

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
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SAN DIEGO, CA 92108-4402
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F11c

6-22-0113 (City of San Diego Point La Jolla Seasonal Closure)

April 8, 2022

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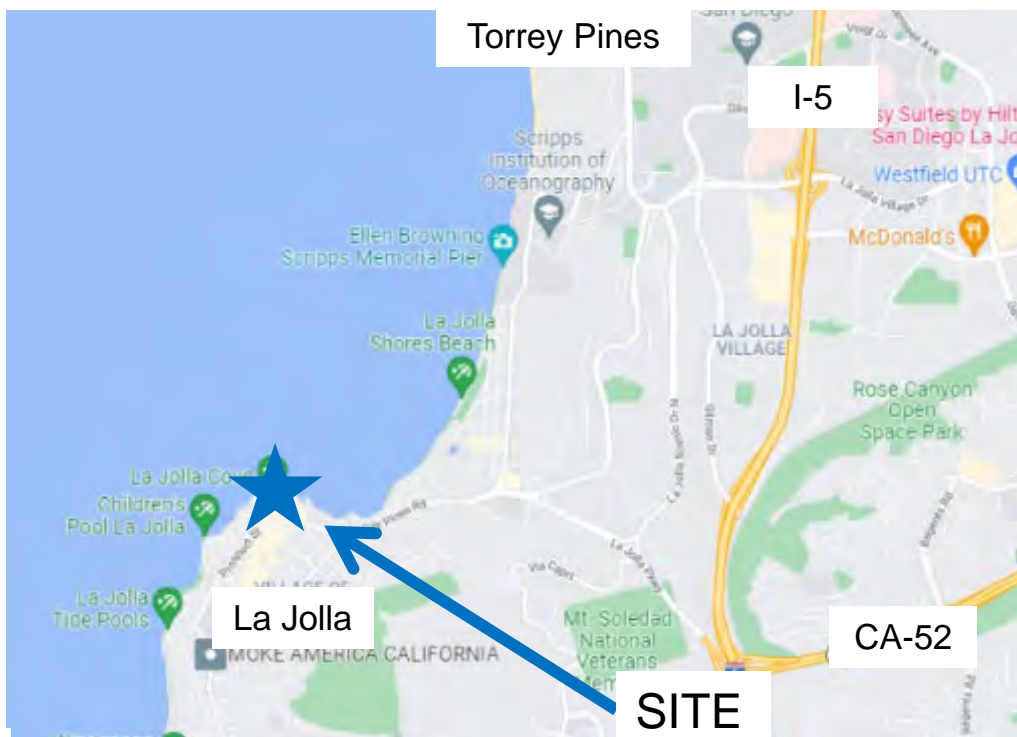
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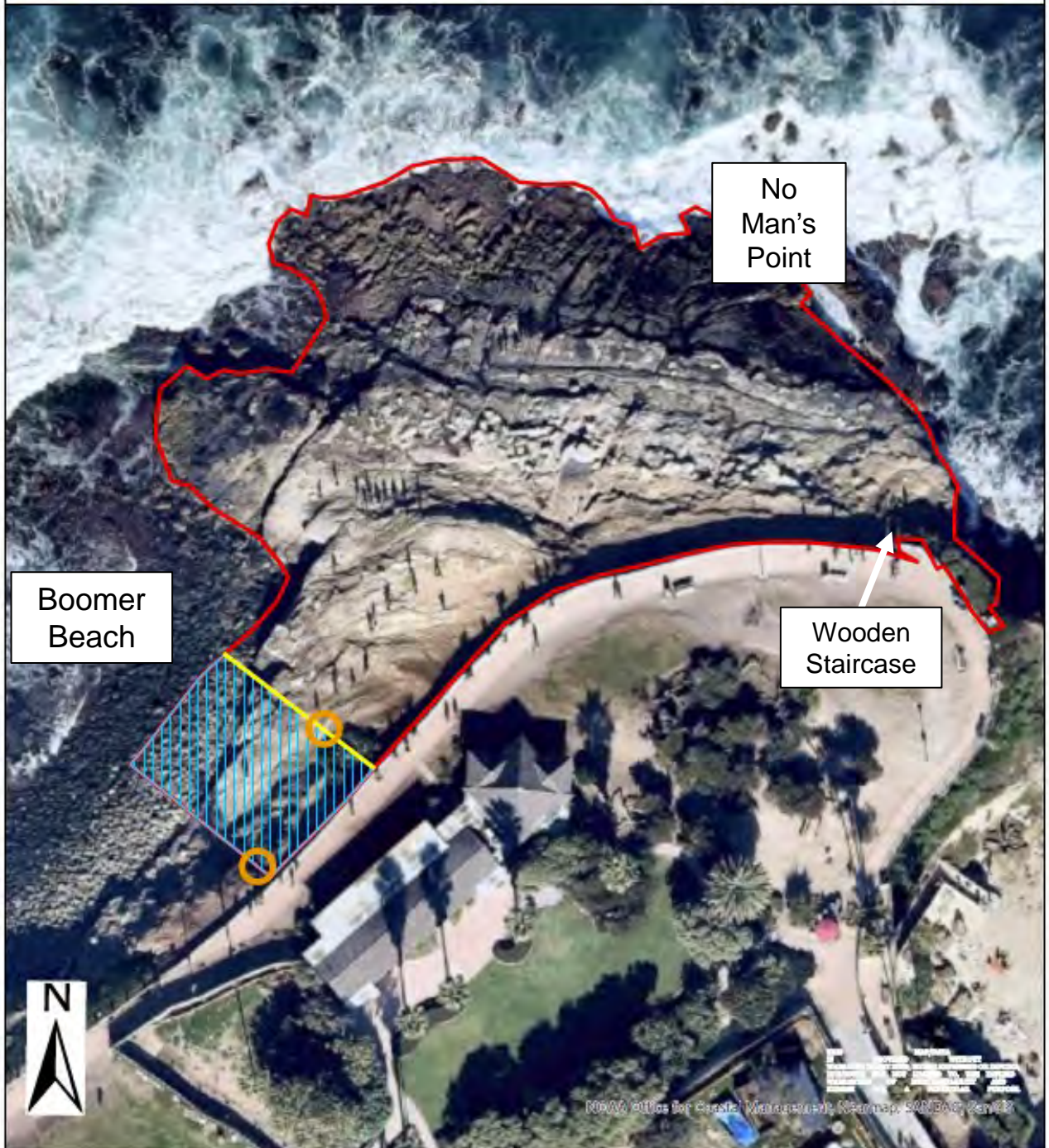
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EXHIBIT NO. 2

APPLICATION NO.

