 21st century. Why are we still enslaving animals?
24 We must strive for a world that is compassionate
25 towards the animals. Why isn't SeaWorld building

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1 seaside sanctuaries? Please say no to the Orcas
2 tanks. It's time to end the enslavement of these
3 beautiful creatures that belong to the world. They
4 are not SeaWorld's slaves. Orcas belong in the
5 ocean, not in tanks. 14 countries have already
6 banned the captive display of Orcas and dolphins in
7 marine parks. It's time for the United States to
8 practice what we preach. Liberty and justice for
9 all.
10 Animals have no voice in government. They
11 need our voice. Please say no the new Orca tanks.
12 Thank you.
13 CHAIR KINSEY: Thank you.
14 MS. ROGERS: Hello, Commission. Thank you
15 for your time today. My name is Kath Rogers, I'm a
16 resident of San Diego, and I'm the vice chair of the
17 Hillcrest Town Council, which is my neighborhood in
18 San Diego, and I'm also the co-founder of the Animal
19 Protection Rescue League, which is a local
20 non-profit organization in San Diego and we have
21 about 10,000 people on our mailing list. And on
22 behalf of them and on behalf of my friends and
23 family who couldn't be here today and make the drive
24 up and take off work, I urge you to vote no on this
25 project.

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1 And I have personally called SeaWorld on a
2 few occasions where there have been orphaned sea
3 lion or seal pups or an injured sea lion, and that's
4 undisputedly the part of their operation that we can
5 all get behind. That's the future of what SeaWorld
6 represents, and a project that involves expanding
7 the Orca tanks, keeping these animals in small tanks
8 where they perform tricks for us. That's outdated,
9 that's part of the past, and this is part of your
10 vote today is seeing the future of our coastline,
11 seeing what we want to expand and what we want to
12 see in that area and -- and this is not it.

13 So I urge you to vote no. I also urge you
14 to take a look at some of the new information that
15 you've seen here today with regard to the pollution
16 and the toxic waste under the site and adjacent to
17 the site that has been brought to your attention
18 today. And please take that into consideration in
19 your vote as well. Please vote no. Thank you.

20 (Audience interruption.)

21 CHAIR KINSEY: Thank you. Speak.

22 I'm going to also invite up Bryan Pease,
23 Anthony Johnston, Cassandra Larson, Linda McKee,
24 Kenneth Montville, Casey Kern, Dean Fonsois.
25 Please.

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1 MS. STACKS: Okay. First of all, my name
2 is Loni.

3 CHAIR KINSEY: I'll take it. I mean, I
4 apologize.

5 MS. STACKS: It was -- it was pronounced
6 "Laney," it's "Loni."

7 CHAIR KINSEY: Okay. Loni. I mean --

8 MS. STACKS: You're get -- you're getting a
9 good education in a lot of things here tonight.

10 CHAIR KINSEY: Correct.

11 MS. STACKS: Yeah. In 2009 I was up above
12 San Diego with a friend that's a private pilot, and
13 took my camera. And as we flew around, I took
14 pictures of Coronado, North Island, downtown, the
15 airport, the zoo, and then I took a picture of -- we
16 were above SeaWorld. Nothing occurred to me, I
17 thought, oh, it's just another picture with the rest
18 of them. When I got home and I uploaded this onto
19 my computer, and I -- and I clicked to have the full
20 view, and something disturbing stood out to me.

21 The amount of space that is reserved for
22 parking at I believe \$15 a car is much, much, much
23 greater than that little tank when they're not
24 performing where they're swimming around in circles
25 in a --

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1 (Audience interruption.)

2 MS. STACKS: -- tank the size of a -- a
3 pool in a backyard home. And it -- it all just --
4 this picture just disturbed me. And then even the C
5 Part Marketplace Restaurant building, there's even
6 more space devoted to that. Now, we're here talking
7 about building another tank and with the plans it
8 shows that it's not going to be any better because
9 it's not going to be any -- it's -- it's just going
10 to be just a little larger and that is it.

11 CHAIR KINSEY: Thank you, Loni.

12 MS. STACKS: No, no, no.

13 CHAIR KINSEY: Thank you.

14 (Audience interruption.)

15 MR. PEASE: Good afternoon, Commissioners.
16 My name is Bryan Pease, I'm an environmental
17 attorney in San Diego and co-founder of the Animal
18 Protection and Rescue League with about 10,000
19 members. Back in 2009 I obtained a federal, Ninth
20 Circuit emergency motion granting the right of
21 San Diego to place a guideline rope at the
22 children's pool in La Jolla to protect the seals,
23 which is an issue that the Coastal Commission is
24 familiar with because they recently approved that
25 project.

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1 But my point is that I had a little bit of
2 experience that was based on federal preemption, I
3 have a little bit of experience with the Marine
4 Mammal Protection Act and federal preemption. I
5 fully concur with the Animal Legal Defense Fund's
6 analysis that there is no federal preempting here.
7 The Coastal Commission clearly has the right to
8 regulate this project, and this is a doubling down
9 of the bad part of what SeaWorld represents having
10 these Orcas in captivity. It's expanding it without
11 stopping the captive breeding.

12 You're actually creating more and allowing
13 more of what the tide of public opinion is turning
14 against, and also you've heard from some -- you've
15 heard from people that are going to profit from the
16 project, but you've not heard from labor
17 organizations representing people who work at
18 SeaWorld. That's because they don't have any. They
19 don't have unions. SeaWorld doesn't allow it.

20 And there are politicians who are strongly
21 allied with labor, for instance, Lorena Gonzalez who
22 opposes this project unless it were to stop the
23 breeding.

24 I would like to cede the rest of my time to
25 Meredith McCracken.

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1 MS. MCCRACKEN: Thank you, Bryan. My name
2 is Meredith McCracken, I currently live in
3 San Diego, I moved there 14 years ago. Prior to
4 that I lived in Los Angeles, and where I volunteered
5 at Marine Mammal Care Center for one year. We
6 rescue, rehabilitate and release seals, sea lions
7 and elephant seals, and it is up, over in Point
8 Fermin, and they also have an educational facility
9 where they bus in children from L.A. Unified and I
10 just want to say that denying this project to
11 SeaWorld is not going to shut down the
12 rehabilitation project, I don't believe. Thank you.
13 CHAIR KINSEY: Thank you.
14 (Audience interruption.)
15 MS. MYRICK: My name is Kathy Myrick. I
16 live in San Diego, and I just wanted to let
17 everybody know that right now there's a pod of
18 dolphins in Taiji that's being herded toward the
19 killing cove, and I think what SeaWorld does to talk
20 about having animals in captivity and having it be
21 okay, it just -- it fuels the things that go on to
22 capture the dolphins in this case, bring them in and
23 kill them in and put them into the captive industry,
24 so I just hope that you vote no on this.
25 (Audience interruption.)

