City of San Diego
Development Services
ENTITLEMENTS DIVISION
(619) 446-5460

ENVIRONMENTAL IMPACT REPORT

Project No. 71362
SCH No. 1999011060

SUBJECT: LA JOLLA CHILDREN'S POOL: COASTAL DEVELOPMENT PERMIT (CDP), SITE DEVELOPMENT PERMIT (SDP) and CITY COUNCIL APPROVAL to dredge approximately 3,000 cubic yards of beach sand from the Children's pool beach and re-locate it at the closest pocket beach just south of the Children's pool (South Casa beach). The project site is located on the beach adjacent to 850 Coast Boulevard, within the Coastal Zone.

Applicant: City of San Diego Engineering and Capital Projects Department.

This document has been completed by the City of San Diego's Environmental Analysis Section under the direction of the Director of Development Services Department and is based on independent analysis and determinations made pursuant to the San Diego Municipal Code Section 128.0103(a) and (b).

CONCLUSIONS:

This EIR analyzes the environmental impacts that would result from the proposed project. The analysis discusses the project's impacts to **land use, aesthetics/neighborhood character, biological resources, historic resources, geology and soils, human health/public safety/hazardous materials, hydrology/water quality, recreational resources, and transportation and circulation.**

The proposed project is a Process 5 decision by the City Council to include a Coastal Development Permit, Site Development Permit and City Council approval of funding for the excavation and transfer of approximately 3,000 cubic yards of sand to return the Children's pool and Casa beach to their 1941 configuration per the 2005 Court order.

The Children's pool breakwater was originally constructed in 1931 to reduce wave action and create a shallow, calm swimming area for human use. The proposed project includes three primary project components which consist of: 1) upper sand excavation, transfer, and placement; 2) lower sand decontamination and Children's pool reconfiguration; and 3) ongoing maintenance of restored condition. Specifically, excavated sand from Casa Beach will be transferred in 200-300 cubic yard (cy) increments by a front-end loader

from the upper sand area of Casa Beach, up the beach access ramp, south along the bluff-top paved walkway, to a conveyer system above the southern portion of South Casa Beach. Because the sand is known to contain unsafe levels of fecal coliform, it will first be decontaminated by exposing it to the sun's ultraviolet rays (UV). Sand would be spread in one-to two-foot thick layers, exposed to UV rays, and raked until bacteria turns to safe levels. Since sand buildup on Casa Beach and in the pool will likely occur after project construction, maintenance of the restored condition of the beach and pool will consist of smaller scale sand excavation (approximately 200cy) and transfer every two to five years.

The evaluation of environmental issue areas in this EIR concludes that the proposed project would result in significant but mitigable direct and indirect impacts to **biological resources, and historic resources (archaeology).** No significant unmitigated impacts have been identified.

MITIGATION, MONITORING, AND REPORTING PROGRAM INCORPORATED INTO THE PROJECT (See attached Final EIR for a detailed description of mitigation measures that have been incorporated into the project):

Biological Resources

The proposed project and subsequent maintenance activities could result in potential impacts to unique, rare, endangered, sensitive, or fully protected species resulting from the construction activities associated with the excavation, transport, and recontouring of the sandy beach at the Children's pool and adjacent pocket beach to the south. Mitigation in the form of a biological monitor to be present throughout the construction process shall ensure that sensitive areas and sensitive species are protected from construction equipment, and the transport and placement of the sand. Additional mitigation includes the installation of a silt curtain on the seaward side of the sand berm at the Children's pool to minimize changes to ambient turbidity and nutrient levels within the immediate waters that could contribute to changes in species composition.

Potential impacts to grunion spawning could occur with implementation of the proposed project. Mitigation includes that construction/excavation shall occur outside of the spawning season, which is in late March to early June, unless a qualified biologist determines that the spawning season has concluded, or as determined by and in consultation with the resource agencies.

Potential impacts to the Spiny lobster would be mitigated by prohibiting construction/excavation during the breeding season from November to May when egg-bearing females occur in shallower waters, unless a qualified biologist determines that the reproductive season has concluded, or as determined by and in consultation with the resource agencies.

Potential impacts to seals would be mitigated by prohibiting construction/excavation activities during the seal pupping season from December to June, unless a qualified

biologist determines that the pupping season has concluded, or as determined by and in consultation with the resource agencies.

Impacts to biological resources would be reduced to a level below significant upon implementation of the above mitigation measures.

Historical Resources (Archaeology)

The presence of a recorded archaeological site in close proximity to the project, coupled with the fact that the shoreline has fluctuated back and forth, indicates a potential for unexpected cultural resources to be present. Given that there is no clear delineation between the sand that accumulated with the pool over the last 70 to 80 years and sand that has been present for hundreds of years, it must be assumed that deeper sands potentially containing cultural resources could be affected, thus leading to a finding that significant impacts on archaeological resources could result. Mitigation measures including archaeological monitoring during construction would reduce potential impacts to historical resources to a level below significant.

NO MITIGATION REQUIRED:

After analysis, impacts in the following issue areas were found to be not significant under CEQA for the proposed project: **land use, aesthetics/neighborhood character, geology and soils, human health/public safety/hazardous materials, hydrology/water quality, recreational resources, and transportation and circulation.**

ALTERNATIVES:

The following alternatives were considered for detailed discussion in the EIR. Alternatives that would avoid and/or reduce significant direct impacts are as follows:

No Project Alternative

The No Project Alternative assumes that the site would be maintained in its current state. No sand excavation or beach replenishment would occur, nor would sand be cleaned of pollutants. The No Project Alternative would result in a less than significant impact to biological resources as no construction/excavation or maintenance activities would occur. Potential impacts to historical resources (archaeology) would be avoided since no earthwork would occur. The No Project Alternative would result in a potentially significant impact to recreational resources since increased access to recreational resources would not occur. The No Project Alternative would not achieve any of the basic project objectives, nor would it comply with the Court order to return the Children's pool to its 1941 configuration.

Year-Round Joint Use Alternative

The Year-Round Joint use alternative would allow seals and humans to use the Children's pool at will. This alternative poses potential risks to both seal and human health and safety. If successful joint use were to occur, the problems associated with sand and water contamination from fecal coliforms that would be addressed by the proposed project may or may not occur. If seals return to the beach and pool in large numbers, recontamination is likely. If seals return to the beach and pool in small numbers, recontamination is less likely, but still possible. Year-round joint use would allow humans to use the beach and enter the water all year long. Seals may be harassed and/or harmed by human activity which could disturb them during breeding/pupping season, December to June.

This alternative would result in less than significant impacts to biological resources as no construction/excavation or maintenance activities would occur. Potential impacts to historical resources (archaeology) would be avoided since no earthwork would occur. The year-round joint use alternative would have potentially significant impacts on human health, public safety, and hazardous materials since the improvements to the sand and water quality would not occur resulting in human exposure to sand and water contamination. This alternative would potentially have a significant impact on hydrology water quality since the decontamination of sand and erosion improvements would not occur. Additionally, this alternative would not comply with the Court order.

Seasonal Joint Use Alternative

The Seasonal Joint Use alternative entails humans using Casa beach and Children's pool from July 1st through January 1st and the harbor seals using Casa beach and Children's pool from January 2nd to June 30th. Under this alternative seals would be deterred from using the beach and pool during summer and fall by methods approved by NMFS and conducted by trained City staff. During winter and spring the beach and pool would be closed to the public.

The seasonal joint use alternative would result in a less than significant impact to biological resources as no construction/excavation or maintenance activities would occur. Potential impacts to historical resources (archaeology) would be avoided since no earthwork would occur. The seasonal joint use alternative would have potentially significant impacts on human health, public safety, and hazardous materials since the improvements to the sand and water quality would not occur resulting in exposure to sand and water contamination. This alternative would potentially have a significant impact on hydrology water quality since the decontamination of sand and erosion improvements would not occur. This Alternative would result in a potentially significant impact to recreational resources since increased access to recreational resources would not occur as the pool and beach would be closed to humans for six months of the year. Additionally, this alternative would not comply with the Court order.

Open Breakwater Sluiceways Alternative

Under this alternative, the four breakwater sluiceways would be opened instead of dredging in order to increase water circulation in the Children's pool and potentially reduce the level of contamination in the water and the sand. Currently, the four sluiceways are cemented shut and are also situated below approximately seven feet of sand. This alternative would entail a sand removal construction process similar to that of the proposed project. Moreover, when the approximately 3,000 cy of sand has been removed as contemplated for the proposed project, the sluiceways would still be beneath approximately three feet of sand.

The sluiceways could be reopened, however additional earthwork, construction time and potential impacts could occur due to damage to the breakwater during construction activities. In addition, this alternative would require its own maintenance program to ensure that the sluiceways remain open and unclogged. This alternative could have a beneficial effect on water quality as the open sluiceways would provide increased water flow in and out of the pool therefore improving water quality. Sand movement through the sluiceways could provide a beneficial effect on the sand, potentially decreasing contamination levels. With respect to biological resources, the amount of sand movement through the sluiceways would be minimal and of a small volume so as not to disturb or create any potential impacts to the surrounding sensitive habitats. This alternative would not comply with the Court order.