6-22-0113

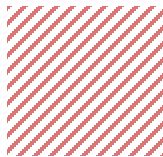
Project Plans



California Coastal Commission



Legend



CCC CDP Jurisdiction



City of San Diego
CDP/CCC Appeals
Jurisdiction

EXHIBIT NO. 3

APPLICATION NO.

6-22-0113

Jurisdiction Map



California Coastal Commission



THE CITY OF SAN DIEGO

EMERGENCY COASTAL DEVELOPMENT PERMIT AGREEMENT **NOTICE OF ISSUANCE**

TO: California Coastal Commission, San Diego Area Office
7575 Metropolitan Drive, Suite 103, San Diego, CA 92108-4402
Phone (619) 767-2370

DATE: August 10, 2021

The following project is located within the City of San Diego Coastal Overlay Zone. An Emergency Coastal Development Permit application for the project has been acted upon as follows:

PROJECT NAME - NUMBER: Point La Jolla Seasonal Closure, Project No. 695848

PROJECT DESCRIPTION: Temporary seasonal closure of Point La Jolla on a 24-hours and seven days a week basis beginning immediately through September 15, 2021 for sea lion pupping season.

LOCATION: The bluffs along Boomer Beach by the access stairs at the north end of Ellen Browning Scripps Park, a 5.60-acre site west of Coast Boulevard, La Jolla, Block 58, Map 352 (APN 350-01-5800).

APPLICANT'S NAME
ADDRESS & PHONE NO. City of San Diego, Parks & Recreation Department,
Karen Dennison, Assistant Deputy Director
2125 Park Blvd, MS-39, San Diego CA 92101
(619) 235-1188

FINAL ACTION: APPROVED WITH CONDITIONS

ACTION BY: Staff

ACTION DATE: August 10, 2021

CONDITIONS OF APPROVAL: See attached Agreement.

CITY CONTACT: Catherine Rom
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101-4101
Phone: (619) 446-5277
Email: CRom@sandiego.gov

EXHIBIT NO. 4

APPLICATION NO.

6-22-0113

City of San Diego

Emergency CDP



California Coastal Commission



THE CITY OF SAN DIEGO

AGREEMENT FOR AN EMERGENCY COASTAL DEVELOPMENT PERMIT

August 10, 2021

Point La Jolla Seasonal Closure – PTS No. 695848

Emergency Coastal Development Permit No. 2572053

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation, and the CITY OF SAN DIEGO, PARKS & RECREATION DEPARTMENT, Owner/Permittee, to allow the emergency temporary seasonal closure of Point La Jolla on a 24-hours and seven days a week basis beginning immediately through September 15, 2021 in the La Jolla Community Planning and Local Coastal Program Land Use Plan area, within Council District 1, on City of San Diego-owned property and within the City's Coastal (Appealable) Overlay Zone; and

WHEREAS, a coastal emergency is a sudden, unexpected occurrence within the Appealable Area of the Coastal Zone that demands immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services; and

WHEREAS, this coastal emergency is subject to the regulations in the City of San Diego Municipal Code Section 126.0718 (SDMC); and

WHEREAS, this emergency is not impacting environmentally sensitive lands and is not subject to the regulations in the City of San Diego Municipal Code Section 143.0126 (SDMC); and

WHEREAS, the SDMC permits approval for a coastal emergency by authorizing the minimum amount of impact necessary to stabilize the emergency; and

WHEREAS, the SDMC requires the subsequent processing of a standard Coastal Development Permit (CDP) application through either the City or California Coastal Commission for any work authorized as a coastal emergency; and

WHEREAS, the Owner/Permittee requests approval to obtain an emergency CDP and agrees that any emergency development allowed is temporary therefore must be removed if a follow-up CDP application is not deemed complete within 180 days of approval, or if the follow-up CDP is denied, then all development approved by this agreement shall be removed from the property.

BE IT RESOLVED, by the City of San Diego, that it adopts the following Findings with respect to this coastal emergency impacting environmentally sensitive lands:

1. **A coastal emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a CDP and the development can and will be completed within 30 days unless otherwise specified in the permit.**

On June 29, 2021, the Parks and Recreation Department was notified by the California Coastal Commission of information it had received from the general public in the form of recent press reports, video recordings, as well as numerous phone calls, emails, and photos documenting repeated instances of harassment of the sea lions residing at Point La Jolla, located north of Boomer Beach and south of La Jolla Cove. In addition to the input received from the general public, volunteer docents have submitted reports of sea lion injuries or fatalities sustained as a result of both accidental and malicious interactions by humans.

The multiple instances of sea lion harassment, injury, and death that have been documented in recent weeks violate the intent of Coastal Act Policy 30230. The Coastal Act prohibits harassment of marine mammals. Section 30230 of the Coastal Act states:

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

In addition to the Coastal Act, the Marine Mammal Protection Act (MMPA) provides protective regulations which is enforced by three federal agencies: the U.S. Fish and Wildlife Service; the National Oceanic and Atmospheric Administration; and the Marine Mammal Commission. Because the MMPA is a federal law, City law enforcement officers do not have the authority to enforce it. This lack of authority jeopardizes visitor safety, animal welfare, and natural resource protection which renders the City unable to uphold the intent of Coastal Act Policy 30230.

A sea lion pupping season closure at Point La Jolla will provide the City of San Diego, a municipal corporation and its officers with a valuable tool to legally control visitor behavior, improve visitor safety, and help maintain healthy marine mammal populations, thereby complying with the intent of the Coastal Act. Therefore, a coastal emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a CDP and the development can and will be completed within 30 days unless otherwise specified in the permit.

2. Public comment on the proposed coastal emergency action has been solicited and reviewed to the extent feasible.

On August 6, 2021, the City of San Diego posted the Notice of Proposed Work for a Coastal Emergency in the local newspaper, City's Noticing webpage, and mailed to the California Coastal Commission, Chair of the La Jolla Community Planning Association, and publicly listed it on the City's "All" and "Coastal" public notice listing. On August 5, 2021, the City of San Diego determined the emergency work to be statutorily exempt from CEQA pursuant to CEQA State Statute and Guidelines Section 15269(c), Emergency Project, and posted the Notice of Right to Appeal Environmental Determination. Therefore, public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.

