



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE

Office for Law Enforcement  
Southwest Region  
501 W. Ocean Blvd., Suite 4300  
Long Beach, CA 90802

March 21, 2006

Mayor Jerry Sanders  
City Administration Building  
11th Floor  
202 C Street  
San Diego, CA 92101

Dear Mayor Sanders,

I am writing in regard to the marine mammals at La Jolla's Children's Pool and steps we can take to protect them and the people in the community. In the past few months, there have been numerous calls and other communications to NOAA's Office for Law Enforcement (OLE) regarding incidents of marine mammal harassment by the public at the Children's Pool Beach (CPB) in La Jolla, CA. As you know under the Marine Mammal Protection Act (MMPA), §16 U.S.C. 1372 (a)(2)(A), *it is unlawful for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States. Harassment is listed under the definition of 'take.'*

Take means to harass, hunt, capture, collect, or kill, or to attempt to... any marine mammal.

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

The CPB receives an estimated 80,000 visitors per month which increases the potential for seal/human interaction. OLE has placed two signs down on the beach which warn the public to keep a safe distance from the hauled out seals and sea lions. While the guidelines are useful, they have not prevented actions that could be considered harassment from occurring at the beach, particularly during pupping season. **The OLE has received over 60 HOTLINE calls reporting alleged marine mammal harassment at the CPB since January 1, 2006.** The agency responded to these complaints by increasing the number of patrols to the beach, especially on weekends but, resources do not afford us with the ability to maintain a constant presence.



Harbor seals haul out at CPB for breeding, nursing, molting, and resting. The pupping season at the CPB is from January through the end of April. Typically, the pup is born and weaned during the late spring. Nursing usually lasts about 3-6 weeks, averaging about 4 weeks until the pup is weaned. Unlike many other seal pups, harbor seals are able to swim at birth, but harbor seal mothers are very protective and the mother/pup bond is very important, particularly during the time immediately following birth.

**California State Parks closed beaches in Arroyo Laguna and Piedras Blancas because of concerns of elephant seals being harassed at sites they are known to haul out to rest, give birth, care for their pups, and molt.**

**OLE is concerned that the public will continue to harass marine mammals and continue to be subject to citation under the MMPA at CPB. Therefore, we strongly recommend, as well, that the City close the CPB during the remainder of pupping season (through the end of April). The closure during this time will afford the City with time to decide, plan, and place into action a more permanent strategy for the CPB.**

In the event you decide against a temporary closing of the beach, as conducted at Arroyo Laguna and Piedras Blancas, consider reinstating the CPB rope barrier that was once in place. Unfortunately, in the past the rope barrier did not deter the "determined" individual(s) from approaching the seals. ~~The rope barrier will provide a clear message~~ for those that have a sincere desire to respect the marine mammals present on the beach, and ~~therefore will provide some level of heightened protection for the adult and newborn seals. The rope barrier will also aid in informing humans when they are more likely to be found in violation of the MMPA and potentially cited.~~ This option has been supported by Susan Davis, Member of the U.S. Congress (House of Representatives).

OLE appreciates and looks forward to a continued opportunity to work with you in assisting you fulfill your goals as well as protect the animals and citizens of our community.

Sincerely,



Donald W. Masters  
Special Agent in Charge

cc: Julie Teel, Office of the City Attorney  
April Pendera, City Manager's Office  
Dale Jones, Director, Office for Law Enforcement  
Rod McInnis, Regional Administrator, SW Region