Cecilia Gallardo, AICP
Assistant Deputy Director
Development Services Department

March 23, 2009
Date of Draft Report

Analyst: A. Sherwood

August 24, 2009
Date of Final Report

DISTRIBUTION:

The following individuals, organizations, and agencies received a copy or notice of the draft EIR and were invited to comment on its accuracy and sufficiency:

U.S. Government

Department of the Interior, Fish and Wildlife Service (23)
U.S. Army Corps of Engineers (26)
U.S Environmental Protection Agency (19)
U.S. Department of Commerce, National Marine Fisheries Service (20)

State of California

Department of Transportation (Caltrans), District 11 (31)
Department of Fish & Game (32)
California Environmental Protection Agency (37)
Department of Parks & Recreation (40)
Office of Historic Preservation (41)
Resources Agency (43)
Regional Water Quality Control Board, Region 9 (44)
State Clearinghouse (46)
California Coastal Commission (47)
Native American Heritage Commission (222)
California Department of Boating and Waterways (52)

County of San Diego

County Department of Planning and Land Use (68)
County Water Authority (73)
Hazardous Materials Management Division (75)

City of San Diego

Mayor Sanders
Councilmember Lightner, District 1
Councilmember Faulconer, District 2
Councilmember Frye, District 6
City Attorney's Office – Shannon Thomas
City Attorney's Office – George Schaefer
Development Services Department
Library Department (81)
Real Estate Assets Department (85)
Engineering and Capital Projects Department, Samir Mahmalji, MS 35 (86)
Engineering and Capital Projects Department, Darren Greenhalgh, MS 35
Carrie Purcell, Senior Planner, E &CP, MS 908A
Historical Resources Board (87)
Wetlands Advisory Board (91A)
Metropolitan Wastewater Department, MS 901A

Fire-Rescue Department, Frankie Murphy, Fire Marshall, MS 603
Fire-Rescue Department, Ken Hewitt, Lifeguard Chief, MS 32
Police Department (84)
Real Estate Assets Department (65)
Water Department, MS 906

Other Cities

City of Del Mar (96)

Other Agencies, Organizations and Individuals

California State Coastal Conservancy
SANDAG (108)
San Diego Transit Corporation (112)
San Diego Gas & Electric (114)
Metropolitan Transit Development Board (115)
UCSD (134)
Sierra Club (165)
San Diego Natural History Museum (213)
San Diego Audubon Society (167)
California Native Plant Society (170)
Center for Biological Diversity (176)
Endangered Habitats League (182)
San Diego Coast and Baykeeper (173)
Jerry Schaefer, PhD (209)
South Coastal Information Center, SDSU (210)
San Diego Historical Society (211)
San Diego Archaeological Center (212)
Save Our Heritage Organisation (214)
Ron Christman (215)
San Diego County Archaeological Society (218)
National Trust for Historical Preservation (219)
Kumeyaay Cultural Repatriation Committee (225)
San Diego Council of Divers (177)
La Jolla Shores Association (272)
La Jolla Town Council (273)
La Jolla Historical Society (274)
La Jolla Light (142)
La Jolla Community Planning Association (275)
La Jolla Shores PDO Advisory Board (279)
La Jollans for Responsible Planning (282)
La Jolla Riford Branch Library, MS17
League of Conservation Voters (322)
CCC III (324A)
Torrey Pines Association (186)
Torrey Pines Community Planning Group (469)
University City Library (488)
University Community Planning Group (480)

University City Community Association (486)
Carmen Lucas (206)
Clint Linton (215B)
* Barona Group of Capitan Grande Band of Mission Indians (225A)
* Campo Band of Mission Indians (225B)
* Ewiiaapaayp Band of Mission Indians (225C)
* Inaja and Cosmit Band of Mission Indians (225D)
* Jamul Band of Mission Indians (225E)
* La Posta Band of Mission Indians (225F)
* Manzanita Band of Mission Indians (225G)
* Sycuan Band of Mission Indians (225H)
* Viejas Group of Capitan Grande Band of Mission Indians (225I)
* Mesa Grande Band of Mission Indians (225J)
* San Pasqual Band of Mission Indians (225K)
* Santa Ysabel Band of Diegueno Indians (225L)
* La Jolla Band of Mission Indians (225M)
* Pala Band of Mission Indians (225N)
* Pauma Band of Mission Indians (225O)
* Pechanga Band of Mission Indians (225P)
* Los Coyotes Band of Mission Indians (225R)
* Public Notice only.
Joanne Pearson
Tom Sauer
Debbie Beacham
Scripps Institute of Oceanography
Diving Locker
Ms. Ellen Stanton
Ms. Dorota Valli, La Jolla Friends of Seals
La Jolla Cove Swim Club

RESULTS OF PUBLIC REVIEW:

( ) No comments were received during the public input period.

( ) Comments were received but did not address the accuracy or completeness of the environmental report. No response is necessary and the letters are attached at the end of the EIR.

(X) Comments addressing the accuracy or completeness of the EIR were received during the public input period. The letters and responses follow.

Copies of the EIR, the Mitigation, Monitoring and Reporting Program, and any technical appendices may be reviewed in the office of the Entitlements Division, or purchased for the cost of reproduction.

Preface to the Final EIR

Final Environmental Impact Report

This document constitutes the Final Environmental Impact Report (Final EIR) for the La Jolla Children's Pool Project. The body of this document contains a revised version of the Draft EIR, which was circulated for a 60-day public review period (beginning March 23, 2009, and ending May 22, 2009), that incorporates responses to comments on the Draft EIR and revisions and corrections to the text, as discussed below.

The Draft EIR was published as two volumes, Volume I included the body of the Draft EIR and Volume II included the appendices referenced in the body of the Draft EIR. The appendices present background documents related to the project and the EIR, and technical information supporting analyses conducted for the project. The Draft EIR and appendices were printed for distribution and library availability, and electronic versions were posted on the City of San Diego's website for review during the public comment period.

In this Final EIR, changes and corrections have been incorporated into to the text of Volume I of the EIR, as necessary to respond to agency and public comments received during the public review period and to make clarifications to minor errors recognized after publication of the Draft EIR. These revisions are indicated in the body of the document by underline text (<u>text</u>) for additions and strikethrough text (~~text~~) for deletions. The following changes have been made:

- Page 2-4 has been revised to clarify a statement about the declining use of Children's Pool.
- Page 2-11 has been revised to update the discussion of *La Jolla Friends of Seals v. NOAA.*
- Page 2-29 has been revised to correct a typographical error regarding the littoral cell in which the project is located.
- Section 3.0 has been revised to provide a discussion of the environmental issue areas found to be less than significant during preliminary project analysis, pursuant to Section 15128 of the State CEQA Guidelines.
- Page 3.2-14 has been revised to clarify that grunion were not specifically identified during 2008 in-water surveys of the project site.
- Pages 3.9-4 and 3.9-5 have been revised to explain that the project would not result in a long-term increase in automobile traffic.

- Page 5-11 has been revised to remove the anecdotal discussion of historic safety issues at Children's Pool.

None of the figures appearing in the Draft EIR have been changed in the Final EIR. One revision has been made to the appendices, which are provided in Volume II: Appendix A has been supplemented with three letter responses to the Notice of Preparation that were inadvertently omitted from Appendix A as it appeared in the Draft EIR.

This document also presents the written comments on the Draft EIR received from agencies, organizations, and individuals during the public review process, followed by responses to those comments. This fulfils a requirement stated in Section 15088 of the State Guidelines for the California Environmental Quality Act (California Code of Regulations Title 14, Chapter 3).

While this Final EIR was being prepared, Senate Bill 428 (SB 428) passed the State legislature and was signed by the governor. This bill goes into effect on January 1, 2010. This bill modifies the terms of the Children's Pool-related trust language to permit a "marine mammal park" on the site. The City has not considered how the revised statute may affect the future of Children's Pool in preparing this Final EIR. A hearing has been scheduled for October 6, 2009, in front of Judge Yuri Hofmann to decide whether to vacate the order of Judge William Pate issued in 2005 to remove sand from and reconfigure Children's Pool in light of SB 428's enactment.

List of Agencies Organizations, and Individuals that Commented on the Draft EIR

The City of San Diego received comments on the Draft EIR from four agencies, five organizations, and 30 individuals during the circulation period. This chapter presents copies of the comment letters, pursuant to Section 15132(b) of the State CEQA Guidelines, with the responses to the comments following each individual letter, pursuant to Section 15132(d) of the State CEQA Guidelines. The comment letters and the City of San Diego's responses to those comments appear in the following pages. Comment letters have been grouped into the categories of federal agencies, state agencies, organizations, and individuals, and are organized alphabetically within each of those categories. Each comment letter is assigned a letter designation, and each comment within each letter is assigned a number to aid in the organization and identification of the responses that appear beside the letters in the following pages. The table below lists the parties commenting on the Draft EIR, pursuant to Section 15132(c) of the State CEQA Guidelines, along with the designation assigned to each letter and the page number on which the letter and response appear in the following responses document.

LETTER DESIGNATION	COMMENTING PARTY	ADDRESS	RESPONSE PAGE
	FEDERAL AGENCIES		
A	Department of the Army, Corps of Engineers	6010 Hidden Valley Road, #105 Carlsbad, CA 92011	RTC-1
B	Department of Commerce, National Marine Fisheries Service *(Letter #1, 05/07/09)*	501 West Ocean Boulevard Long Beach, CA 90802	RTC-6
C	Department of Commerce, National Marine Fisheries Service *(Letter #2, 05/22/09)*	501 West Ocean Boulevard Long Beach, CA 90802	RTC-9
	STATE AGENCIES		
D	California Department of Fish and Game	1933 Cliff Drive, Suite 9 Santa Barbara, CA 93109	RTC-13
E	California Department of Toxic Substances Control	5796 Corporate Avenue Cypress, CA 90630	RTC-15
	ORGANIZATIONS		
F	The Humane Society of the United States	2100 L Street NW Washington DC 20037	RTC-19
G	La Jolla Community Planning Association	P.O. Box 889 La Jolla, CA 92038	RTC-25
H	San Diego County Archaeological Society, Inc.	P.O. Box 81106 San Diego, CA 92138	RTC-27
I	Sierra Club, San Diego Chapter	8304 Clairemont Mesa Blvd San Diego, CA 92111	RTC-28
J	Surfrider Foundation	P.O. Box 6010 San Clemente, CA 92674	RTC-45
	INDIVIDUALS		
K	Debbie Beacham	No address given. Comments received via email: db@san.rr.com	RTC-51
L	Michael Costello	La Jolla, CA 92037 emsmike@san.rr.com	RTC-53
M	Dante Galli	4186 J Sorrento Valley Blvd San Diego, CA 92121 dgalli@exp-eng.com	RTC-55
N	Edwin and Donna Gookin	5964 Wenrich Drive San Diego, CA 92120	RTC-56