3. The proposed emergency work is consistent with the Local Coastal Program.

The project site is located within the La Jolla Community Plan and Local Coastal Program Land Use Plan (Local Coastal Program) and the emergency work with special protection measures given to areas and species of special biological or economic significance is necessary to protect both the health, safety, and welfare of human beings and marine mammals. The emergency protective actions 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. In addition, the emergency action will protect humans from potential aggressive actions by marine mammals if perceived threatened by close human contact.

The proposed signage and area closure does not limit the public's long term ability to access scenic coastal areas and continues to be consistent with the adopted Local Coastal Programs efforts to preserve and protect the coastal bluffs, beaches and shoreline areas of La Jolla assuring that development occurs in a manner that protects these resources, encourages sensitive development, retains biodiversity and interconnected habitats and maximizes physical and visual public access to and along the shoreline.

The emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring an CDP, the scope of work appears to be consistent with the minimum necessary to address the emergency, and the development can and will be completed within 30 days unless otherwise specified in the permit. Therefore, the proposed emergency work is consistent with the Local Coastal Program.

In consideration of the above recitals and the mutual covenants and conditions set forth herein, and in consideration thereof, the Parties agree as follows:

The above-listed recitals are true and correct and incorporated by reference.

1. The Owner's real property is legally described as and is commonly referred to as "Point La Jolla", within the northwest portion of Ellen Browning Scripps Park, a 5.60-acre site west of Coast Boulevard, La Jolla, Block 58, Map 352 (APN 350-01-5800).

2. The Owner's Property is in OP-1-1 and RS-1-7 Base Zones and Coastal (appealable) Overlay Zone.

3. The Owner/Permittee may implement an emergency temporary seasonal closure of Point La Jolla on a 24-hour-seven day a week basis beginning immediately through September 15, 2021. The proposed emergency temporary seasonal closure would involve the use of the following:

- Five (5) separate, 18 inches-high by 24 inches-wide "AREA CLOSED" signs will be affixed to removable Telespar poles, spaced apart, and installed in the concrete wall running along the boardwalk as shown on the attached Project Site Map (Attachment 1). The first pole and sign will be located 20 feet from the end of the metal railing that borders Boomer Beach, followed by the second, third, and fourth poles and signs placed at 20-foot intervals from one another. The fifth pole and sign will be located 80 feet from the fourth pole and sign;
- One (1) plastic K-rail barrier will be placed outside of, and perpendicular to, the concrete wall and sit on the sand area of the bluffs, forming the southern border of the closure area. One (1) Telespar pole with an "AREA CLOSED" sign will be attached to the K-rail. The K-rail will be filled with water to stabilize it and have pieces of wood inserted beneath it to provide a more even surface. The K-rail will be located next to the first southern most pole and sign (which is 20 feet from the end of the metal railing bordering Boomer Beach);
- At the wooden beach access stairs to the north that lead beyond the wall, a metal chain, with an "AREA CLOSED" sign attached, would be connected to the hand railing and placed across the top step of the staircase; and
- One (1) to two (2) City Park Rangers will be staffing the Project site, seven (7) days a week between the hours of 10:00 am – 6:00 pm, which covers the period of time during the day in which there are the most public visitors to the site. The Park Rangers will be educating visitors on sea lion interactions and monitor any violations of San Diego Municipal Code Section 63.20.13. If anyone is found to go past the boundaries that are designated as closed by the "AREA CLOSED" sign, then they will be cited. Park Rangers will compile their observations and any reports of violations against the Marine Mammal Protection Act (MMPA) by contacting the National Oceanic and Atmospheric Administration (NOAA).

4. This Agreement shall run with the land for the protection and benefit of all Parties concerned. If fee title to the property or any partial interest therein is conveyed to any other person, firm, or corporation, the conveying instrument shall contain a restriction referencing this Agreement or restrictive language consistent with this Agreement.

5. If the Owner/Permittee or their successor or assign violates any term of this Agreement at any time, the City may terminate this Agreement consistent with the revocation procedures in the SDMC.

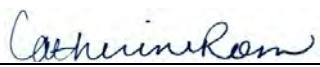
CONDITIONS

1. This Agreement must be signed by the Owner/Permittee and returned to the Development Project Manager within 5 calendar days.
2. Only work specifically described in this Agreement and for the specific property listed above is authorized. No other work is approved by this emergency action.
3. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this Agreement.
4. This Agreement does not obviate the need to obtain necessary authorization and/or permits from other agencies (e.g. California Coastal Commission, Department of Fish & Game, U.S. Fish & Wildlife, U.S. Army Corps of Engineers, and the State Lands Commission).
5. This emergency project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, or subsequent order.
6. All work authorized by this Agreement must be completed within 45 days from the date of authorization. Following completion of work, any areas impacted by the emergency repair would be restored to as-built condition. If during construction, site conditions warrant changes to the proposed construction, the Development Services Department (DSD) shall be contacted immediately prior to any changes in the field.
7. Within 180 days of issuance of the emergency CDP agreement, a standard CDP application shall be submitted and deemed complete by DSD or the California Coastal Commission, San Diego Office.

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Development Services Department Director, pursuant to the City Manager's delegation of authority in SDMC Section 22.0226 authorizing such execution, and by the Owner.

Dated this 10th day of August 2021.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

By 

Catherine Rom

Development Project Manager - Authorized Representative

August 10, 2021

I HEREBY CERTIFY I am the record Owner/Permittee of the Property and that I have read all of this Agreement, this 10th day of August 2021. By execution hereof, I agree to each condition of this Agreement and promise to perform each obligation of Owner/Permittee hereunder.

By  _____

Karen Dennison

Assistant Director

Parks and Recreation Department

Owner/Permittee

Attachment(s):

1. Project Site Map



Pt. La Jolla Seasonal Closure

Closed Area Description

N32-51.082 W117-16.432

N32-51.068 W117-16.447

N32-51.078 W117-16.397

The closed area of Pt. La Jolla is defined as the area to the north or seaside of the low wall bordering the Scripps Park perimeter walkway (the boardwalk) and bounded by the area outlined by red line with vertices annotated.