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1 MS. LARSON: I'm Cassandra Larson. I'm
2 from Salt Lake City, Utah. I traveled here not to
3 support SeaWorld. Many people I do talk to back in
4 Utah do not travel to California to go to SeaWorld.
5 It has probably been several years since I've
6 actually somebody who says they will go to
7 California for SeaWorld. I do volunteer with rescue
8 organizations for animals in Utah, obviously it's
9 not sea life.
10 So I -- but I do recognize the efforts that
11 SeaWorld does for that, and I applaud for the rescue
12 and rehabilitation efforts, but they do not need
13 captive Orcas jumping through hoops and doing shows
14 to make money to continue that rehabilitation
15 program continuing. So vote no.
16 (Audience interruption.)
17 MR. JOHNSTON: Hi, I'm Anthony Johnston
18 with Direct Action Everywhere Salt Lake City. I
19 speak with many of our, hundreds of members there
20 and I'm sure many of our thousands of members
21 internationally. When I say that we do not support
22 SeaWorld or this movement, I would just like to
23 remind all that animals are not resources, nor are
24 they toys for our entertainment, and I'd like for
25 everybody to keep that in mind while they make a

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1 choice. Thank you.
2 (Audience interruption.)
3 CHAIR KINSEY: Thank you. I'm going to
4 invite up Inger Eplin, Cynthia Mendez, Lisa Carlin,
5 Ronnie Steinow, Alicia Wompner, and Stephanie
6 Terronez. Welcome.
7 MS. KIRN: Hi, Commissioners. Thank you so
8 much for having us all here tonight. My name is
9 Casey Kirn and I live in California and I'm a
10 California voter, and I just want to urge you all to
11 deny SeaWorld's permit because it's bad for Orcas
12 and it's also bad for California. Thank you very
13 much for your time.
14 (Audience interruption.)
15 CHAIR KINSEY: Thank you.
16 MS. TERRONEZ: Hi, my name is Stephanie
17 Terronez, and I am from Lakewood, California here.
18 Commissioners, thank you so much for your time and
19 your patience here this evening. I am originally
20 from Fresno, and so it was a big deal when I was
21 younger to take a trip down to go to SeaWorld, and I
22 loved animals, loved marine wildlife, and so I was
23 awed by the whales and what I came away having
24 learned was that they can do neat tricks and you can
25 ride them when you get older.

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1 So that's what I thought I wanted to do for
2 a while was I want to be a trainer. But being from
3 Fresno and not being able to get out often to see
4 SeaWorld and get my education there, I started
5 researching more on my own. And the more I learned
6 about the natural state of whales and Orcas the more
7 I realized how wrong that was to keep them in these
8 small -- these small, tiny pools.
9 And I was extremely saddened and guilty
10 about having gone to enjoy that. So I think really
11 SeaWorld does do some amazing work when it comes to
12 rehabilitation, there's no reason that they can't
13 continue to do that, and these suggestions about
14 converting and evolving into a greater role in terms
15 of rehabilitation and a sea pen are exciting. I
16 think it's incredibly exciting, and I hope the
17 Commission will consider that as a future endeavor
18 for SeaWorld, because then, you know, I'd be happy
19 to come back, but until then I'm not going, and
20 nobody else in my family is, and neither are my
21 friends. Thank you.
22 MS. MCMACKEN: Hi. Alicia Wompner had to
23 leave to pick up her children, and she volunteered
24 her time to me.
25 CHAIR KINSEY: And your name?

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1 MS. MCKAKEN: My name is Hilary Kristen
2 McMaken, I was born and raised in San Diego and I
3 live in Temecula.
4 I'm not here to push you one way or
5 another, except the way that your heart feels, and I
6 would just like to say that today isn't about money
7 or greed or jobs for humans or anything else. It's
8 just about the whales. And so please, before you
9 vote, just take a moment and think like a whale.
10 Think what you would want if you were an Orca.
11 Would you want to hear loud sounds above
12 your head, would you want to be forced to do tricks,
13 would you want -- would you want to live in the free
14 wild where you're free to do what you want. And
15 that's all I ask of you. Thank you.
16 CHAIR KINSEY: Thank you.
17 (Audience interruption.)
18 MS. EPLIN: Hi. I'm Inger Eplin, I'm
19 giving my time to Jonathan Klein, but please vote
20 no. Do the right thing.
21 RABBI KLEIN: Rabbi Jonathan Klein, Faith
22 Action for Animals and Clergy and Laity for Economic
23 Justice. I'm not a scientist, a lawyer, nor an
24 actor, but I am an rabbi and a ethicist working with
25 rabbis, priests, ministers and imams daily

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1 throughout Southern California on economic justice
2 issues.
3 As a kid, I loved SeaWorld, great show,
4 majestic splash zone, intoxicating, I was wowed by
5 their Blue World that they created, gorgeous tanks.
6 Ultimately I broke my addiction, though. I didn't
7 now better, but you do. Your job is not to bail out
8 a dying company, it is to protect our vital coastal
9 resources. Good people working for SeaWorld came
10 here today with fear and trepidation for their
11 futures, just as others feared the end of slavery.
12 It isn't their fault, but sadly the jig is up. Time
13 to end business models that are built upon animal
14 cruelty.
15 Imagine a time when gladiator fights began
16 to be questioned. A public outcry arises against a
17 highly profitable institution, for decades on moral
18 grounds, Gladiator World kills, they argue. Despite
19 declining attendance, Gladiator World, Inc.,
20 counters opposition. Gladiator fights are just,
21 educational, they lower crime, set an example for
22 sinners, researchers will help gladiators in the
23 wild.
24 (Audience interruption.)
25 RABBI KLEIN: Let's breed 'em, too. Now