LETTER DESIGNATION	COMMENTING PARTY	ADDRESS	RESPONSE PAGE
O	Patrick Lee Hord	No address given. Submitted as "Co-founder and former Executive Director of Friends of the Seals"	RTC-58
P	James Hudnall	1433 Park Row La Jolla, CA 92037 balaena@pacbell.net	RTC-62
Q	Isabelle Kay	3163A Evening Way La Jolla, CA 92037 iday@ucsd.edu	RTC-63
R	John Leek *(composite of 18 separate emails)*	3090 Admiral Ave San Diego, CA 92123 jleek001@san.rr.com	RTC-64
S	San Diego City Councilmember Sherri S. Lightner	202 C Street San Diego, CA 92101 sherrilightner@sandiego.gov	RTC-82
T	Melinda Merryweather	No address given. Comments received via email: mbeherenow@sbcglobal.net	RTC-85
U	Jim Moore	9500 Gilman Drive, 0532 La Jolla, CA 92093-0532 jjmoore@ucsd.edu	RTC-86
V	Jean Perry	7415 Fay Ave La Jolla, CA 92037 thedjperrys@gmail.com	RTC-91
W	James Peterson, Esq.	9621 Stonecrest Blvd San Diego, CA 92123 petejustice33@yahoo.com	RTC-93
X	David Pierce	9344 Leticia Drive Santee, CA 92071 diverdavid@cox.net	RTC-94
Y	James Poirier	No address given. Comments received via email: JPoirier@aol.com	RTC-95
Z	Katheryn Rhodes and Conrad Hartsell, MD *(Letter #1, 05/05/09)*	371 San Fernando Street San Diego, CA 92106 rhodes@laplayaheritage.com	RTC-96
AA	Rhodes and Hartsell *(Letter #2, 05/21/09)*	371 San Fernando Street San Diego, CA 92106 rhodes@laplayaheritage.com	RTC-99
AB	Thomas L. Sauer	No address given. Comments received via email: tlsauer@hotmail.com	RTC-104

LETTER DESIGNATION	COMMENTING PARTY	ADDRESS	RESPONSE PAGE
AC	Ellen Shively	No address given.	RTC-106
AD	David W. Valentine *(Letter #1, 05/04/09)*	7305 Monte Vista Ave La Jolla, CA 92037 dave_valentine_92037@yahoo.com	RTC-113
AE	David W. Valentine *(Letter #2, 05/06/09)*	7305 Monte Vista Ave La Jolla, CA 92037 dave_valentine_92037@yahoo.com	RTC-118
AF	David W. Valentine *(Letter #3, 05/08/09)*	7305 Monte Vista Ave La Jolla, CA 92037 dave_valentine_92037@yahoo.com	RTC-121
AG	Dorota Valli	P.O. Box 32 La Jolla, CA 92038 divalli@hotmail.com	RTC-123
AH	*Form Letter:* Roger Boyce, D. Burleigh, Robert E. Dean, Dante Galli, Tom Harman, David T. Johnson, Donald F. Perry, Lee Peterson, Peggy Petschek, Mike Petschek	(multiple addresses)	RTC-125

The following letters commenting on the Draft EIR were received after the close of the comment period. Though CEQA does not require the City to address the comments presented in these letters, responses have been provided.

LETTER DESIGNATION	COMMENTING PARTY	ADDRESS	RESPONSE PAGE
	INDIVIDUALS		
AI	Rhodes and Hartsell *(Letter #3, 06/1/09)*	371 San Fernando Street San Diego, CA 92106 rhodes@laplayaheritage.com	RTC-135
AJ	Ellen Stanton *(Letter #1, 05/23/09)*	No address given. Comments received via email: e_stanton99@yahoo.com	RTC-137
AK	Ellen Stanton *(Letter #2, 05/23/09)*	[see above]	RTC-139

The following pages provide the comment letter on the left side, with each specific comment numbered in the left-hand margin, and correspondingly numbered responses to each comment on the right-hand side. Each comment and response is designated by both the letter assigned to that piece of correspondence,

as well as the number assigned to the comment (e.g., A1, A2 and so on). Some letters submitted during the public review period included attachments. Attachments to the comment letters have not been included in the distribution of the Final EIR due to the large volume of material. These attachments can be viewed at the offices of the City of San Diego Development Services Department.

For comments that required modifications to correct or clarify information in the Draft EIR, that fact is so stated, and the changes are identified via strike-out underline pages in this Final EIR as discussed above. In some cases, comments and responses provide additional information, which is now a part of the Final EIR.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
SAN DIEGO FIELD OFFICE
6010 HIDDEN VALLEY ROAD, SUITE 105
CARLSBAD, CALIFORNIA 92011

May 22, 2009

REPLY TO
ATTENTION OF:
Regulatory Division

Allison Sherwood
City of San Diego
1222 First Avenue
MS 501
San Diego, CA 92101-4155

Dear Ms. Sherwood:

The U.S. Army Corps of Engineers (Corps) Regulatory Division staff appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the La Jolla Children's Pool Dredging Project, in the City and County of San Diego, California. The Corps offers the following comments pursuant to section 404 of the Clean Water Act (CWA) and section 10 of the River and Harbor Act.

A-1

1. We are concerned with the lack of integration of California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) processes. The Council on Environmental Quality's (CEQ) regulations implementing NEPA requires Federal agencies to cooperate with state and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable state and local requirements. Such cooperation includes joint documents so that one document will comply with all applicable laws. See 40 C.F.R. § 1506.2. During our October 10, 2008 meeting, we encouraged the City to prepare a joint CEQA/NEPA document, in-lieu of preparing only an EIR, with the City as the CEQA lead agency and the Corps as the NEPA lead agency. By not preparing a joint document, the Corps will need to independently explore and evaluate all reasonable alternatives to the proposed action (which may differ from those in the EIR) and analyze the direct, indirect, and cumulative impacts of the proposal and the alternatives in comparative form in a separate document in accordance with NEPA and the CWA section 404(b)(1) guidelines (40 C.F.R. Part 230). As noted above, preparation of a joint CEQA/NEPA document would have reduced duplication of effort and been more efficient. We encourage the City to reconsider its decision to prepare and to finalize a separate EIR and pursue a joint document with the Corps. The City would need to expend some effort, along with the Corps, to align the two processes (i.e., scoping, modifying the DEIR to address NEPA and CWA requirements, and re-circulating the document as a draft EIR/EIS)

A-1 City representatives met with representatives of U.S. Army Corps of Engineers (Corps) on October 10, 2008, to discuss the project, and do not recall the Corps representatives encouraging preparation of a joint CEQA/NEPA document. The City has been under great pressure to expedite the EIR process per a court order and does not feel that preparing a joint document would have afforded any efficiencies, and may have delayed the process and caused the City to be delinquent in meeting key milestones.

The City was already well underway with preparation of the EIR at the time of the October 10 meeting. Additionally, the Corps indicates in this comment that their findings and identification of project alternatives could be different from those of the City's, which would complicate the process of joint document preparation. Finally, modifying the EIR into a combined EIR/EIS would require re-circulating for public and agency comment, causing additional schedule delays and likely creating confusion among the public. For these and many other reasons unique to this project, aligning the CEQA and NEPA review at this stage of the process would not be efficient or effective, and is not feasible for the City.

The City understands that the Corps will need to initiate NEPA compliance and will use a third party contractor to do so, at the expense of the applicant (City). The

Letter of Comment

A-1 (cont.) such that both documents offer the same viable solutions. Please be advised that pursuant to our Headquarters' Standard Operating Procedures for the Regulatory Program, any Corps district preparing an EIS on a permit action must use a "third party contractor" as the primary method to prepare all or part of a project specific EIS or to obtain required information. "Third party contract" refers to the preparation of an EIS by a contractor **paid by the applicant** but who is selected and supervised directly by the Corps' Regulatory Division. Therefore, by not pursuing a joint document, the City will need to expend additional monies for the Corps' preparation of an EIS.

A-2 2. The DEIR needs to consider and objectively evaluate the alternatives suggested by the Corps during our October 2008 meeting, and if such alternatives are eliminated from detailed study, the EIR should discuss the reasons for their having been eliminated, particularly the alternative to remove the entire breakwater structure from Casa Beach.

A-3 3. The City's rationale is unclear regarding significance provided in its public notice (PN). When the PN first appeared, it identified significant impacts associated with implementation of the proposed project. However, when the PN was revised on April 22, 2009 the impacts were determined to be less than significant. What changed between the original PN and revised PN to warrant a different conclusion? Please explain.

A-4 4. The DEIR does not sufficiently discuss what effects the change in beach profiles at both Casa and South Casa beaches will have on the existing plant and animal communities. The focus of the EIR was mainly on impacts during construction activities. What changes are anticipated to occur in the long-term? It appears that the proportions of intertidal and subtidal habitats may change at each location. Would the shift in relative amounts of habitat cause shifts in populations of species and sensitive habitats?

A-5 5. The DEIR also does not discuss the long-term issues of the seals at Casa Beach. The DEIR only discusses impacts to seals during construction, but very little about the long-term impacts to the group of seals that regularly uses this beach to haul out and pup. Seals have used this beach for many years and, by many reports, have become accustomed to the presence of humans. Does the City anticipate additional measures to exclude seals when the proposed work is complete? Will seals be continually "shooed" off the beach? Continual harassment of a marine mammal could be considered a significant impact under NEPA if not mitigated adequately. Additionally, what will the cost be to the City for around-the-clock removal of seals from the beach? Is the City proposing that the beach have joint use for seals and people? If so, what population of seals using the beach would not exceed safe water quality standards for humans? How often would water quality be tested to ensure safety?