N32-51.057 W117-16.441

N32-51.045 W117-16.451

N32-51.058 W117-16.384

N32-51.056 W117-16.388

N32-51.036 W117-16.443



CALIFORNIA COASTAL COMMISSION

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**MEMORANDUM**

TO: Kaitlin Carney, Coastal Program Analyst

FROM: Laurie Koteen, Ph.D., Senior Ecologist

RE: Analysis and recommendations concerning seasonal closure for the sea lion colony at Point La Jolla

DATE: March 15, 2022

Documents Reviewed:

Hernandez-Camacho, C. J., D. Auriolles-Gamboa and L. R. Gerber (2008). "Age-specific birth rates of California sea lions (*Zalophus californianus*) in the Gulf of California, Mexico." Marine Mammal Science **24**(3): 664-676.

Holcomb, K., J. K. Young and L. R. Gerber (2009). "The influence of human disturbance on California sea lions during the breeding season." Animal Conservation **12**(6): 592-598.

Koteen, Laurie, Memo to Alexander Llerandi and Kanani Leslie, re: Analysis and recommendations concerning further protections for the sea lion rookery at La Jolla Cove, June 29, 2021.

Lowy, M. S., S. R. Melin and J. L. Laake (2017). Breeding season distribution and population growth of California sea lions, *Zalophus californianus*, in the United States during 1964 - 2014, NOAA Fisheries, Southwest Fisheries Science Center, La Jolla: 66 pgs.

Melin, S., A. Orr, J. Harris, J. Laake, R. DeLong, F. Gulland and S. Stoudt (2010). "Unprecedented mortality of California sea lion pups associated with anomalous oceanographic conditions along the central California coast in 2009." California Cooperative Oceanic Fisheries Investigations Reports **51**: 182-194.

Melin, S. R., J. L. Laake, R. L. DeLong and D. B. Siniff (2012). "Age-specific recruitment and natality of California sea lions at San Miguel Island, California." Marine Mammal Science **28**(4): 751-776.

Miller, Richard and Robyn Davidoff of the Sierra Club, San Diego Chapter, and Seal Society, Letter to Kaitlyn Carney, Leslie Kanani and Erin Prahler, re: San Diego's CDP application for the seasonal closure of the sea lion rookery at Pt. La Jolla and Boomer Beach, February 15, 2022.

Temte, J. L. (1991). "Precise birth timing in captive harbor seal (*Phoca-vitulina*) and California sea lion (*Zalophus-californianus*)." Marine Mammal Science **7**(2): 145-156.

EXHIBIT NO. 5

APPLICATION NO.

6-22-0113**CCC Staff Ecologist****Memo**

California Coastal Commission

Temte, J. L. and J. Temte (1993). "Photoperiod defines the phenology of birth in captive California sea lions." Marine Mammal Science 9(3): 301-308.

Yates, Chris E., National Oceanic and Atmospheric Administration National Marine Fisheries Service, letter to Todd Gloria, Interim Mayor, re: prohibition of the public from entering the sandy area of Children's Pool Beach in La Jolla during harbor seal pupping season, January 2, 2014.

I have been asked to evaluate the proposed period of restricted public access to areas surrounding the sea lion colony that has established at Point La Jolla in San Diego, California, (Figures 1a and 1b). At Point La Jolla, California sea lions, *Zalophus californianus californianus*, congregate primarily along a rocky outcrop and on the north end of Boomer Beach for sunning and resting between bouts of swimming and feeding in the ocean. Year-round human access to areas where sea lions congregate came into question in 2021 during the pupping season, when numerous acts of sea lion harassment occurred. These include the death of one sea lion pup and several reports of injury to sea lions from both deliberate visitor harassment and accidental encounters. Further, the issue of public access came to a head last year with the approach of the fourth of July holiday when fireworks were planned to occur on the park just inland from the Point. Concerns arose at that time regarding the effects of excessive noise on sea lion pups and adults¹. In consultation with Coastal Commission staff, the City approved an emergency permit to restrict access to the sea lion area during portions of the pupping season in 2021 and prohibited a firework display from the park just inland from the Point. Following the events of last year, the City of San Diego has proposed a seasonal closure to Point La Jolla from May 25th to September 15th, (Figure 2). I support this overall approach, but recommend a slightly expanded closure window from May 1 through October 31th, with my recommendation informed by annual events tied to the onset of sea lion pupping season and subsequent maturation. An additional consideration is the presence and aggressiveness of adult male sea lions during mating season, and the potential harm they may cause to people during this period, (Figure 3). These recommendations are also based on consultation with sea lion experts, Dr. Sharon Melin of National Marine Fisheries Service and her colleagues, and Dr. Daniel Costa from University of California, Santa Cruz.

Because portions of the rocky outcrop where sea lions congregate is below the mean high tide line, the standard of review for the proposed seasonal closure is the Coastal Act. Specifically, Coastal Act Section 30233 states:

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

¹ See Appendix A for previous memo documenting activities from May – July, 2021.

Sea lions and sea lion habitat are considered a marine resource under the Coastal Act. To adequately maintain this established population of sea lions and to allow them to reproduce free of harassment, an expanded closure window is warranted. The recommended closure window, May 1 through October 31st, would encompass the sea lion mating period, which extends from May through August. While sea lion adult females and pups may be present at the colony year-round, juvenile adult males are primarily present at the colony only during the mating season. During this time period, males are often observed to act more aggressively in herding female sea lions, as well as toward other adult males, and are highly territorial. This aggressive behavior could also extend to people. Sea lions are large, with adult males weighing up to 800 lbs., and could pose a serious risk to people encroaching within a male sea lion's perceived territory. Therefore, from a human safety standpoint, my recommendation is that the closure period extend across the entire sea lion mating period from May through August.

For the protection of sea lion pups, I recommend a closure period that extends from the onset of pupping through the initial bonding period. At Point La Jolla, sea lion pupping extends from approximately May 15th through the first week of July, with most pups born mid-June. In the four months following birth, an intense level of bonding is established between sea lion pups and their mothers, and this bond is strengthened over time. The strength of the pup-mother bond greatly aids in sea lion pup survival, as sea lion pups are highly dependent upon their mothers for nursing and fishing up until about six months post-partum. Sea lion pups also advance in their swimming ability following birth and are much stronger swimmers by the time they reach four months of age. The recommended closure period from May 1st through October 31st would allow those pups born at the end of June and beginning of July four months to bond with their mothers and become more proficient swimmers.