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1 imagine Gladiator World, Incorporated comes to you,
2 the Forum Commission, to educate, inspire and
3 conserve with a new arena, Gladiator World, yes.
4 (Audience interruption.)
5 RABBI KLEIN: You know that their goal is
6 to get out of public scrutiny. You know Gladiator
7 World, Incorporated has lied about -- I thought I
8 would get the other person's minutes as well.
9 CHAIR KINSEY: Nice try. No.
10 (Audience interruption.)
11 CHAIR KINSEY: But thank you for your
12 comments. You could wrap it up.
13 RABBI KLEIN: All right. Bottom line is,
14 please, you know, be the change that you want to see
15 in the world, to quote Gandhi.
16 (Audience interruption.)
17 CHAIR KINSEY: Okay. Thank you. So with
18 that I want to thank all of the members of the
19 public who have participated today, wide range of
20 opinions but very respectful for the most part, and
21 we really appreciate that. Going to invite
22 Mr. Riley back up to have his 15 minutes of
23 completion, then we'll take on our staff response
24 and then Commissioners. Thank you.
25 MR. RILEY: Chairman Kinsey and members of

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1 the Commission, thank you again for the time to
2 speak today and for the opportunity for rebuttal
3 here. I began the day telling you that you would
4 hear a lot of rhetoric and misleading information.
5 You've heard a lot of false allegations about poor
6 management and mistreatment of killer whales at
7 SeaWorld.
8 The truth is each and every time PETA has
9 filed a complaint with the USDA, that federal agency
10 has come out and inspected us. Not once have those
11 complaints resulted in a finding of a violation of
12 the Animal Welfare Act. Not once. Including the
13 most recent claims by PETA's own employee.
14 Now, we could go through all the
15 misinformation that you heard today, one by one.
16 They were packaged into a film with a clear anti-zoo
17 and anti-aquarium agenda. You can read the facts
18 here in this binder. You received a copy of that
19 binder yesterday, the same information is available
20 on line.
21 But whether or not you agree with zoos and
22 aquariums isn't the issue before you commission
23 today. This is a vote about land use. This project
24 is clearly within the guidelines of the SeaWorld
25 master plan. There are no coastal act issues. I

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1 can't think of a better way to use this land, in
 2 fact, than with a new habitat that can benefit the
 3 whales that live at SeaWorld, benefit research to
 4 protect endangered killer whales in the wild, and
 5 educate and inspire future generations of
 6 conservationists, biologists, veterinarians, and
 7 animal care experts.

8 I'd like to make five clarifying points
 9 about some of the information you heard today.

10 First, public sentiment is with zoos and aquariums.
 11 In a recent study by the American Zoological
 12 Association, 80 percent of respondents said they had
 13 a favorable opinion of aquariums.

14 More than three quarters say they were
 15 likely or somewhat likely to visit a zoo or an
 16 aquarium in the next 12 months.

17 Number two, SeaWorld is highly regulated by
 18 the United States government. We are regularly
 19 inspected by federal veterinarians and other
 20 officials. We pass strict federal licensing
 21 requirements every year. And as I said earlier, we
 22 have never once been found in violation of the
 23 Animal Welfare Act for our care of Orcas.

24 Number three, to further clarify a
 25 statement from an opponent today regarding a comment

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1 made by SeaWorld in response to the 1994 amendments
 2 to the Marine Mammal Protection Act, our point was
 3 simply this. ^ NMPS does not have jurisdiction
 4 over the display of killer whales. Another federal
 5 agency does. APHIS. Regardless, the federal
 6 preemption provision remains in effect.

7 Number four. We follow strict alliance
 8 guidelines for propagation, and you heard those
 9 guidelines today, and our current population of
 10 killer whales is growing slowly at a rate of about
 11 three percent a year across all the parks.

12 And number five, we will not and do not
 13 collect whales from the wild. We recommitted that
 14 through the Virgin Pledge and our project
 15 description. We further confirmed that commitment
 16 today when we announced that we will not take the
 17 reported Russian whales, their offspring, their
 18 descendents or their genetic material.

19 With that said, I'd like to end as I began.
 20 This project is built for the benefit of our whales.
 21 These new habitats will benefit all of us, marine
 22 experts and visitors alike. With a deeper
 23 appreciation and understanding of these magnificent
 24 animals. It all comes down to inspiration,
 25 education and understanding.

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1 This is where our commitment lies, this is
 2 what SeaWorld is all about. I'm proud of the nearly
 3 300 fans, supporters, past members and our
 4 passionate employees who attended today to support
 5 this project. This has been a long day, and I
 6 really do appreciate the Coastal Commission's time
 7 and attention to these issues.

8 And I also want to very thank your Staff
 9 for their efforts over the course of this project,
 10 and their recommendation to approve this project.
 11 We hope that you'll vote in support. Thank you.

12 CHAIR KINSEY: Thank you. So bring it
 13 back, then to our staff for any comments that you
 14 might have or additional information.

15 DEPUTY DIRECTOR SARB: Thank you, Chair
 16 Kinsey. I'd like to first address some specific
 17 comments related to the Staff report and the permit
 18 and then turn it over to Dr. Lester for his
 19 comments. Also Dr. Dixon, our staff ecologist, and
 20 Dr. Johnson, our staff geologist are here and
 21 available for questions.

22 Regarding Special Condition Number One,
 23 this is meant to address the potential impacts
 24 associated with the proposed development on the
 25 species in the marine environment and the potential

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1 or the proposed expansion to create an incentive for
 2 SeaWorld to capture Orcas from the wild and populate
 3 the proposed tank.

4 Such capture would be an adverse impact to
 5 the marine resource and the specie's special
 6 biological significance associated with this tank
 7 expansion and inconsistent with Section 30230.

8 The concern is addressed in the revised
 9 project description submitted by the Applicant and
 10 incorporated into this condition of approval, which
 11 commits that no killer whales captured from the wild
 12 after February 14th, 2014 will occupy the expanded
 13 facility. And that date is consistent with when the
 14 Virgin Pledge was signed.

15 I'd like to add a clarification and change
 16 to Special Condition Number One to address some of
 17 the stated concerns here today, and this is
 18 acceptable to the Applicant. And that would be to
 19 change the date to February, 2012, to January, 2012,
 20 to avoid the possible occupancy by Russian whales
 21 captured since that time. And also to clarify the
 22 intent was to include any descendents from any
 23 killer whales taken from the wild after that date of
 24 January of 2012.

25 I'd also like to address the concerns

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1 regarding water quality, dewatering, landfill and
2 the seismic risk. There is a need -- the need for
3 the monitoring and treatment of the ground water
4 pumped out of the excavation site has been
5 incorporated into the project. They've done a
6 specific study for the excavation site which has
7 been reviewed by our technical staff and found that
8 no special handling of the soils is required due to
9 the lack of any chemical constituents of concern.
10 There is also a permit required from the -- from the
11 regional board for dewatering of the excavation area
12 consistent with the MPDS permit.