A-6 6. The DEIR does not address the economic impacts of removing seals on the local community and the recreational opportunity for seal viewing within the area. The seals have gained international attention through notice in National Geographic and other news media. Please evaluate the impact of the loss of tourism in the vicinity of the project that may result if the seals are not allowed to haul out and pup on the beach.

Response to Comment

A-1 (cont.) City is willing to work with the Corps during this process to assist as needed. Because the EIR identifies no significant unmitigated impacts, the City feels an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) may be the appropriate level of NEPA compliance, rather than the assumption the Corps has put forward that an EIS will be required when the Corps has yet to initiate environmental review to substantiate the necessity of an EIS.

A-2 Project alternatives were discussed informally at the October 2008 meeting, but the City has no record of written correspondence from the Corps with suggested alternatives. The alternative to remove the entire breakwater structure from Casa Beach was not included in the EIR because it did not meet either of the two main CEQA requirements for discussion of alternatives. First, it did not meet the primary objective of the project, which is to restore the project site to its 1941 configuration. In fact, it would do the exact opposite by removing the main constructed feature of the site. Second, the alternative would not result in reduced environmental impacts, since a potentially historic significant structure would be demolished, resulting in a significant and unavoidable impact. The demolition process associated with this alternative would also likely result in greater impacts on marine flora and fauna.

A-3 The first public notice contained an error and was subsequently corrected and reissued, along with an extension on the public comment period. The EIR itself did not change between the first notice and the reissued notice.

A-4 The Draft EIR does address both short-term and long-term effects of the project on plant and animal communities (Draft EIR pp. 3.2-21 through 3.2-35). There would not be a substantial change in the proportions of intertidal and subtidal habitats such that significant changes to species populations and sensitive habitats would occur. Sand removal activities, both short-term during initial construction and long-term during maintenance activities, does have the potential to result in significant impacts, as stated in the EIR; however, mitigation measures have been detailed that will reduce such impacts to less-than-significant levels (BIO-1.1a-d and BIO-2.1 on pp. 3.2-25 and 3.2-29).

A-5 The Draft EIR addresses long-term impacts on seals on page 3.2-25, concluding that the project, "…is unlikely to displace any seal populations geographically, and the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces along the adjacent areas of coastline." Furthermore, seal experts Dr. Hanan and Mr. Lecky are cited as supporting the conclusion that the project would not result in significant impacts on seals.

Additionally, the City is not proposing a joint use beach for seals and people, although joint use is analyzed as a project alternative in Chapter 5.0 of the Draft EIR.

A-1 (cont.) such that both documents offer the same viable solutions. Please be advised that pursuant to our Headquarters' Standard Operating Procedures for the Regulatory Program, any Corps district preparing an EIS on a permit action must use a "third party contractor" as the primary method to prepare all or part of a project specific EIS or to obtain required information. "Third party contract" refers to the preparation of an EIS by a contractor **paid by the applicant** but who is selected and supervised directly by the Corps' Regulatory Division. Therefore, by not pursuing a joint document, the City will need to expend additional monies for the Corps' preparation of an EIS.

A-2 2. The DEIR needs to consider and objectively evaluate the alternatives suggested by the Corps during our October 2008 meeting, and if such alternatives are eliminated from detailed study, the EIR should discuss the reasons for their having been eliminated, particularly the alternative to remove the entire breakwater structure from Casa Beach.

A-3 3. The City's rationale is unclear regarding significance provided in its public notice (PN). When the PN first appeared, it identified significant impacts associated with implementation of the proposed project. However, when the PN was revised on April 22, 2009 the impacts were determined to be less than significant. What changed between the original PN and revised PN to warrant a different conclusion? Please explain.

A-4 4. The DEIR does not sufficiently discuss what effects the change in beach profiles at both Casa and South Casa beaches will have on the existing plant and animal communities. The focus of the EIR was mainly on impacts during construction activities. What changes are anticipated to occur in the long-term? It appears that the proportions of intertidal and subtidal habitats may change at each location. Would the shift in relative amounts of habitat cause shifts in populations of species and sensitive habitats?

A-5 5. The DEIR also does not discuss the long-term issues of the seals at Casa Beach. The DEIR only discusses impacts to seals during construction, but very little about the long-term impacts to the group of seals that regularly uses this beach to haul out and pup. Seals have used this beach for many years and, by many reports, have become accustomed to the presence of humans. Does the City anticipate additional measures to exclude seals when the proposed work is complete? Will seals be continually "shooed" off the beach? Continual harassment of a marine mammal could be considered a significant impact under NEPA if not mitigated adequately. Additionally, what will the cost be to the City for around-the-clock removal of seals from the beach? Is the City proposing that the beach have joint use for seals and people? If so, what population of seals using the beach would not exceed safe water quality standards for humans? How often would water quality be tested to ensure safety?

A-6 6. The DEIR does not address the economic impacts of removing seals on the local community and the recreational opportunity for seal viewing within the area. The seals have gained international attention through notice in National Geographic and other news media. Please evaluate the impact of the loss of tourism in the vicinity of the project that may result if the seals are not allowed to haul out and pup on the beach.

A-6 CEQA requires an EIR analyze a project's physical effects on the environment. Social and economic impacts are only analyzed when there is potential for those impacts to in turn cause significant physical impacts on the environment. Such is not the case with this project and, as such, economic impacts and effects on tourism fall outside the scope of the Draft EIR. As for the portion of this comment regarding recreation at Children's Pool, the project's recreational impacts are analyzed in Section 3.8 of the EIR. While seal viewing has become a popular activity at Children's Pool, it is neither a designated nor unofficial "recreational resource" of the City. Further, the potential for the reduction or loss of seal viewing at the project site would not result in physical effects on the environment, and is not required to be analyzed as such in the EIR.

Letter of Comment

A-7

7. The mitigation you have proposed for the removal of seals from the beach is inadequate. Although the DEIR states that the seals will likely move offshore and haul out on rocks in the vicinity of Casa Beach, the DEIR does not describe the carrying capacity of the region for this species. Has the carrying capacity for this species in the immediate area been identified and analyzed? The DEIR mentions Shell Beach, a pocket beach that seals may haul out on. Where is Shell Beach located in relation to Casa Beach? How many seals can this beach support? Although your DEIR states that seals have been observed in the past (1998) at Shell Beach, what evidence is there that seals are not currently using Shell Beach at carrying capacity? If they do not currently use Shell Beach, how is it known that it would then become favored by seals? Will this beach be set aside for the seals, or will their presence at this beach eventually become an issue as well? Mitigation must take into consideration the long-term welfare of the seals as well as the economic and recreational opportunities in the vicinity of the project area.

A-8

8. The mitigation measures proposed in the DEIR are not adequate to protect the sensitive habitat present within the project site or to offset potential impacts to these habitats. Although, the DEIR provides mitigation measures for sensitive habitats at both Casa and South Casa beaches, the biological information provided in the DEIR is not sufficient to adequately evaluate anticipated impacts at the project site and the adequacy of the mitigation measures. The Marine Habitat Assessment and Intertidal and Subtidal Biological Survey (Appendix H), states "[i]n typical subtidal habitat, surfgrass (*Phyllospadix*) forms scattered beds within the shallow, subtidal and mid-to-low intertidal areas." Surfgrass is a "vegetated shallows" and is considered a special aquatic site, as defined at 40 C.F.R. § 230.43(a), due to its high biological value. To the extent surfgrass beds are present at the Children's Pool and within the subtidal habitat at South Casa Beach, impacts to surfgrass may occur directly due to excavation activities or turbidity. How will this habitat be avoided and protected during construction? At this time no known means of mitigation exists for surfgrass due to its requirement for attachment to rocky substrate within high wave energy locations. Therefore, impacts to surfgrass should be avoided to the maximum extent practicable.

A-9

9. We have concerns regarding erosion at the Casa Beach site as well as the adjacent pocket beaches and bluffs. We understand you intend to discharge excavated material on the adjacent South Casa Beach in an effort to reduce erosion in the South Casa Beach/Casa Beach area. However, would the loss of material at Casa Beach result in an unstable distribution of sand in the Casa Beach area? If the placement of additional sand at South Casa Beach would provide protection against bluff erosion in that location, would the rate of bluff erosion increase at Casa Beach when sand is removed? Due to your anticipated need for ongoing sand removal at Casa Beach, it appears you also anticipate continual replenishment of sand at Casa Beach. What is the source of the replenishment sand? How would the adjacent beaches and bluffs be affected? Would the effects be uniform within the project area and immediate vicinity or would some areas be impacted more than others?

Response to Comment

A-7 The City disagrees with the comment that the mitigation measure for potential impacts on seals is inadequate. Analysis of carrying capacity for seals in the region has not been conducted as it is not necessary to assess the project's impacts and proscribe mitigation. Shell Beach is approximately 1,000 feet northeast of Children's Pool and is shown on Figure 2-2 in the Project Description chapter of the Draft EIR. That beach is mentioned as just one example of numerous potential sites that seals may haul out on. The City does not purport to know where the seals will haul out if precluded from Casa Beach and no beaches are proposed to be set aside for this purpose as part of the project. Contrary to the assertion presented, mitigation need not take into consideration the long-term welfare of the seals, since no long-term significant impacts on seals have been identified.

Additionally, as discussed in response number A-6 above, economic factors are similarly not warranted for inclusion in mitigation measures. Recreational opportunities are thoroughly analyzed in Chapter 3.8 of the Draft EIR and no significant impacts were identified, thus mitigation measures for recreational impacts are likewise not warranted.

A-8 The City disagrees with the comment that the mitigation measures contained in the Draft EIR are not adequate to protect sensitive habitat. It is not clear from the comment what parts of the mitigation measures are being referred to, nor have any recommended changes to the mitigation measures been provided. The blanket statement that the measures are inadequate is thus unsubstantiated. With regard to surfgrass, mitigation measure BIO-1.1.a specifically states that a biologist be present during construction to ensure that surfgrass is avoided.