Currently, the City's proposed closure area excludes people from the primary location where sea lions congregate. However, expansion of the closure area on a temporary basis is advised if sea lions are found to expand their territory beyond the designated area. A somewhat flexible access boundary would increase the level of protection during this sensitive time period.

Outside of the sea lion mating and pupping season (May 1st through October 31st), I believe that sea lions and people can more safely interact, with greatly reduced potential impacts to humans and sea lions. Therefore, I do not believe that public access to the rookery should be prohibited year-round. A study on Granito Island within the Gulf of California, in Mexico, found that California sea lions quickly habituate to human disturbance. In this study, the researchers mostly did not observe strong behavioral responses to experimentally-initiated human disturbance across sea lion age and sex classes. The researchers did observe some behavioral responses in adult females in one of the two years of the study, however, in all cases, sea lions returned to normal behavior within 10 minutes following a disturbance. I would recommend, however, that human-sea lion interactions at Point La Jolla be monitored and adapted as necessary to protect both humans and sea lions.

In addition to the expanded seasonal closure proposed here, I support several of the measures that the City of San Diego has already implemented and would encourage their continued implementation. These include monitoring of Point La Jolla by city rangers to ensure that public access barriers are not breached by members of the public and educational signage that explains the biological reasoning behind the seasonal closure. Even outside of the sensitive mating and pupping periods, ranger presence can prevent harassment of sea lions by visitors and should be maintained year-round. Visitors

to Point La Jolla can number in the hundreds on an hourly basis, and although most are drawn to the area to observe sea lions in their natural environment, not all visitors respect the need to maintain distance from the animals. A recent study of this exact location confirmed that signage alone that asked the public to stay outside of erected barriers was insufficient to prevent all tourists from breaching roped off areas, and some signs were even vandalized. Further, I support the erection of a life-size bronze sea lion statue where tourists can take photos as an alternative to photos with actual sea lions and the installation of railings that spin to prevent sea lions from crossing them and to reduce human-sea lion interactions. Taken together with the establishment of an annual seasonal closure from May 1st through October 31st, these measures should promote a safer coast for both sea lions and humans, and be consistent with Coastal Act requirements to maintain and enhance sea lion habitat and maintain healthy populations of sea lions.



Figure 1a: Map of the La Jolla Cove Area in San Diego.

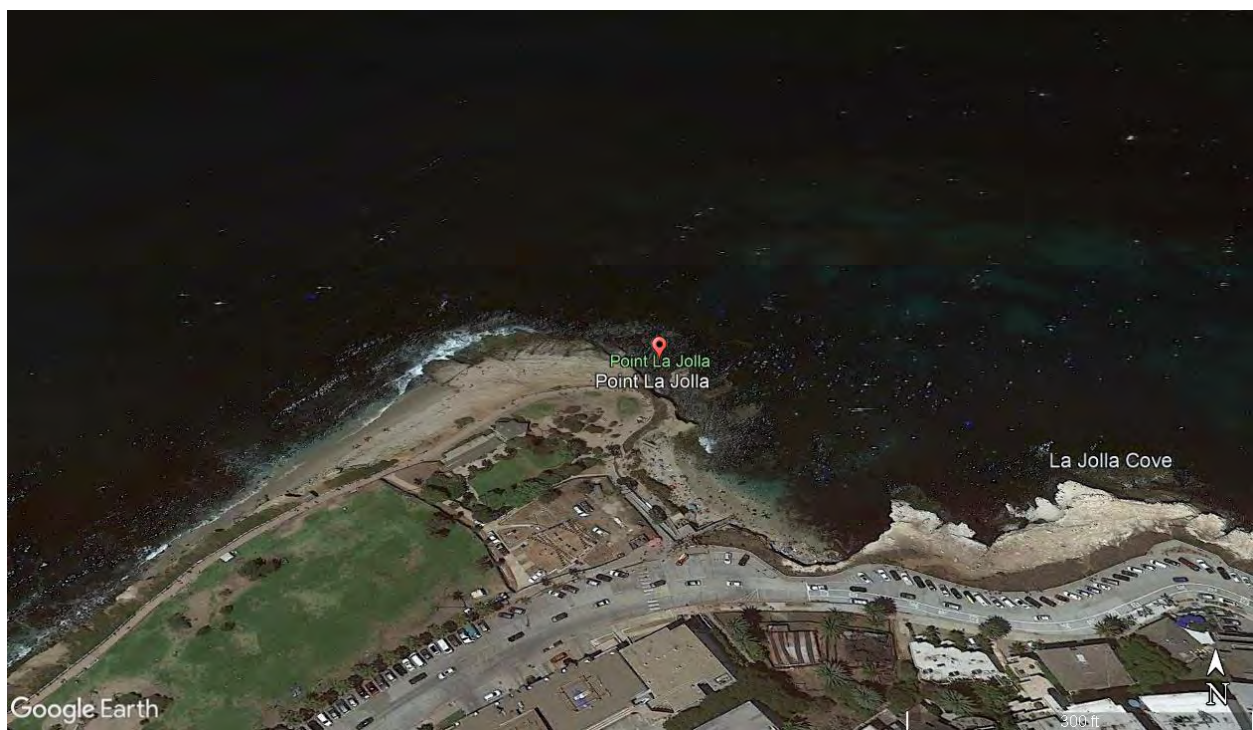


Figure 1b. Point La Jolla and La Jolla Cove



Figure 2: Proposed Closure Area outlined in red. Hatched area represents a roped off pathway for water access only.