13 Regarding the landfill, there are wells in
14 place for ongoing monitoring for potential gases,
15 and this is also regulated by the regional board,
16 and the limits of the landfill are 1700 feet away
17 from the proposed facility.

18 Regarding the potential risk of seismic
19 danger from liquefaction in the event of a major
20 earthquake due to the presence of the known faults
21 in the area, this was addressed in a submitted
22 geotechnical report which also has been reviewed by
23 our Staff geologist and the condition requires
24 conformance with its recommendations and the design
25 and the construction plans.

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1 That concludes my comments, and I'll turn
2 it over to Dr. Lester.

3 DR. LESTER: Thank you, Sherilyn. I'll
4 just be brief here. Let me first thank everyone who
5 came here today and participated, on behalf of
6 Staff. Public participation is a really important
7 part of our law and our mandate, and so having
8 hearings like this is I think a really valuable and
9 important opportunity for us collectively to
10 consider questions about our environment, how we
11 relate to it, including how we relate to and
12 interact with other living beings on the planet.

13 Somebody referred to us as not having
14 emotion, but I can tell you there's a lot of emotion
15 in play when we're considering our recommendations,
16 and every day it does seem that these dialogues that
17 we have in our hearings are increasingly important
18 and urgent as we continue to change the planet in
19 dramatic ways, including our -- dramatic and
20 troubling ways, including our client upon which all
21 life including killer whales depends.

22 As you know, we do take our Coastal Act
23 obligations very seriously, and we seek to
24 rigorously apply the law to the protection of
25 California's coastal resources whenever we are

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1 acting under our authority.

2 It's also true that the Coastal Act is a
3 strong and a broad law, and in our view a living
4 law, and over your 40-year history, you have always
5 been at the forefront of progressive environmental
6 management and regulation. We have adapted and
7 responded to new knowledge and conditions and public
8 access concerns and extended the protections of the
9 Coastal Act to all kinds of emerging issues and
10 environmental problems.

11 And as you've heard from at least one of
12 the public comments today, the Coastal Act itself
13 tell us to construe its provisions liberally to
14 accomplish its objectives.

15 So in our view we are fortunate to have a
16 very strong law in our state, including a broad
17 policy to protect our marine resources. So in our
18 Staff recommendation, as you've heard, in addition
19 to looking at the range of land use questions that
20 we would typically analyze, we do apply Section
21 30230 to this project.

22 Let me touch on that again just briefly
23 since it was brought up by a number of speakers. In
24 our review we were very concerned with the potential
25 impacts of this proposal on California's wild killer

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1 whales, which is our mandate. And so we worked to
2 make sure that the project would not directly affect
3 our marine resources which is now reflected in the
4 proposed Condition One that has just been adjusted
5 that prohibits any wild killer whales taken from the
6 environment from being housed in this new facility
7 at all, so the prohibition on genetic material being
8 used in this project.

9 And this recommendation is based on an
10 application of Section 30230 to the project, so the
11 section of the act does apply. That said we didn't
12 feel that we could extend the protections of 30230
13 to the question of captive breeding, or the
14 conditions of killer whale captivity.

15 Within the meaning of that provision, and
16 in the context of the review of this facility
17 expansion. This is an interpretive question about
18 how one reads Section 30230 and the meaning of its
19 terms. It's also a very narrow conclusion in our
20 recommendation. It should not be interpreted or
21 construed in any way as an endorsement of captive
22 breeding or as a statement that such captive
23 breeding is consistent with the Coastal Act.

24 Rather we are simply saying that in our
25 interpretation, Section 30230 wasn't intended to

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1 apply to the welfare conditions of whales in
2 captivity as opposed to the marine environment, or
3 to the captive breeding programs of SeaWorld.
4 But there are other interpretations.
5 Killer whale are surely marine mammals and there's
6 no doubt that the project is in California's coastal
7 zone. So we've made our recommendation and at this
8 point we leave to you now as the decision makers to
9 consider the appropriate interpretation and
10 application of the Coastal Act to the project that's
11 in front of you. And that concludes Staff comments.
12 CHAIR KINSEY: Thank you, Dr. Lester.
13 Bring it back to the Commission now and I'm going
14 to -- I keep track of those who are wishing to
15 speak. We're going to begin with Commissioner Cox,
16 and then I also have Commissioner Bochco.
17 Commissioner Cox.
18 COMMISSIONER COX: Thank you, Mr. Chairman.
19 Let me start off by again reiterating the fact that
20 I think all of us on the Commission appreciate the
21 people that showed up here today to express their
22 opinions on whatever side of this issue you wanted
23 to express your opinion on, and I think there's, you
24 know, the one thing that I think hopefully everybody
25 in this room would agree to is the fact that the

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1 Orcas are beautiful mammals that deserve to be
2 protected, they deserve care, and we -- we want to
3 see them continue to flourish and survive wherever
4 they may be.
5 Having said that, and on the Staff's
6 presentation this morning, the thing that struck me
7 first off was the, the different roles that are
8 played by different agencies of government, both at
9 the state level and the federal level.
10 And the -- the chart that they had, and I
11 think clearly delineated that for the California
12 Coastal Commission which all 12 of these
13 Commissioners are -- are appointed to uphold really
14 regulates the development in the California coastal
15 zone.
16 And as much as there may be a desire to
17 regulate the -- the taking of Orcas, that is
18 something that is controlled by the -- another level
19 of government, the federal government under the
20 Marine Mammal Protection Act.
21 And what is before us today is a
22 development proposal that has been submitted by
23 SeaWorld, obviously it's generated a lot of input,
24 it's I think historic in regards to the amount of
25 input that we received from the public.

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1 And I know that a lot of people have taken
2 exception to SeaWorld, have maligned them as an
3 organization, and I think, you know, one of the
4 things that I was focusing on by one of the speakers
5 from PETA is that SeaWorld is a business, and that
6 is absolutely the truth. They are a business.
7 They're in the entertainment business, they're in
8 the education business, the conservation, research,
9 you know, a lot of different adjectives that have
10 been thrown out here today.
11 But the bottom line is they are a business.
12 And it's not this Commission's role to either have
13 them succeed or have them fail, it's too responsibly
14 implement the California Coastal Act, and our role
15 in all of this is in regards to the development
16 proposal.
17 For those that would seek a change to
18 preclude the holding of Orcas, you know, I
19 appreciate that. But we're not the role for that,
20 or we don't have the ability to make decisions in
21 that. That issue should be taken up with the
22 federal government, the United States Congress by
23 amending the Marine Mammal Protection Act. Our role
24 and our only role today I think is in regards to
25 whether this development proposal meets the