A-9 Section 3.3 of the Draft EIR presents the findings of a geology study conducted for the project which concluded that accelerated erosion of the bluffs would not result from the project (Draft EIR p. 3.3-8). The redistribution of sand removed from Casa Beach and placed at South Casa Beach would not create an unstable distribution nor result in accelerated erosion. As stated on page 3.3-8, the project would have a beneficial effect to South Casa Beach and no adverse effects to Casa Beach. The combination of the breakwater and the remaining beach would continue to protect the bluffs at Casa Beach in all but rare storm surf conditions (as is currently the case).

The anticipated need for periodic sand removal stems from the fact that the current Children's Pool has become filled with sand over the years. Since the dynamics of ocean sand movement will not be affected, this pattern of sand accumulation is expected to continue. This does not represent a change from existing conditions, and thus there is no reason to believe that adjacent beaches and bluffs will be affected any differently than they are under existing conditions.

If you have any questions concerning the information in this letter, please contact the undersigned at 760-602-4834 or via e-mail at Kari.J.Coler@usace.army.mil. Please refer to this letter and SPL-2006-00022-KJC in your reply.

Sincerely,

Kari Coler

Kari Coler
Project Manager
South Coast Branch
Regulatory Division

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

May 7, 2009

In response, refer to:
150308SWR2009PR00232:MLD

Allison Sherwood
Environmental City Planner
City of San Diego Development Services Center
1222 First Avenue
MS 501
San Diego, California 92101

Dear Ms. Sherwood:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the City of San Diego's project number 71362, regarding the La Jolla Children's Pool Coastal Development Permit and the associated Draft Environmental Impact Report (DEIR). NMFS offers the following comments pursuant to the Marine Mammal Protection Act (MMPA).

Proposed Project

The proposed project at the La Jolla Children's Pool and Casa Beach aims to restore the Children's Pool and Casa Beach, located in the City of San Diego, California, to their 1941 configurations by excavating and transferring approximately 3,000 cubic yards (cy) of beach sand from Casa Beach to South Casa Beach. The proposed project consists of three primary project components which consist of: 1) upper sand excavation, transfer, and placement; 2) lower sand decontamination and Children's Pool reconfiguration; and 3) ongoing maintenance of restored condition. Specifically, excavated sand from Casa Beach would be transferred in 200 to 300 cy increments by a front-end loader from the upper sand area of Casa Beach, up the beach access ramp, south along the bluff-top paved walkway, to a conveyor system above the southern portion of South Casa Beach. Due to the fecal contamination in the sand, it will be first decontaminated by exposing it to the sun's UV rays and then raked until bacteria returns to safe levels. Since sand build up on Casa Beach and in the water at Children's Pool will likely occur after project construction has been completed, maintenance of the restored condition of Casa Beach and Children's Pool will consist of smaller scale sand excavation (approximately 200-300 cy) and transfer every two to five years.

Marine Mammal Protection Act Comments

B-1

Marine mammals likely to be in the immediate project area are the Pacific harbor seal (*Phoca vitulina richardii*), California sea lion (*Zalophus californianus*), and elephant seal (*Mirounga angustirostris*).

See next page for response B-1.

B-1 (cont.) Seals and sea lions are protected under the Marine Mammal Protection Act (MMPA). *See* 16 U.S.C. § 1361 *et seq*. Under the MMPA, it is generally illegal to "take" a marine mammal without prior authorization from NMFS. "Take" is defined as harassing, hunting, capturing, or killing, or attempting to harass, hunt, capture, or kill any marine mammal. Except with respect to military readiness activities and certain scientific research conducted by, or on behalf of, the Federal Government, "harassment" is defined as any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal in the wild, or has the potential to disturb a marine mammal in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

The DEIR mentions the installation of a sand berm, but lacks a description of the installation and removal of this structure, and an analysis of potential impacts to marine mammals. NMFS recommends that the Final DEIR include detailed information regarding the installation and removal of the sand berm, including the type of equipment to be used, in-air noise associated with installation and removal of the sand berm, maintenance of the sand berm for the duration of the project (*i.e.*, will it be subject to tidal flow and if it is affected by tidal flow, what would be needed to return the sand berm to its original design) and an analysis of potential impacts to marine mammals, particularly pinnipeds, hauled out on Casa Beach, South Casa Beach or Seal Rock, and transiting through the project area.

B-2 Sounds introduced into the sea by man-made devices could have a deleterious effect on marine mammals by causing stress or injury, interfering with communication and predator/prey detection, and changing behavior. Acoustic exposure to loud sounds may result in a temporary or permanent loss of hearing depending upon the location of the marine mammal in relation to the source of the sound. Although the DEIR indicates that the sand berm would dissuade seals from hauling out on Casa Beach during the upper sand excavation, transfer, and placement and lower sand decontamination and Children's Pool reconfiguration, the project may cause disturbance to marine mammals transiting through the project area or hauled out at South Casa Beach or Seal Rock, located in Children's Pool, and may temporarily limit foraging capabilities of seals and sea lions. We recommend that the Final EIR provide information regarding the type of machinery to be used, the sound levels emitted from that machinery, and details regarding what aspects of the project may cause the disturbance to marine mammals hauled out at or near Casa Beach (i.e., including Seal Rock). Studies have shown that when exposed to the 90 dBA sound pressure level (the presumed cause) harbor seals flushed from the beach on San Nicholas Island, CA, but many returned to land within several hours (see 68 FR 52132 September 2, 2003). Please provide details regarding how the City of San Diego intends to ensure that seals do not approach the construction equipment, as mentioned on page 3.3-26 of the DEIR.

B-3 In addition, the DEIR discusses that it is likely that harbor seals, in particular, may forage or haul out at different locations, as a result of the proposed project. However, the DEIR lacks an analysis of those impacts associated with animals utilizing other areas to haul out. NMFS recommends that the Final EIR provide details regarding the shift in foraging areas and haul out sites, including potential areas where this may occur and the protocol for management of displaced seals that are hauling out in different locations as a result of the project.

B-1 Comment noted. The City of San Diego recognizes the MMPA's coverage of seals and sea lions and the definition of "take" cited in this comment. Section 3.2 of the Draft EIR acknowledges that harbor seals, California sea lions, and elephant seals are present in the project area (see page 3.2-17), references the MPAA's protection of these species (3.2-20), and presents an analysis of the project's short-term and long-term impacts on these species (3.2-24, -25, -29, -31, and -34).

B-2 While the exact type of construction machinery to be used will not be determined until the project goes out to bid, it can be assumed that construction noise levels would approach and intermittently exceed 90 dBA. These noise levels would be transmitted on land and no sub-marine originated construction noise would occur. The noise would be expected to create a temporary annoyance to the seals, however, this (along with the physical deterrence of the sand berm and construction activity) is the intended result in order to dissuade them from approaching the beach during construction. The City intends to consult with NMFS throughout the regulatory permitting process to devise the best contingency deterrence plans to ensure that seals do not approach the construction site, and are treated humanely and appropriately if they do.

B-3 (cont.) Harassment of marine mammals may occur if hauled animals flush the haul out and/or move out of the immediate area to increase their distance from project activities, such as noise associated with the project, presence of workers, or unfamiliar activity in proximity to the haul out. As indicated in the DEIR it is possible that marine mammals may modify their behavior as a result of the noise and construction activities associated with this project. Based on the information provided in the DEIR we are unable to accurately assess the impact that this project may have on marine mammals, however it may be necessary for the City of San Diego to receive authorization from NMFS under the MMPA for this proposed project.

B-4 Although mitigation measures indicate that the harbor seal pupping season, grunion season, and spiny lobster season will be avoided, the exact timing of these activities is important regarding impacts to marine mammals and should be specified in the Final EIR.

Thank you for consideration of our comments. If you have any questions related to our MMPA comments, please contact Monica DeAngelis at 562-980-3232 or Monica.DeAngelis@noaa.gov.

Sincerely,

for Rodney McInnis
Regional Administrator

B-3 For a discussion of the Draft EIR's coverage of long-term impacts on seals, please see the response to comment A-5. Given the fact that the seal experts did not identify impacts on seals due to use of alternate haul-out locations, providing a protocol for management of displaced seals in the Final EIR is not warranted.

B-4 Specific timing of the mitigation measures is adequately discussed in the EIR. Mitigation Measure BIO-1.1b specifies that grunion spawning season lasts from March through August and states that project-related excavation will not occur within this timeframe unless a qualified biologist determines that the spawning season has concluded or as determined by and in consultation with the resource agencies. Mitigation Measure BIO-1.1.c specifies that lobster breeding season lasts from November through May and states that project-related excavation will not occur within this timeframe unless a qualified biologist determines that the lobster breeding season has concluded or as determined by and in consultation with the resource agencies. Finally, Mitigation Measure BIO-1.1.d specifies that seal pupping season lasts from December to June and states that project-related excavation will not occur within this timeframe unless a qualified biologist determines that the pupping season has concluded or as determined by and in consultation with the resource agencies. The City acknowledges that there is overlap between these three timeframes, leaving September through October as the acceptable period when excavation would be allowed without additional consultation with a biologist and the resource agencies. If work is proposed prior to September or after October, the City will conduct the necessary surveys and consult with the resource agencies, as necessary to determine whether excavation may proceed.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

MAY 22 2009

Ms. Allison Sherwood
Environmental City Planner
City of San Diego Development Services Center
1222 First Avenue
MS 501
San Diego, CA 92101

Dear Ms. Sherwood:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the City of San Diego's project number 71362, regarding the La Jolla Children's Pool Coastal Development Permit and the associated Draft Environmental Impact Report (DEIR). NMFS offers the following comments pursuant to the essential fish habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). These comments are in addition to those provided by NMFS on May 7, 2009, pertaining to the Marine Mammal Protection Act.