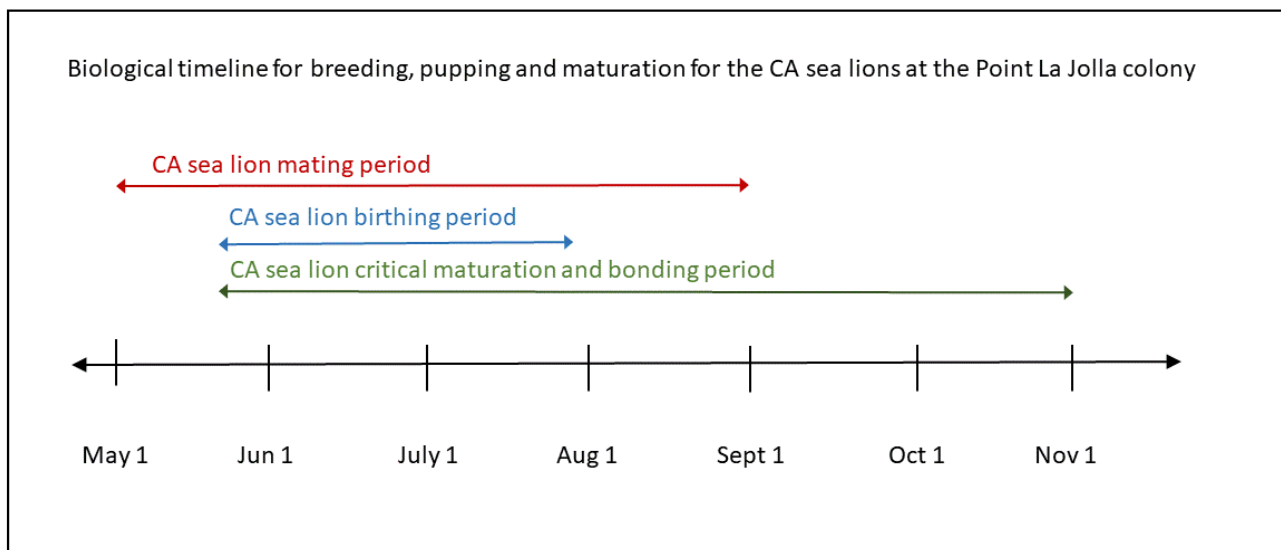


Figure 3: Timeline for seasonal closure at La Jolla Point

Appendix A: M E M O R A N D U M

TO: Alexander Llerandi, Coastal Program Analyst and Kanani Leslie, Coastal Program Manager

FROM: Laurie Koteen, Ph.D., Senior Ecologist

RE: Analysis and recommendations concerning further protections for the sea lion rookery at La Jolla Cove

DATE: June 29, 2021

Documents Reviewed:

Anderson, Erik, KPBS, "San Diego mayor will not close public access to La Jolla sea lion rookery", June 17, 2021, <https://www.kpbs.org/news/2021/jun/17/san-diego-mayor-will-not-close-public-access-la-jo/> 1.

Dolman, S. J. and M. Jasny (2015). "Evolution of Marine Noise Pollution Management." Aquatic Mammals **41**(4): 357-374.

Law Offices of Bryan W. Pease and G. David Tenenbaum: Attorneys for Animal Protection and Rescue League, Inc., Filed in the Superior court of California, County of San Diego, Case No. 37-2021-00021842-CU-BT-CTL, Memorandum of points and authorities in support of ex parte application for temporary restraining order and order to show cause, filed: May 17, 2021.

Kukulski, B., T. Wszolek and D. Mleczko (2018). "The Impact of Fireworks Noise on the Acoustic Climate in Urban Areas." Archives of Acoustics **43**(4): 697-705.

Mackin-Solomon, La Jolla Light, "Mayor's office says closure of Point La Jolla urged by sea lion advocates is unlikely for now", June 17, 2021, <https://www.lajollalight.com/news/story/2021-06-16/sea-lion-advocates-call-for-closure-of-point-la-jolla-citing-peoples-harassment-of-the-animals>.

National Oceanic and Atmospheric Administration National Marine Fisheries Service and Monterey Bay National Marine Sanctuary, "Environmental Assessment of the issuance of a small take regulations and letters of authorization and the issuance of National Marine Sanctuary Authorizations for the coastal commercial fireworks displays within the Monterey Bay National Marine Sanctuary, California", June 2006.

NBC 7 Staff, "Sierra Club calls on San Diego mayor to close La Jolla sea lion rookery to public, June 15, 2021, <https://www.nbcsandiego.com/news/local/sierra-club-calls-on-san-diego-mayor-to-close-la-jolla-sea-lion-rookery-to-public/2631930>

Pedrerros, E., M. Sepulveda, J. Gutierrez, P. Carrasco and R. A. Quinones (2016). "Observations of the effect of a New Year's fireworks display on the behavior of the South American sea lion (*Otaria flavescens*) in a colony of central-south Chile." Marine and Freshwater Behaviour and Physiology **49**(2): 127-131.

Ryan, A. F., S. G. Kujawa, T. Hammill, C. Le Prell and J. Kil (2016). "Temporary and Permanent Noise-induced Threshold Shifts: A Review of Basic and Clinical Observations." Otology & neurotology : official publication of the American Otological Society, American Neurotology Society [and] European Academy of Otology and Neurotology **37**(8): e271-e275.

San Diego Reader, "Chaos at La Jolla sea lion rookery", June 8, 2021, <https://www.sandiegoreader.com/news/2021/jun/08/stringers-chaos-la-jolla-sea-lion-rookery>

Shamoun-Baranes, J., A. M. Dokter, H. van Gasteren, E. E. van Loon, H. Leijnse and W. Bouten (2011). "Birds flee en mass from New Year's Eve fireworks." Behavioral Ecology **22**(6): 1173-1177.

Southall, B. L., J. J. Finneran, C. Riechmuth, P. E. Nachtigall, D. R. Ketten, A. E. Bowles, W. T. Ellison, D. P. Nowacek and P. L. Tyack (2019). "Marine Mammal Noise Exposure Criteria: Updated Scientific Recommendations for Residual Hearing Effects." Aquatic Mammals **45**(2): 125-232.

Tanaka, T., R. Inaba and A. Aoyama (2016). "Noise and low-frequency sound levels due to aerial fireworks and prediction of the occupational exposure of pyrotechnicians to noise." Journal of Occupational Health **58**(6): 593-601.

Tyack, P. L. (2008). "Implications for marine mammals of large-scale changes in the marine acoustic environment." Journal of Mammalogy **89**(3): 549-558.

Yates, Chris E., National Oceanic and Atmospheric Administration National Marine Fisheries Service, letter to Todd Gloria, Interim Mayor, re: prohibition of the public from entering the sandy area of Children's Pool Beach in La Jolla during harbor seal pupping season, January 2, 2014.