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1 requirements of the California Coastal Act.
2 I want to give a lot of credit to staff
3 because they've received a lot of input. I'm sure
4 it was not an easy decision to wade through 150,000
5 plus communications that we had and all the other
6 information that came in, but did -- they did wade
7 through it, and I think they came forward
8 responsible recommendation, and that is to approve
9 the project with conditions.
10 Now, obviously I'm sure we'll have some
11 discussion in regards to what those conditions are,
12 but the bottom line is if this Commission took
13 action today to deny this project, nothing will
14 change in regards to the operation at SeaWorld as it
15 exists right now. They will continue to have whale
16 shows, they will continue to invite the public in,
17 and the public may or may not choose to come in and
18 patronize SeaWorld. That's -- that's their
19 business, that's their problem, it's not our
20 problem.
21 But I -- I've got to believe that most
22 people would agree that at least trying to increase
23 the size of the habitat that they have to live in is
24 better than what is there right now. And I think
25 when we make decisions as a Commission, I always try

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1 to -- to consider, you know, what is the
2 alternative. If we don't approve of this today,
3 what's going to change?
4 Well, nothing is going to change, unless
5 you who would like to see Orcas set free, unless you
6 go back to the federal government and get some
7 modification to the Marine Mammal Protection Act.
8 That is the controlling document, the regulation
9 that will decide whether Orcas are ever going to be
10 returned to either a containment facility or be set
11 free.
12 So I think the bottom line that I'm looking
13 at is that the, you know, SeaWorld again has been
14 maligned a lot, but it's the business end of what
15 they do that has allowed them to do some -- I think
16 some really remarkable things that I don't they have
17 necessarily gotten full -- full credit for.
18 The -- the irony of it is just last year
19 SeaWorld celebrated their -- their 50th anniversary,
20 the year before, the Hubbs, which is now the Hubbs
21 research institute celebrated their 50th anniversary
22 in 2013, and it was Carl Hubbs and his wife who in
23 the '50s and early '60s had the foresight, they were
24 some of the most, I think, acknowledged
25 conservationists and did some of the earliest

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1 research on marine mammals that started the research
2 institute, which led to the creation of SeaWorld.
3 They have done remarkable things in
4 research, and they still are, particularly with
5 Orcas, but a number of other mammals. They
6 certainly have done a lot in regards to rescuing
7 animals and mammals that have been impacted by oil
8 spills, by disease, I mean, every year there's
9 several hundred sea lions that are probably either
10 under nourished or have some sort of a condition or
11 have been attacked that are picked up by SeaWorld
12 and nursed back to health. We've heard testimony
13 today in regards to the more recent oil spill up in
14 the Santa Barbara area.
15 They do a lot of things to help preserve
16 and protect marine life and mammals. And how do
17 they do that? Well, okay, you know, they do have a
18 business. And that business is what allows them to
19 do that sort of activity, and thank goodness they
20 do, because there's a lot of organizations that are
21 out there that are well meaning and are doing great
22 things, but they don't have the resources to do the
23 types of things that SeaWorld has been voluntarily
24 doing for the last almost 50 years, 26,000 animals
25 and mammals that would have been rescued was

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1 represented by one of the speakers.
2 So I -- I realize this won't be a popular
3 decision with everybody, and I do have a question I
4 want to ask if there's a second to this motion, but
5 I don't believe that SeaWorld if this is approve is
6 going to -- even though the tanks could hold up to
7 94 whales, I don't think that's their intent, and I
8 would like to make get them on record in regards to
9 what that right number is.
10 (Audience interruption.)
11 COMMISSIONER COX: But I think that the
12 best action that we can take today is to move
13 forward with this project, and again I realize there
14 may be some modifications in some of the special
15 conditions, but I would move that the Commission
16 approve Coastal Development Permit No. 6-15-0424
17 pursuant to the Staff recommendations, and I would
18 ask for a yes vote.
19 VICE CHAIR BOCHCO: Second for purposes of
20 discussion.
21 CHAIR KINSEY: Thank you. Do you have any
22 other comments at this time, Commissioner? If not,
23 we'll go to the second.
24 COMMISSIONER COX: Maybe just one question
25 for maybe John Riley, if he would come back up.

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1 A number of people have made reference to
2 the fact that this is going to be a -- basically an
3 opportunity to breed additional Orcas. And I have
4 heard and seen representations that you're willing
5 to impose a cap, and I would like to ask you if you
6 would be willing to set, and there was a range, I
7 think, would you be willing to adopt a specific
8 number in regards to the Orcas that would be allowed
9 to be contained in this facility?
10 MR. RILEY: Yes, we would if I can make a
11 qualifying statement to that, Commissioner. The --
12 as with any project, the project is itself
13 inherently self-limiting. And at SeaWorld we have
14 life support systems and water quality systems that
15 maintain the water for the health of the animals,
16 the clarity of the water so that we can see the
17 animals, and we've asked our engineers the way the
18 project was designed what the animal capacity, what
19 their best engineering estimate would be of the
20 animal capacity for the entire facility.
21 And it's well below the numbers that are
22 calculated in the Staff report based on federal
23 guidelines. And their estimate was range of 15 to
24 20 whales at the upper limit.
25 (Audience interruption.)

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1 COMMISSIONER COX: Would you --
2 CHAIR KINSEY: Please.
3 COMMISSIONER COX: -- be willing to agree
4 to a cap of 15?
5 MR. RILEY: Yes, we would. And we have --
6 we would like to propose a language for that if that
7 is possible. I'd like to, if it's okay, I'd like to
8 ask our attorney, David Watson, to step up.
9 MR. WATSON: Mr. Chairman and Commissioner
10 Cox, based on the engineer's estimate of a low of 15
11 and a high of 20, and your request for -- that we go
12 for the low number, I would like to read the
13 following revised project description into the
14 record for your consideration.
15 "The project includes filtration
16 and water treatment infrastructure
17 components needed to ensure a healthy,
18 clear marine water environment. The
19 project infrastructure components would
20 establish and upper population limit of
21 15 killer whales. No expansion to the
22 approved water treatment support
23 infrastructure to increase animal
24 capacity above 15 shall occur without a
25 Coastal Commission-approved amendment to