C-1 Given that the proposed activity will likely require a Federal permit from the U.S. Army Corps of Engineers (Corps) pursuant to Section 10 of the River and Harbor Act and Section 404 of the Clean Water Act, NMFS is providing comments on the DEIR in anticipation of the EFH consultation process between the Corps and NMFS this permit would require. We believe that coordination between NMFS and the City of San Diego at this stage of project planning would facilitate a more effective and streamlined EFH consultation process between the Corps and NMFS.

Proposed Project

C-2 The proposed project at the La Jolla Children's Pool/Casa Beach intends to restore the areas, located in the City of San Diego, California, to their 1941 configurations by excavating and transferring approximately 3,000 cubic yards (cy) of beach sand from Casa Beach to South Casa Beach. The proposed project consists of three primary project components: 1) upper sand excavation, transfer, and placement; 2) lower sand decontamination and Children's Pool reconfiguration; and 3) ongoing maintenance of the restored condition. Specifically, excavated sand from Casa Beach would be transferred in 200 to 300 cy increments by a front-end loader from the upper sand area of Casa Beach, up the beach access ramp, south along the bluff-top paved walkway, to a conveyor system above the southern portion of South Casa Beach. To address the issue of fecal contamination in the sand, the sand will first be exposed to the sun's UV rays and then raked until bacteria counts are determined to be at safe levels.

C-1 The City intends to initiate EFH consultation with the Corps and NMFS immediately upon certification of the Final EIR.

C-2 This is an accurate summary of the project presented and analyzed in the EIR.

C-3 The DEIR describes two sites for sand placement, with Site 1 at the northern end of South Casa Beach on the west side of the breakwater, and Site 2 located at the southern end of South Casa Beach. Because Site 1 contains sensitive rocky intertidal and surfgrass habitat, and Site 2 is composed primarily of sandy beach habitat, NMFS agrees that potential impacts to biologically sensitive resources would be more likely to occur at Site 1. Therefore, NMFS concurs with the determination that there would be no value in placing the sand at Site 1 and that the preferred location to place the clean sand is above the mean high tide line at Site 2.

Because sand build up will likely continue to occur on Casa Beach and in the water at Children's Pool after the construction portion of the project has been completed, smaller scale sand excavation (approximately 200-300 cy) and transfer will be necessary every two to five years to maintain the restored condition of Casa Beach and Children's Pool.

Action Area

C-4 The proposed project occurs in EFH for various fish species managed under the Federal Pacific Groundfish and Coastal Pelagics Fishery Management Plans (FMPs). In addition, the project occurs within the vicinity of seagrass, rocky reef, and canopy kelp habitats, which are considered habitat areas of particular concern (HAPC) for various federally managed fish species. HAPC are described in the regulations as subsets of EFH which are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area. Designated HAPC are not afforded any additional regulatory protection under MSA; however, federally permitted projects with potential adverse impacts to HAPC will be more carefully scrutinized during the consultation process.

EFH Comments

C-5 As a point of clarification, on p. 2-33 of the DEIR, the following statement is included: "When a project or activity is deemed to have potentially significant impacts on these designated habitats, an Essential Fish Habitat Assessment is required by NMFS". However, as described at 50 CFR 600.920(e), for any Federal action that may adversely affect EFH, a written assessment of the effects of that action on EFH must be provided, regardless of the significance of the potential effect.

C-6 The DEIR identifies Pacific halibut as a species that is likely found in or near the proposed project area and that is managed under an FMP. However, although Pacific halibut is known to occur off the coast of California, it is not typically found as far south as the project area. Moreover, Pacific halibut is managed by the United States and Canada in a bilateral commission known as the International Pacific Halibut Commission and not under a separate FMP. Therefore, no EFH has been designated for this species and it is not covered under the EFH provisions of the MSA.

C-3 This comment accurately summarizes the sand placement aspect of the project, as discussed in the EIR. NMFS's preference for Sand Placement Site #2 is noted. As explained in Chapter 2 of the Draft EIR (page 2-6), the City is no longer considering Sand Placement Site #1 as an option because, as was determined during the environmental review process for this project, there would be no value in placing project-related sand at Sand Placement Site #1, and because utilizing Sand Placement Site #2 would minimize project-related impacts on biological resources.

C-4 The City intends to initiate EFH consultation with the Corps and NMFS immediately upon certification of the Final EIR. The Draft EIR discusses the presence of these habitats in the vicinity of the project site and properly analyzes related impacts.

C-5 Please see the response to comment C-4.

C-6 Comment noted. The Draft EIR includes a general discussion of habitat known to support halibut, does not identify any project-related significant impacts on this species.

Letter of Comment

C-7

Based on information provided in the DEIR and the Intertidal and Subtidal Biological Survey of Children's Pool (Casa) and South Casa Beaches, NMFS believes that the proposed action would adversely affect EFH for various Federally managed species. Berm installation and deconstruction, sand excavation, transfer and placement, and long-term maintenance of the reconfigured condition of the beach and pool constitute the main activities that would adversely affect EFH.

The adverse effects to EFH associated with the project activities listed above may include: 1) direct removal/burial of organisms; 2) turbidity/siltation effects, including light attenuation from turbidity; 3) contaminant release and uptake, including nutrients, metals, and organics; 4) release of oxygen consuming substances; 5) alteration to hydrodynamic regimes and physical habitat.

C-8

Sensitive habitats, including rocky reef and surfgrass habitats, have been identified within the project area, and although the amount of sand to be excavated, transported, and placed back on the beach is relatively small, NMFS is concerned there may be potential impacts to these sensitive habitats associated with the project. As a result, prior to excavating any material, a pre-construction survey should be conducted to accurately characterize the rocky reef and surfgrass habitat within the project area. Survey results should be provided to NMFS no later than 30 days prior to construction. A post-construction survey should be conducted to document any impacts associated with the project. If impacts to these habitats occur, mitigation should be coordinated with NMFS.

C-9

Another potential project concern is the spread of the invasive alga *Caulerpa taxifolia* from project activities. As you may be aware, this alga has been introduced to our coastline. Evidence of harm that can ensue as a result of an uncontrolled spread of the alga has already been seen in the Mediterranean Sea where it has destroyed local ecosystems, impacted commercial fishing areas, and affected coastal navigation and recreational opportunities. Although it is not known to be present in the La Jolla Children's Pool or Casa Beach, it has been detected in two other locations in Southern California. If the invasive alga is present within the project area, the excavation activities would adversely affect EFH by promoting its spread and increasing its negative ecosystem impacts. Therefore, in addition to the mitigation measure included in the DEIR that would ensure that all excavation and sand transport equipment is checked for the presence of *Caulerpa* fragments prior to use within the beach areas, NMFS would recommend a pre-construction survey of the project area for *Caulerpa* be performed not earlier than 90 days prior to planned construction and not later than 30 days prior to construction in accordance with the Caulerpa Protocol. This measure would also apply to the subsequent sand excavation and transfer maintenance activities.

C-10

Along the coast of southern California to southern Baja California during the months of March through August, grunion use intertidal sandy beach habitats for spawning and maturation of eggs. These eggs will mature over a period of approximately two weeks, when extreme high tides reach eggs and stimulate hatching. Activities that require moving material on beaches and within the tidal areas, such as the sand excavation and deposition activities described in the proposed action, during this season may smother

Response to Comment

C-7 The City intends to initiate EFH consultation with the Corps and NMFS immediately upon certification of the Final EIR. The Draft EIR properly analyzes the project's impact on these habitats.

C-8 The Draft EIR concludes in Section 3.2 that the project would have a significant impact on surfgrass (see page 3.2-23 of the Draft EIR). To reduce this impact to a less-than-significant level, Mitigation Measure BIO-1.1.would require a qualified biological monitor to conduct a pre-construction survey of biological resources present in and around the project-related donor and receiver sites, and to be on hand to ensure that excavation and placement occur in ways that will minimize the effect on any sensitive resources known to occur within the sites. The City is also willing to cooperate with NMFS to address post-construction monitoring. Although post-construction monitoring was not deemed necessary to avoid or mitigate an identified significant impact in the Draft EIR, the City will work with NMFS during the permitting phase of the project and implement monitoring if it is required as part of the permit.

C-9 The project-related impacts of potential *Caulerpa* invasion are discussed in Section 3.2 (see page 3.2-23). The Draft EIR concludes that this impact would be significant and incorporates related mitigation into Mitigation Measure BIO-1.1.a that is sufficient to reduce this impact to a less-than-significant level. However, although there has been no evidence of *Caulerpa* at the project site, the City will conduct a pre-construction survey to determine presence/absence if required by NMFS as part of the permit.

C-10 (cont.)

and/or physically damage grunion eggs because of compression by heavy work equipment or burial by material. This could have negative impacts on the reproductive success of grunion. This issue was recognized and is addressed in the proposed mitigation measures of the DEIR. However, NMFS has more specific recommendations regarding the timing and frequency of the grunion spawning surveys to ensure impacts are avoided. Specifically, the project activities should avoid placement of material or other beach impacting activities within the grunion spawning zone between March 15 and August 31 to avoid adversely affecting grunion spawning success. If it is necessary to conduct activities within the grunion spawning zone during the predicted grunion spawning period, impacts should be avoided by having a qualified biologist conduct grunion-spawning surveys prior to the anticipated construction work. If grunion have spawned, no beach impacting activities within the spawning zone should occur until the eggs have hatched and no subsequent spawning occurs. This measure would also apply to the subsequent sand excavation and transfer maintenance activities.

Thank you for consideration of our comments. If you have any questions, please contact Eric Chavez at (562) 980-4064 or Eric.Chavez@noaa.gov.

Sincerely,

for Robert S. Hoffman
Assistant Regional Administrator
for Habitat Conservation Division

C-10 As noted in this comment, the Draft EIR addresses impacts on grunion, concluding that because "construction activities would not occur during the grunion season, there would be no impacts on that species." (see page 3.2-23) This avoidance of the grunion breeding season has been incorporated as Mitigation Measure BIO-1.1.b, and the timeframes noted in the mitigation measure (March through August) coincide with those mentioned in this comment.