Recent press reports, phone calls to the Coastal Commission, shared videos recordings, numerous photos, and the reported observations of trained docents have documented repeated instances of harassment to the sea lions resident at Point La Jolla, located north of Boomer Beach and south of La Jolla Cove. These include the death of one sea lion pup and several reports of injury to sea lions from visitor harassment both accidental and malicious. Although deliberate harassment of sea lions runs counter to conservation and animal welfare objectives, and is unlawful under the Marine Mammal Protection Act, (MMPA), it is especially harmful during the months of roughly May through July, when sea lion pups are born and in the early stages of development. Here, we argue that the worst of the harassment impacts can be avoided through a few important actions: 1. preventing entry into the sea lion rookery during pupping season through erection of a physical barrier (e.g., guideline rope) to remain in place until pupping season is complete², 2. public placement of signs that warn of the dangers to sea lions from encroachment into their territory and physical harassment, and 3. increasing the presence of park rangers to coincide with all periods of high visitation³. In addition to these broader

² Sea Lion pupping season lasts from roughly May through July in this location. The barrier should be maintained until pupping is complete even if this extends beyond the predicted July 31st end date.

³ Recent press reports and public statements by City of San Diego public officials indicate that erection of signage is imminent. The City has also stated that additional rangers will be added to oversee the sea lion rookery in the coming months, although currently no date has been set, nor have the time periods of ranger coverage for this area been elaborated.

measures for everyday protection, harassment to sea lions can be curtailed by relocating the proposed fireworks display for the July 4th holiday to a site further from the rookery. The planned location is 30 to 40 feet from Point La Jolla. If relocated to a sufficient distance, this would serve to prevent adverse impacts from excessive noise, light, vibration and firework debris.

Coastal Act Policies on Preservation of Marine Resources

Although the National Marine Fisheries Service, (NMFS) is the primary regulatory agency overseeing the welfare of marine mammals through the Marine Mammal Protection Act, (MMPA), the Coastal Commission also has permitting authority over the Point La Jolla area through its appeals jurisdiction for this location. Further, the San Diego LCP prohibits harassment of marine mammals, and mandates compliance with Coastal Act statute 30230. Section 30230 of the Coastal Act states:

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

Clearly, the multiple instances of harassment, injury and death that have been documented in recent weeks violate the intent of this Coastal Act section, in addition to violating the MMPA.

Protective measures for sea lions near Point La Jolla in the near term

As indicated above, sea lions are particularly vulnerable during early stages of development to harassment and other disturbances. Although sea lions are able to swim closely after birth, it takes time and practice for them to gain coordination as swimmers. Therefore any actions that might cause the pups to flush⁴, increases their susceptibility to injury, drowning or death. Further, any direct contact with humans can cause a sea lion mother to abandon her pup. Before two months of age, around when they learn to fish, sea lion pups are entirely reliant on their mothers for milk. Pup abandonment before this time, and even beyond, may also lead to pup injury or death. Because of this heightened vulnerability at the pupping stage, and also due to the recent documented incidents of direct harm and harassment to the sea lions at Point La Jolla, greater action is warranted. Erection of a barrier during pupping season, or temporarily closing access to the area where the rookery is located, in addition to increased signage and ranger presence, are strongly recommended for the duration of the pupping period.

⁴ To flee into the ocean is response to unpleasant stimuli

Establishment of a barrier to keep human visitors away from sea lions during pupping season also has precedent in the seasonal closures at the Children's Pool to the south, a common haul out location for harbor seals. At Children's Pool, also in La Jolla, the sandy area of the pool is closed to public entry during the harbor seal pupping season from December 15th through May 15th. Such a closure is in sync with Coastal Act Section 30230 and with the MMPA, which generally prohibits the harassment, hunting, capturing, or killing of marine mammals without a permit. Similar accommodations for the sea lions of Point La Jolla are appropriate, requiring bluff/beach access be allowed only at a safe distance from their haul out locations from May 1 through the month of July. Although the Coastal Act guarantees public access to the bluffs and beach in addition to protection of marine resources, very occasionally exceptions are made in the effort to balance species' protection with the public's right to access the coast. Coastal Commission staff see temporarily limiting public access at Point La Jolla during the sea lion pupping season as worthy of an exception to our public access policies, until long-term measures, such as an increase in park rangers, can be implemented. Sea lion pupping colonies are extremely rare along the California coast, and therefore warrant special protections.

Relocation of July 4th fireworks to a location away from the sea lion rookery

Noise levels from fireworks, as quoted in the literature, have been measured to vary from 90 to 175 dB, and depend on the distance of the sensitive receptor from the launch site, the type of fireworks, their frequency and duration.

Noise thresholds for Otariinae pinnipeds, of which the California sea lion, *Zalophus californianus*, is a member, experience the onset of temporary hearing loss (TTS) for continuous non-impulsive noise in air at value of 157 dB and permanent hearing loss (PTS) at a value of 177 dB; both values weighted for the frequency ranges heard by pinnipeds. In water these values increase to 199 dB for TTS and 219 for PTS. For impulsive noises, the thresholds for TTS and PTS are 146 dB and 161 dB respectively, and 226 dB and 232 in water. Although the thresholds are higher in water, noise levels can actually increase as they travel with distance from the sound source in unexpected ways, depending on the composition of the nearshore substrate or under conditions of especially steep or complex bathymetry.

Acoustic-induced behavioral impacts however, set in at much lower sound levels than those that cause hearing damage, either temporary or permanent, and can be just as consequential. Marine mammals are highly reliant on auditory communication and as a means of perceiving their surroundings; more so than visual stimuli due to limits in underwater visibility. Sustained and impulsive sound at high volumes can induce auditory fatigue, flushing and prolonged rate of return to haul out sites, (up to 36 hours), changes in travel, masking of communication signals, cessation of vocalizations and stress. In fact, a research study at the Chilean Isolate Lobería sea lion colony noted distinct behavioral responses at much lower sound levels to fireworks. In the Chilean setting, fireworks were launched at a location 700 meters (~ 2300 ft.) from the colony, produced a sound level of 86 dB at the location of the colony, and caused more than half of the sea lions to abandon the colony. Researchers also observed an immediate decrease in vocalizations among sea lions. Equivalent sea lion densities

to before the onset of fireworks were not restored until 36 hours later. Similar behaviors were observed at Monterey Bay in 2006 in a study conducted by the NMFS, where a strong flushing response was observed when fireworks were launched at a distance of 2400 feet from the haul out site. Although some evidence exists that adult sea lions and other marine mammals may become acculturated to very loud noises after repeated high acoustic events, this is not so for sea lion pups who remain extremely vulnerable for months following birth.