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1 the coastal development permit or a new
2 coastal development permit unless the
3 executive director determines that no
4 amendment is legally required or unless
5 a temporary infrastructure modification
6 is required for, one, emergency animal
7 needs; or two, rehabilitating rescued
8 whales at the request of one or more
9 governmental agencies."
10 That language is based on language in other
11 special condition permits and we're happy to tinker
12 with it, but I sort of lifted it directly from the
13 staff report related to other conditions.
14 But basically what this does is say that
15 based on the project designed engineering
16 infrastructure for life support, the maximum
17 population would be 15 killer whales. That's the
18 intent of this proposed condition.
19 COMMISSIONER COX: Let me ask Staff if
20 that's something that can be incorporated into the
21 permit. Since they voluntarily offered to do that.
22 MR. WATSON: If I could offer something
23 that might help Staff. We discussed this with Staff
24 last week. They felt that right now the record does
25 not contain enough documentation to support the

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1 description of the infrastructure, so what our
2 engineers have prepared is sufficient documentation
3 to describe the infrastructure, and I'm happy to
4 hand that to staff and put it in the record so that
5 not only would you have this proposed language of a
6 maximum 15, you would have infrastructure design in
7 the record to support the language that we are
8 proposing.
9 Does that help you, Dr. Lester?
10 DR. LESTER: As I -- as I heard the
11 description, it sounds like the intent is to cap the
12 number of killer whales at 15 --
13 (Audience interruption.)
14 DR. LESTER: -- and so I think the most
15 straightforward way to do that would be to accept
16 that cap as part of their changed project
17 description, and then incorporate that into
18 Condition One as part of -- which is also
19 acknowledging their other commitments in the project
20 description.
21 COMMISSIONER COX: And I -- and I'm hearing
22 that the Applicant is amenable to that.
23 MR. WATSON: Correct.
24 DR. LESTER: I -- I hear that it's related
25 to the infrastructure but I think the most

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1 straightforward interpretation is that it's 15,
2 and in order to change that you would need an
3 amendment or --
4 MR. WATSON: Right.
5 DR. LESTER: -- a determination that
6 there's no amendment needed.
7 MR. WATSON: We wanted to tie it to
8 something physical so that it would require a new
9 coastal development permit. So our intent was to
10 make sure there's no doubt whatsoever that the 15
11 killer whale limit is based on the capacity of the
12 project, and if capacity is ever going to increase,
13 we would have to come back to the Commission to
14 change the project.
15 CHAIR KINSEY: Thank you. I think that
16 we -- we want to keep this to a Commission
17 discussion. You've made it clear, your thoughts,
18 Commission Cox, you are satisfied that what your
19 intention is is to limit the total number to 15, and
20 that any change that would seek to go above 15 would
21 require an amendment to the permit.
22 COMMISSIONER COX: That's my intent and I
23 believe that's what the Applicant has agreed to.
24 CHAIR KINSEY: Thank you. Okay.
25 Commissioner Bochco, to your second?

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1 VICE CHAIR BOCHCO: Yes, thank you. Well,
2 that's an interesting wrinkle. I do not hear them
3 say what Charles said, or Dr. Lester said, although
4 I think you're trying to wrap it around a
5 jurisdictional issue, where it sounds like to me
6 saying something about the filtration system was in
7 our purview where you think the whales are not, and
8 I just want to have a brief discussion with our
9 attorney, Mr. Pederson, about this.

10 I spent most of my time, which was quite a
11 bit of time on this project looking at these
12 jurisdictional issues, and I came down on a
13 different side of it than you did. Not in your
14 initial hierarchy of the law. I think it is
15 absolutely plain that the Marine Mammal Protection
16 Act is not in effect here, it has been accepted in
17 the case of captivity, they have stated it
18 themselves, they have delegated to first NMFS and
19 then NMFS delegated it to APHIS, and that's the
20 Animal Welfare Act, which has specifically granted
21 to the states the ability to regulate animals in
22 captivity.

23 I mean, it's just that simple. There is
24 laws in other states, South Carolina being one,
25 where the federal government said you can have the

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1 state law that does not allow for animals in
2 captivity, marine mammals in captivity. It is not
3 governed by the MMPA. It is the law.

4 So I don't understand why SeaWorld, the
5 Applicant, is clinging so tightly to this
6 misinterpretation of the law, and I -- I just -- I'm
7 just not going to buy it. That said --

8 (Audience interruption.)

9 CHAIR KINSEY: No, no, no.

10 VICE CHAIR BOCHCO: Stop, please, please,
11 please, please.

12 CHAIR KINSEY: Please.

13 VICE CHAIR BOCHCO: That said, Mr. Pederson
14 and I also disagree when we get down to the further
15 analysis of state law, the state law, which is -- is
16 granted to us if we chose to take it, from the
17 Animal Welfare Act or APHIS, whatever one you want
18 to say, allows for regulations of mammals in
19 captivity, marine mammals in captivity. We, as an
20 agency, must look to see if any other agency has
21 preempted that promise. No one has. The California
22 Fish and Wildlife have not taken jurisdiction here,
23 they have told us that they don't feel that that is
24 their role.

25 So if I was to believe what the Applicant

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1 is saying, there is no agency out there governing or
2 regulating the Applicant. And that doesn't make any
3 sense to me. I mean, that is an area of such great
4 importance, marine mammals in captivity, it's of
5 interest as a public resource, as well as a marine
6 resource.

7 So I believe that the 30230, right, 30230,
8 allows us to take jurisdiction in this case over
9 these marine mammals. And so that being said, I
10 feel that we do have jurisdiction to both cap the
11 animals or in some cases or in this case, talk about
12 the breeding of the animals, which leads me to the
13 scientific evidence.

14 I mean, we've spent hours here today, all
15 of us, and all in good faith, I don't think anybody
16 here really wants to malign SeaWorld. I think
17 SeaWorld has a lot of wonderful people, I think they
18 have a lot of wonderful goals, and I do believe that
19 the interest of the mammal, the marine mammals is of
20 utmost important to you.

21 But I also have to agree with the
22 scientists, which, you know, does include Jane
23 Goodall and Naomi Rose and some people of incredible
24 credentials and decades of experience, that these
25 mammals are suffering in captivity, not suffering

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1 because you want --

2 (Audience interruption.)

3 VICE CHAIR BOCHCO: -- them to or because
4 you're really treating them badly, they're suffering
5 because they don't belong in captivity. So I
6 personally can -- I can go along with this project,
7 I can approve this project, I can vote for this
8 project, but only if we condition it further and
9 that condition would be an expansion of Condition
10 One, and for me, and I can't speak for any other
11 commissioner but myself, I would like to see that
12 condition amended, and in that way do I need to make
13 an amending motion?

