

City Ordered To Put Up Children's Pool Rope

City News Service

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The city of San Diego must reestablish a rope barrier preventing human interaction between harbor seals and their pups at Children's Pool in La Jolla, a federal appeals court ruled Monday.

The 9th Circuit Court of Appeals issued an emergency order directing the city to put up the rope until May 30, pending disposition of an appeal of a lower court ruling by the Animal Protection and Rescue League.

U.S. District Judge Jeffrey Miller ruled Feb. 28 that he didn't have jurisdiction to order that the rope be put back up.

Ellen Browning Scripps entered into a trust agreement in 1931 to keep the area as a place where children could swim.

In its federal lawsuit, the Animal Protection and Rescue League claimed the trust as interpreted by a state judge in 2005 violated the Marine Mammal Protection Act.

Superior Court Judge Yuri Hoffman ruled in January that the city must abide by Judge William Pate's 2005 order prohibiting it from putting up a permanent rope barrier to separate people from the seals.

Pate's 2005 ruling ordered the city to restore the area in La Jolla to its "pre-seal" condition within six months by removing sand buildup and cleaning up the water.

Feces from the seals polluted the water and made the beach unhealthy for humans.

The 2005 order was stayed on appeal, but an appellate court upheld the ruling and late last year the California Supreme Court refused to hear the case.

The National Marine Fisheries Service recently asked the city to close the beach or put up a rope barrier during the seals birthing season, which runs from January to May.

In recent years, the city has erected a rope barrier to prevent beach-goers from spooking the seals as they nurse their pups.

Paul Kennerson, who represents ocean swimmer Valerie O'Sullivan, said last month that there should be no rope and that the city should be made to comply with the original 2005 order.

Source: <http://www.10news.com/news/city-ordered-to-put-up-children-s-pool-rope>