California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Marine Region
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109
www.dfg.ca.gov

ARNOLD SCHWARZENEGGER, Governor
DONALD KOCH, Director

May 7, 2009

Ms. Allison Sherwood
Project Manager
City of San Diego
1222 First Ave. M.S. 501
San Diego, CA 92101

Subject: La Jolla Children's Pool Project, Draft Environmental Impact Report (DEIR)-SCH# 1999011060

Dear Ms. Sherwood:

The Department of Fish and Game (Department) has reviewed the Draft Environmental Impact Report (DEIR) for the La Jolla Children's Pool Project (Project) proposed by the City of San Diego (City). The Department understands that the Project would involve the following elements that may impact marine or terrestrial resources and their habitat.

The Project site is located in the community of La Jolla within the City of San Diego, San Diego County, California at Casa Beach and Cove below Coast Blvd. at Jenner St. in La Jolla. The proposed Project includes excavating a total of 3,000 cubic yards (cys) of sand from Casa Beach and Cove in order to widen and deepen the Cove to increase accessibility to the public for recreational purposes. The sand from this site is potentially contaminated by fecal matter from marine mammals. In order to avoid ocean water contact and disturbance during construction, the sand excavation will be done using front loaders during low tide conditions in small batch sizes of 200 to 300 cys. The batches of sand will be sampled and laboratory tested for contaminants. If the sand is found to be contaminated, it will be spread out by front loaders above the high tide line on Casa beach to aerate until it is sampled again and certified as clean sand. Clean batches of sand will be placed on South Casa beach, a pocket beach just south of Casa beach, in batch sizes of 200 to 300 cys using a chute lowered to the base of the bluff from the sidewalk. The batches of sand will be spread out above the mean high tide line by hand shovel to avoid damaging beach habitat and other marine resources.

The Department has the following comments on the Project:

D-1

The DEIR indicates that the South Casa Beach is divided into two site alternatives. The northern end of South Casa Beach (Alternative Site 1) contains rocky intertidal and surf grass habitat. The southern end of South Casa Beach (Alternative Site 2) is predominantly sandy beach habitat. On page 2-6, it is stated that during the environmental review process, it was determined that there would be no value in placing excavated sand at the Alternative Site 1 location, and placing sand at this site would potentially cause more impacts to marine habitats. Therefore, placing clean sand above the mean high tide line at Alternative Site 2 location is identified as the preferred clean sand placement site. The Department agrees with the

See next page for response D-1.

D-1 (cont.) assessment that there could be more potentially damaging biological impacts at Alternative Site 1 than at Alternative Site 2 and therefore recommends Alternative Site 2 is utilized for clean sand placement.

D-2 The DEIR appears to have adequately addressed impacts to the Fish and Wildlife resources under the jurisdiction of the Department. The DEIR identifies pre- and post- construction surveys and protection plans to avoid and minimize impacts to species and their habitat. The Department has no further comments on the DEIR provided our recommendations are included and that these surveys and plans are carried forward into the final Environmental Impact Report and implemented with final approval by the resource agencies.

The Department appreciates the opportunity to review and comment on the DEIR and looks forward to reviewing and commenting on the biological surveys and proposed species and habitat protection plans prior to Project construction. If you have questions or need additional information, please contact Ms. Loni Adams, Environmental Scientist, at (858) 627-3985.

Sincerely,

Marija Vojkovich
Regional Manager
Marine Region

cc: Ms. Lauren White
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011

Mr. Bryant Chesney
Southern California Habitat Coordinator
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
501 West Ocean Blvd., Suite 4200
Long Beach, CA 90802-4213

Ms. Loni Adams
Department of Fish and Game
San Diego, CA

State Clearinghouse
PO Box 3044
Sacramento, CA 95814

D-1 California Department of Fish & Game's preference for Sand Placement Site #2 is noted. As explained in Chapter 2 of the Draft EIR (page 2-6), the City is no longer considering Sand Placement Site #1 as an option because, as was determined during the environmental review process for this project, there would be no value in placing project-related sand at Sand Placement Site #1, and because utilizing Sand Placement Site #2 would minimize project-related impacts on biological resources.

D-2 Comment noted. The surveying and monitoring program outlined in Mitigation Measure BIO-1.1 (a-d) will be incorporated into the Final EIR and will be incorporated during project implementation.

Department of Toxic Substances Control

Maziar Movassaghi, Acting Director
5796 Corporate Avenue
Cypress, California 90630

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

April 23, 2009

Ms. Allison Sherwood
City of San Diego
1222 First Avenue, M.S. 501
San Diego, California 94101

NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR LA JOLLA CHILDREN'S POOL PROJECT (SCH # 1999011060), CITY OF SAN DIEGO, SAN DIEGO COUNTY

Dear Ms. Sherwood:

The Department of Toxic Substances Control (DTSC) has received your submitted Draft Environmental Impact Report (DEIR) for the above-mentioned project. The following project description is stated in your document: "The La Jolla Children's Pool project aims to restore the Children's Pool (pool) and Casa Beach to their historic configurations by excavating and transferring approximately 3,000 cubic yards (cy) of beach sand from Casa Beach and the pool. Prior to excavation, sediment sampling will be conducted to verify that the sand excavated from the Children's Pool is free from any bacterial contamination caused by seal use of the beach. The project also includes a future maintenance plan to remove the sand accumulating in the Children's Pool after the excavation. Children's Pool (Casa Beach) and the adjacent pocket beaches (South Casa Beach) are located in La Jolla, California, along Coast Boulevard, just south of the San Diego Marine Life Refuge and the San Diego-La Jolla Ecological Reserve, both of which are designated as Areas of Special Biological Significance. " DTSC has the following comments:

E-1

1) The EIR should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances, and any known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the pertinent regulatory agencies:

Printed on Recycled Paper

See next page for response E-1.

E-1 (cont.)

- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
- Envirostor: A Database primarily used by the California Department of Toxic Substances Control, at Envirostor.dtsc.ca.gov.
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
- Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
- Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
- Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
- The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).

E-2 2) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC can enter an oversight agreement in order to review such documents. Please see comment No. 10 below for more information.

E-3 3) All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found should be clearly summarized in a table.

E-4 4) Proper investigation, sampling and remedial actions overseen by the respective regulatory agencies, if necessary, should be conducted at the site prior to the

E-1 The current and historic uses at the project site that have resulted in hazardous substances are detailed in Section 3.5 of the Draft EIR: "Human Health, Public Safety, and Hazardous Materials". Specifically, Page 3.5-3 of the Draft EIR provides documentation of the contaminants (i.e., E. Coli, total coliform, and Enterococcus) and the documented link of the E. Coli to seal feces. The Draft EIR also identifies these substances as human health threats, based on the County of San Diego Department of Environmental Health (DEH) deeming Children's Pool unsafe for human contact due to high levels of E. Coli. A DTSC Envirostar Database search was also conducted, revealing no listed sites within 0.5 miles of the project site (Draft EIR Page 3.5-4).

E-2 The Draft EIR identifies a testing and remediation plan for the contaminated sand on pages 2-6 and 2-7. This plan will be coordinated with DEH, and potentially other agencies such as NOAA that have expressed interest in utilizing the project as a marine research opportunity. DTSC will also be consulted to determine if an oversight agreement for review of documents is appropriate, once the Final EIR is certified and a Mitigation Monitoring and Reporting Plan adopted by the City of San Diego.

E-3 The sampling and remediation plan will be overseen by DEH, with additional consultation and/or oversight from agencies that may include DTSC, RWQCB, and NOAA. All sampling and remediation data will be documented along with the workplan in a written report that will be made available to DTSC and any other agencies and the public.

E-4 (cont.) new development or any construction. All closure, certification or remediation approval reports by these agencies should be included in the EIR.

E-5 5) If buildings or other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of other related hazardous chemicals, lead-based paints or products, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.

E-6 6) Project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.

E-7 7) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.

E-8 8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.

E-9 9) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented.

E-10 10) DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies which would not be

E-4 Sampling will be conducted at the project site prior to sand removal. No new development or built structures are contemplated as part of the proposed project.

E-5 The proposed project does not include demolition of any buildings or structures. Therefore, contaminants related to demolition of structures (e.g., lead-based paints and asbestos containing materials) will not be encountered with the project.

E-6 As discussed in responses E-2 and E-3 above, the project includes a sampling and remediation plan. Contaminated soil will not be off-hauled, but rather cleaned of contamination and then placed on an adjacent beach as sand replenishment. Soil import would not occur.

E-7 The health risks associated with the project site have been studied and disclosed in the Draft EIR (see specifically Section 3.5). A main objective of the proposed project is to remediate contaminated sand at the project site specifically to eliminate or substantially reduce risks to human health.

E-8 The proposed project will not result in the generation of hazardous wastes and therefore the legal requirements listed for generation, handling, and storage of such wastes do not apply to the proposed project.

E-9 As detailed in the Draft EIR and indicated in the above responses, both soil and water (ocean) contamination are known to be present at the project site, and one of the fundamental components of the proposed project is sand remediation. Appropriate health and safety procedures will be incorporated into all work plans.

E-10 (cont.)

responsible parties under CERCLA, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

E-11

11) In future CEQA documents, please provide your e-mail address, so DTSC can send you comments both electronically and by mail

If you have any questions regarding this letter, please contact Mr. Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov or by phone at (714) 484-5491.

Sincerely,

Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program - Cypress Office

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov.

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
1001 I Street, 22nd Floor, M.S. 22-2
Sacramento, California 95814
nritter@dtsc.ca.gov

CEQA#2526

E-10 The City appreciates DTSC's guidance on cleanup oversight and has noted the appropriate contact and website information.

E-11 An email address for submittal of electronic comments was listed on the public notice attached to the Draft EIR (DSDEAS@sandiego.gov).