14 CHAIR KINSEY: Yes, you do.

15 VICE CHAIR BOCHCO: So I would like to make
16 amending motion if it's the proper time to do so, so
17 that Condition One would go further and would say, I
18 wrote it down so I wouldn't mess -- mess it up, and
19 now of course I can't find it. Where did I put it?
20 I have so many papers. Oh, here we go.

21 So I would like to expand Condition One to
22 say that it would further prohibit captive breeding,
23 artificial insemination --

24 (Audience interruption.)

25 VICE CHAIR BOCHCO: -- the sale -- please,

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1 please, please.

2 The sale, trade or transfer of any Orca in
3 captivity. And I think we could agree to some
4 exceptions for maybe the health of the animal or
5 certainly the rescue animals. I would like to see
6 something in the condition about the rescue animals
7 so that they're only held as long as necessary for
8 their health. I don't understand why they would
9 have to stay just because at one time they were ill.

10 And under those circumstances, I could
11 happily approve this project, because I do believe
12 that the whales that you have in captivity right now
13 will benefit from this, and that's a terrific thing
14 to do, and I also think that -- that the public
15 would enjoy it more to see them in this environment,
16 so --

17 CHAIR KINSEY: Thank you.

18 VICE CHAIR BOCHCO: Do I need a second?

19 A VOICE: Second.

20 CHAIR KINSEY: Would you like to speak to
21 your second?

22 COMMISSIONER SHALLENBERGER: I would, thank
23 you. I actually think that Commissioner Cox's
24 amendment, the maximum of 15 in combination with the
25 amendment that Commissioner Bochco has just made is

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1 completely consistent. Given that, I would like,
2 SeaWorld has done a fabulous job on rescues. And I
3 certainly wouldn't want to do anything which would
4 limit their ability to -- to help and heal and house
5 as long as they needed housing.

6 On the other hand, I completely concur with
7 Commissioner Bochco's analysis of the importance of
8 no more breeding in captivity. These are marine
9 mammals, they're a marine mammal no matter where
10 they live. And desert animals are desert animals
11 whether they're taken out of the desert or not. So
12 I think that my, I prefer this, I'd like us to go
13 this route, and the reason is the option for me
14 would be denial.

15 And the problem with denial is that it
16 leaves, there's -- even though these new tanks are
17 not much improvement for the 11 mammals that are
18 there, it's just to be better than where they are
19 now.

20 So with that, I think it's a -- I think
21 it's a -- not what some -- a lot of people have
22 asked for, as for a straight denial, but a straight
23 denial does leave the 11 animals still in the
24 conditions they're in without the benefits of the
25 much bigger tank. But under this amendment as

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1 Commissioner Bochco has outlined it, there would be
2 a limitation in the number of animals, and the
3 increased size would actually be for the benefit of
4 these animals.

5 So I would urge my fellow commissioners to
6 vote yes on the amending motion.

7 CHAIR KINSEY: Any commissioners wishing to
8 speak at this time? If not, we would take up the
9 amending motion as the first item, and I will be
10 asking for a roll call vote, please.

11 COMMISSIONER COX: Mr. Chairman, before
12 we --

13 CHAIR KINSEY: Commissioner Cox?

14 COMMISSIONER COX: Yeah, before we get to
15 the roll call vote, I would be interested to afford
16 the opportunity to Mr. Riley or representatives of
17 SeaWorld if they wanted to address that condition.

18 MR. RILEY: Commissioner Cox, as we stated
19 before, we would support the condition that you
20 suggested about the cap to 15 animals in the
21 facility. As to a ban or limitation on breeding, we
22 would not be -- the population in this facility we
23 have -- we have affirmed our approach to collection,
24 and that we wouldn't accept any animal collected
25 after January 1st, 2012, to exclude the Russian

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1 whales and any whales collected after that, we've
2 included the genetic material of -- of those animals
3 in that as well, but a ban on breeding would
4 sentence these animals to -- to a slow extinction in
5 our care, and a slow death, and we would not support
6 that condition.

7 CHAIR KINSEY: Thank you.

8 COMMISSIONER COX: Mr. Chairman -- well,
9 we'll take the roll call. I am going to oppose this
10 amendment, obviously I'll support the main motion
11 when it comes up.

12 CHAIR KINSEY: Thank you. Vanessa, you
13 want to -- excuse me. Commissioner McClure.

14 COMMISSIONER MCCLURE: Yeah, I had a
15 question in relationship to the amendment in
16 relationship to the no breeding clause. Is that the
17 11 that we -- that are at SeaWorld or is that 24
18 that are under the care of SeaWorld? I --

19 CHAIR KINSEY: Well, let's get
20 clarification from the maker of the motion.

21 VICE CHAIR BOCHCO: Where are these 20 -- I
22 know they have 11 here.

23 COMMISSIONER MCCLURE: It's my
24 understanding, and I could ask SeaWorld to clarify
25 it, but it's my understanding that they have 24 --

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1 VICE CHAIR BOCHCO: Oh, in separate parks.
2 COMMISSIONER MCCLURE: In separate parks.
3 VICE CHAIR BOCHCO: Well, my intention was
4 the 11 that they have now. In San Diego. Because
5 we're giving a permit to San Diego, so that was what
6 I was including that --
7 COMMISSIONER MCCLURE: Okay. So my
8 question is if a whale passed, could they bring a
9 whale in from one of their other parks, a
10 replacement whale? So I'm just kind of --
11 VICE CHAIR BOCHCO: No.
12 COMMISSIONER MCCLURE: Okay.
13 VICE CHAIR BOCHCO: No, because the
14 transportation would also be --
15 COMMISSIONER MCCLURE: Oh, okay.
16 CHAIR KINSEY: Thank you. Vanessa?
17 A VOICE: Excuse me.
18 THE CLERK: Commissioner Bochco?
19 A VOICE: Excuse me, just --
20 CHAIR KINSEY: We are voting on the
21 amending motion at this point.
22 MR. PEDERSON: Chair Kinsey, could I
23 request one clarification regarding the motion.
24 So is the intent to also limit the transfer
25 of Orcas away from the facility? Okay. So I do

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1 have one informational question about whether any
2 Orcas that are currently at the facility are the --
3 I have an informational question about whether any
4 Orcas that are currently at the facility are
5 governed by a take permit.
6 And -- and the -- the reason for that
7 question is there is a provision of the MMPA that
8 provides that an animal that is subject to a take
9 permit, that take permit includes the right to
10 transfer the animal, so that -- that is one specific
11 limitation that I just want to be sure isn't at
12 issue.
13 VICE CHAIR BOCHCO: So you're saying that,
14 is this the permit that NMFS gives for the take?
15 MR. PEDERSON: Yes. So, and this would be
16 an animal specific permit, so I'm just asking if --
17 VICE CHAIR BOCHCO: So if they have that
18 permit --
19 MR. PEDERSON: -- there are any --
20 VICE CHAIR BOCHCO: -- it still can be
21 transported even after captivity?
22 MR. PEDERSON: With respect to that
23 specific animal, yes.
24 VICE CHAIR BOCHCO: Yeah.
25 CHAIR KINSEY: So --