Although acoustic impacts are the most impactful, visual and debris impacts also result when fireworks are launched. Light intensity can exceed 30,000 candela⁵, and vibration impacts cause fluctuations in atmospheric pressure intense enough to set off car alarms in some cases. In addition, the deposition of spent pyrotechnic materials, chemical residues, smoke and airborne particulates can extend as much as a half mile from the explosion location. Together these factors serve to increase the level of impact felt by marine mammals in the vicinity of fireworks launch sites.

In the case of Point La Jolla, located directly south of La Jolla Cove, additional actions, such as the temporary erection of physical barriers between the public and the sea lion pupping colony, and relocation of the July 4th firework display, would be very successful at reducing adverse impacts to sea lions while only temporarily impacting public access. In addition to reducing acoustic impacts, relocation of the fireworks would also alleviate the stress from excessive visual and vibrational impacts, as well as protect the resident sea lions from the residues from fireworks that pollute both water and air.

⁵ Equivalent in light intensity to 30,000 candles.



Figure 1a: Map of the La Jolla Cove Area in San Diego.

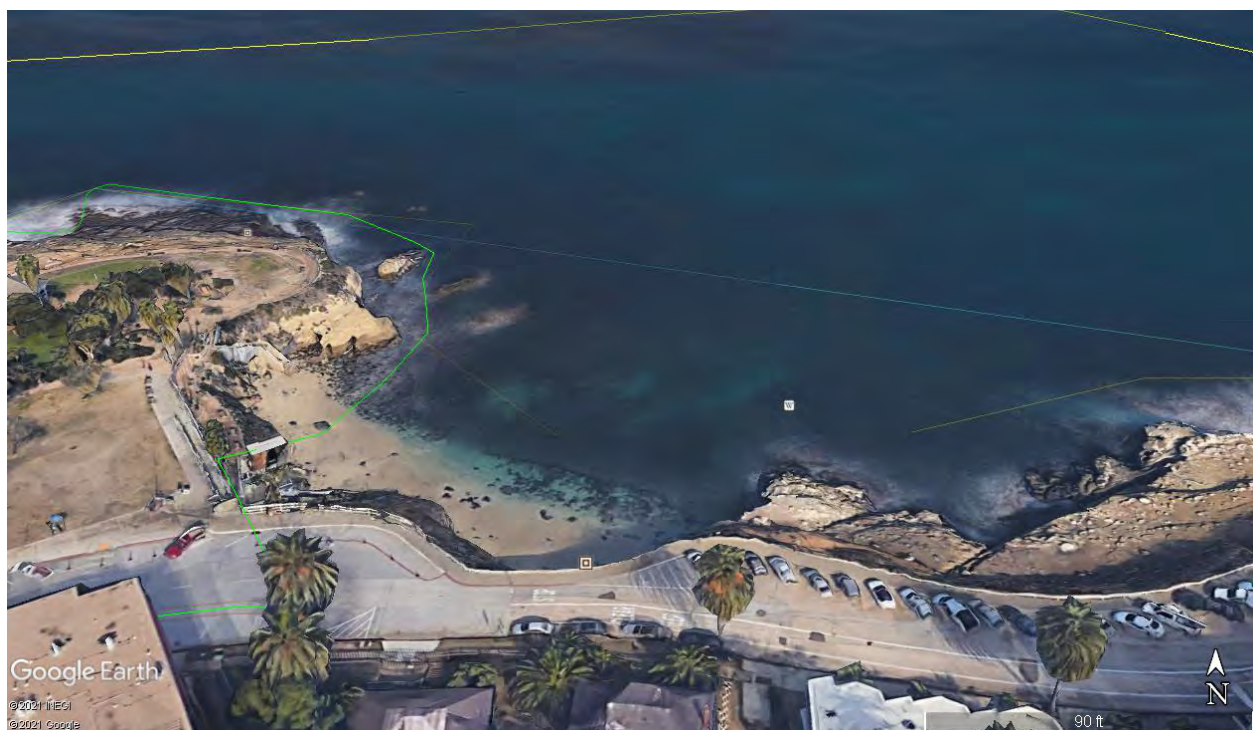


Figure 1b: Close-up of the La Jolla Cove Area and bluffs to the south: location of sea lion rookery.

Signage Plan

Legend










-  Seasonal Closure Boundary
-  Ocean Access
-  Area Closed sign (24-inches by 18-inches) on a chain to cordon off the beach access stairs at the border of Point La Jolla and La Jolla Cove.
-  Area Closed (24-inches by 18-inches) sign on telespar posts.
-  Area Closed (24-inches by 18-inches) sign posted on one small-size K-rail barrier and two K-rail barriers, indicated on the yellow line.
-  Water access only with swimmer symbol sign (24-inches by 18-inches) on telespar posts.
-  One K-rail barrier.
-  No Dogs Allowed sign (approx. 12-inches by 18-inches).
-  One NOAA No Selfies two-piece sign set (each approx. 18-inches by 24-inches).



EXHIBIT NO. 6

APPLICATION NO.

6-22-0113

Proposed Signage



California Coastal Commission

Signage Plan

Examples of proposed Area Closed signs (size 24-inches by 18-inches) for Seasonal Closure located at the top of the access stairs and on three K-rail barriers.



Signage Plan

A No Dogs allowed sign (approx. 12-inches by 18-inches) will be posted on the east and west end of Point La Jolla. On the east end of Point La Jolla, one NOAA two-piece No Selfies sign set (each approx. 18-inches by 24-inches).



Similar signs for dog prohibition and No Selfies will be posted.



One water access sign (24-inches by 18-inches) on a telespar posts.



Area Closed sign (24-inches by 18-inches) will be on three K-rail barriers, two telespar posts, and on a chain to cordon off the beach access stairs at the border of Point La Jolla and La Jolla Cove.



Signage Plan

Two existing City Caution signs are to remain on the west and east end of Point La Jolla and one existing City Warning sign is to remain on the west end of Point La Jolla.



Three existing NOAA Warning signs are to remain on the seaward side of wall.



Signage Plan

These existing interpretative signs on stainless steel frame and commemorative monument plaque to the east of the access stairs are to remain.



This existing interpretative sign on stainless-steel frame, below, located to the west of the access stairs is to remain.



Signage Plan

Four types of existing stenciled signs are to remain.



1987



2002



EXHIBIT NO. 7

APPLICATION NO.

6-22-0113

Wooden Stairway
Historic Photos



California Coastal Commission