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1 VICE CHAIR BOCHCO: Does somebody know?
2 DR. LESTER: I think the question would
3 rather be Chris is wanting to know from SeaWorld
4 whether any of the animals have a specific take
5 permit or whether the maker of the motion would
6 exclude any such animal from the transfer
7 prohibition.
8 CHAIR KINSEY: My -- my suggestion would be
9 rather than to involve the Applicant, would be to
10 get a clarification from the maker of the motion
11 that they would -- that they would -- it would be
12 consistent with federal law regarding take.
13 VICE CHAIR BOCHCO: Yes, of course.
14 CHAIR KINSEY: And I second her; is that
15 fine?
16 VICE CHAIR BOCHCO: Then we don't need an
17 answer.
18 CHAIR KINSEY: Thank you.
19 VICE CHAIR BOCHCO: It's consistent with
20 federal law regarding take.
21 CHAIR KINSEY: Vanessa? Oop. Commissioner
22 Vargas.
23 COMMISSIONER VARGAS: I'm just asking for a
24 little clarity in terms of what we're voting on, if
25 somebody would --

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1 CHAIR KINSEY: Okay. So what we're voting
2 on right now is an amendment to main motion that
3 would prohibit the transfer or the breeding of the
4 Orcas that are in the California facility, excepting
5 those that are here under federal take provisions.
6 Does that -- is that satisfactory,
7 Commissioner? Okay. Once again, Vanessa. Let's
8 start at the top.
9 THE CLERK: Commissioner Bochco?
10 VICE CHAIR BOCHCO: Yes.
11 THE CLERK: Bocho, yes. Commissioner Cox?
12 COMMISSIONER COX: No.
13 THE CLERK: Cox, no. Commissioner Groom?
14 COMMISSIONER GROOM: Yes.
15 THE CLERK: Groom, yes. Commissioner
16 Howell?
17 COMMISSIONER HOWELL: Aye.
18 THE CLERK: Howell, yes. Commissioner
19 Luévano?
20 COMMISSIONER LUVÉANO: Yes.
21 THE CLERK: Luévano, yes. Commissioner
22 McClure?
23 COMMISSIONER MCCLURE: Yes.
24 THE CLERK: McClure, yes. Commissioner
25 Mitchell?

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1 COMMISSIONER MITCHELL: Yes.
 2 THE CLERK: Mitchell, yes. Commissioner
 3 Shallenberger?
 4 COMMISSIONER SHALLENBERGER: Yes.
 5 THE CLERK: Shallenberger, yes.
 6 Commissioner Turnbull-Sanders?
 7 COMMISSIONER TURNBULL-SANDERS: Yes.
 8 THE CLERK: Turnbull-Sanders --
 9 COMMISSIONER TURNBULL-SANDERS: Yes.
 10 THE CLERK: Commissioner Uranga?
 11 COMMISSIONER URANGA: Aye.
 12 THE CLERK: Uranga yes. Commissioner
 13 Vargas?
 14 COMMISSIONER VARGAS: Yes.
 15 THE CLERK: Vargas, yes. Chair Kinsey?
 16 CHAIR KINSEY: Yes.
 17 THE CLERK: Chair Kinsey, yes. The vote is
 18 11 - 1.
 19 CHAIR KINSEY: Thank you. And so now we
 20 take up the main motion. The main motion which
 21 would approve the expansion of the facility.
 22 Vanessa, would you do a roll call vote on this as
 23 well.
 24 A VOICE: This is as amended?
 25 THE CLERK: Commission Cox?

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1 CHAIR KINSEY: Yes.
 2 COMMISSIONER COX: Yes.
 3 CHAIR KINSEY: As amended, yes.
 4 COMMISSIONER COX: Aye.
 5 THE CLERK: Cox, yes. Commissioner Groom.
 6 COMMISSIONER GROOM: Yes.
 7 THE CLERK: Groom, yes. Commissioner
 8 Howell?
 9 COMMISSIONER HOWELL: Aye.
 10 THE CLERK: Howell, yes. Commissioner
 11 Luévano?
 12 COMMISSIONER LUVÉANO: Yes.
 13 THE CLERK: Luévano, yes. Commissioner
 14 McClure?
 15 COMMISSIONER MCCLURE: Yes.
 16 THE CLERK: McClure, yes. Commissioner
 17 Mitchell?
 18 COMMISSIONER MITCHELL: Yes.
 19 THE CLERK: Mitchell, yes. Commissioner
 20 Shallenberger?
 21 COMMISSIONER SHALLENBERGER: Yes.
 22 THE CLERK: Shallenberger, yes.
 23 Commissioner Turnbull-Sanders?
 24 COMMISSIONER TURNBULL-SANDERS: Yes.
 25 THE CLERK: Turnbull-Sanders, yes.

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1 Commissioner Uranga?
 2 COMMISSIONER URANGA: Aye.
 3 THE CLERK: Uranga, yes. Commissioner
 4 Vargas?
 5 COMMISSIONER VARGAS: Yes.
 6 THE CLERK: Vargas, yes. Commission
 7 Bochco?
 8 VICE CHAIR BOCHCO: Yes.
 9 THE CLERK: Bochco, yes. Chair Kinsey.
 10 CHAIR KINSEY: Yes.
 11 THE CLERK: Kinsey, yes. The vote is
 12 unanimous.
 13 (Audience interruption.)
 14 CHAIR KINSEY: Thank you. So that, we do
 15 approve the project, consistent with the amendments
 16 as noted, and that completes this item. I want to
 17 thank the public for your participation by the
 18 Applicant, and this also --
 19 (Audience interruption.)
 20 CHAIR KINSEY: This also completes the
 21 California Coastal Commission meeting for today.
 22 Thank you. We are adjourned.
 23 (End of file.)
 24
 25

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1 STATE OF CALIFORNIA)
) ss.
 2 COUNTY OF FRESNO)
 3
 4 I, SHELLEY LAW, Transcriber, hereby
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 11 I further certify that I am not
 12 interested in the event of the action.
 13
 14 WITNESS this day of ,
 15 2015.
 16
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