THE HUMANE SOCIETY
OF THE UNITED STATES

OFFICERS
David O. Wiebers, M.D.
Chair of the Board
Anita W. Coupe, Esq.
Vice Chair of the Board
Walter J. Stewart, Esq.
Board Treasurer
Wayne Pacelle
President & CEO
G. Thomas Waite III
Treasurer & CFO
Roger A. Kindler, Esq.
General Counsel & CEO
Janet D. Frake
Secretary
Andrew N. Rowan, Ph.D.
Executive Vice President
Operations
Michael Markarian
Executive Vice President
External Affairs
STAFF VICE PRESIDENTS
John Balzar
Senior Vice President
Communications
Patricia A. Forkan
Senior Vice President
External Affairs International
John W. Grandy, Ph.D.
Senior Vice President
Wildlife & Habitat Protection
Holly Hazard
Chief Innovations Officer
[illegible]
Vice President
Campaigns
Katherine B. Lacomb
Administration &
Animal Companions
Richard M. Clugston, Ph.D.
Higher Education
Geoffrey L. Handy
Media and Online
Communications
Jonathan R. Lovvorn, Esq.
Animal Protection Litigation
Kathleen C. Maas
Investigations and Video
Mayan Parra
Farm Animal Welfare
Nancy Perry, ESQ.
Government Affairs
Steve Pumilia
Business Development &
Corporate Relations
Wendy G. Roop, Ph.D., SPHR
Human Resources &
Education Programs
Melissa Seide Rubin, Esq.
Field & Disaster Services
John M. Snyder
Companion Animals
Martin L. Stephens, Ph.D.
Animal Research Issues
DIRECTORS
Leslie Lee [illegible], Esq.
Patricia Mares, Esq.
Peter A. Bender
Barbara S. Brack
Anita W. Coupe, Esq.
Faiz B. Fong, Esq., C.P.A.
Jack Frederick
David Johnson, Ph.D.
Jennifer Leaning, M.D., S.M.H.
Kathleen M. Lingham, Esq.
William F. Mancuso
[illegible]
Gil Michels
Judy Ney
Judy I. Peil
Marilyn G. Probst
Joshua S. Reichert, Ph.D.
Jeffrey O. Rose
James D. Ross, Esq.
Marilyn G. Seyler
Walter J. Stewart, Esq.
John E. Tuttle
Andrew Weinstein
Persia White
David O. Wiebers, M.D.
Printed on recycled paper

Allison Sherwood
Environmental Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, Cal 92101.

Submitted via email to DSEAS@sandiego.gov

May 6, 2009

Dear Ms. Sherwood,

I am submitting the following comments on behalf of the more than 100,000 members and constituents of The Humane Society of the United States (The HSUS) who reside in the greater San Diego area and our more than 11 million members and constituents nationwide. There are serious deficiencies in the Draft Environmental Impact Review for La Jolla Children's Pool Coastal Development and Site Development Permit (DEIR) that require remedy before considering moving forward with this action. F-1

While we understand that the City is currently under a state court mandate to dredge the beach and restore it to its 1941 condition; it is also apparent that this is not the best alternative. In fact the DEIR makes it clear that Alternative 2 (the year round joint use alternative for Children's Pool) is "environmentally superior" with regard to minimizing adverse impacts. This alternative was rejected because it did not conform to the court order. (DEIR at S-2) F-2

Among our greatest concerns with the adequacy of the DEIR are three impacts that we feel were not properly assessed. First is that it seems blithe to assert that seals will readily relocate, once the new configuration makes the Children's Pool largely uninhabitable as a year-round haul out and a seasonal pupping area. Second, the impacts to tourism in the area from the permanent dislocation of seals appear to have been inappropriately minimized. Third, the DEIR fails to discuss the government's public trust obligations for considering impacts to and the protection of state wildlife. F-3

Long Term Impacts on Harbor Seals

The DEIR assesses the short term impacts on seals during the construction and dredging process and attempts to mitigate these by scheduling dredging-related activities outside of the pupping season and by attempting to prevent seals from entering the area. (DEIR at 3.2-25) However, it devotes virtually no attention to the long-term consequence of displacing a well-established rookery. This rookery is the southernmost in the continental United States and it is the only mainland harbor seal rookery south of Malibu. F-4

F-1 The Humane Society's opinion regarding the deficiencies in the Draft EIR is noted. In compliance with relevant sections of CEQA and the State CEQA Guidelines, the Draft EIR properly discloses all aspects and phases of the proposed project and analyzes its impacts on the environment. The Draft EIR is not deficient, and represents the City's adequate CEQA analysis of the project's environmental impacts. Detailed responses to The Humane Society's specific comments on the content and conclusions of the Draft EIR are provided below.

F-2 This comment correctly states that the Draft EIR identifies Alternative 2 as the environmentally superior alternative (see page 5-20). Though Alternative 2 may be the environmentally superior alternative, the Draft EIR also explains that the City is not considering implementing this alternative because it does not meet the main project objective of achieving compliance with the court order and returning Children's Pool to its 1941 configuration (see page 5-5 and 5-20).

F-3 This summary of The Humane Society's specific comments on the Draft EIR is noted. Please see the responses below, which provide detailed discussion of these specific comments.

That harbor seals have chosen to use this area as a pupping area, and a year round haul out, is likely due to unique characteristics consistent with their habitat preferences. These include a broad, sandy beach that is accessible at all tides and nearby feeding grounds with abundant fish resources (Yochem 2007)

The DEIR states (3.2-24and 25) that is likely that harbor seals that are displaced will haul out on nearby rock outcrops or pocket beaches (such as Seal Rock and Shell Beach), where they have been observed in the past. It states that the seals will likely continue to forage in and around the Children's Pool Beach even if prevented from occupying the beach. This section concludes that "[w]hile it is possible that some individuals would migrate to more distant areas if prevented access to the beach, reducing the overall size of the beach is unlikely to displace any seal populations geographically, and the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces." The only citation offered for the conclusion that the project would have no significant impact is the opinion of two individuals (Lecky and Hanan). The assertion that there would be no significant long-term impact is offered without substantiation and without scientific study comparing the likely results of displacing seals from Children's Pool Beach to the results of similar disruptive actions elsewhere. In fact Lecky's 2002 opinion is provided as part a longer 2006 document in Appendix B that has only abbreviated excerpts and a paraphrase of his 2002 letter. Hanan's opinion, which was given in 2004 simply noted that there are 1,000 "hauling sites" along the mainland, and a number other rookeries besides Children's Pool; and simply says that if they abandon Children's Pool, "they would likely move to another site." He does not speculate as to where. (Hanan in Appendix F)

F-4
(cont.)

This conclusion by Hanan does acknowledge the possibility of longer-range displacement and further, within the DEIS there other are scattered statements that acknowledge that seals could be displaced beyond the nearby "potential haul out surfaces" in their attempt to establish a new rookery or join an extant rookery elsewhere. Among these DEIR statements is speculation that fish abundance may increase "if the harbor seals ultimately relocate away from Children's Pool Beach" (DEIR 3.2-21); that "seals [could]ultimately shift their foraging and haul out behaviors to other beaches and areas of coastline along Southern California." (DEIR 3.2-32); and that the dredging could "potentially result in a condition that would dissuade them from returning over the long term." (DEIR S-3)

Long-term impacts are generally discussed starting on page 3.2-26. The consideration of long-term impacts appears to be confined to discussion of the impacts of subsequent periodic maintenance of the beach on marine habitats and species. These are stated to be "potentially significant." The DEIR here offers that mitigation measure BIO-1.1a would reduce impacts to less-than-significant levels. We must point out that, with regard to seals, this cited mitigation measure simply relates to preventing seals from approaching during sand excavation. This, however; is *not* a mitigation of the long-term and "potentially significant" impact of permanently displacing all or most of the animals from a long-established breeding rookery and year-round haulout site.

There appears to be a dichotomy between the finding that impacts of displacing seals may be "potentially significant" and the blithe assurance that they will merely move up or down the

F-4 For a discussion of the Draft EIR's coverage of long-term impacts on seals, please see the response to comment A-5 and B-3.

F-4 (cont.)

beach to another site. These nearby sites have not been used to the extent that has been seen in Children's Pool Beach, presumably because they lack features that make them as ideal for birthing and rearing pups. Indeed, rather than pupping in these areas or other beaches south of Carpinteria, the pupping is confined to this small area in La Jolla. The DEIR does not adequately address characteristics that bear on whether these nearby areas could in fact be used for pupping that now occurs at Children's Pool Beach. Instead the DEIR states that seals could "haul out on nearby rock outcrops and/or pocket beaches" (DEIR at 3.2-24). The qualities that make a site suitable for hauling out (i.e., temporarily resting) are quite different than are needed for a rookery. The DEIR defines a rookery on 3.2-17 as "land areas used by a species for nesting and breeding purposes" and states that "the Casa Beach area….could be considered a seal rookery since the seals use the beach for pupping and rearing juveniles."

The DEIR makes no attempt to analyze the suitability of other named nearby "rock outcrops and/or pocket beaches" for a rookery, it merely mentions their suitability for haul outs. As noted haul outs are not the same as rookeries and the characteristics that make an area suitable for a haul out are generally not the same as those for a rookery. This failure to address displacement of a rookery is a serious inadequacy, given that the implied result of the dredging is simply that this established rookery can relocate without any negative consequence.

F-5

It is not entirely clear in the DEIR where the proponents expect the displaced seals may go for pupping if the Casa Beach area is made unsuitable by the dredging. Seal rock and shell beach may host some of the seals, but moving to other sites may not be feasible. The DEIR does not address consequences if all females must locate other areas to give birth and rear their newborns. Other sites may not be "welcoming" to these seals and movement may disrupt breeding for this species and/or socioecological processes.

F-6

There are other more distant mainland harbor seal rookeries that include Point Magu Naval Air Station, the city of Carpinteria and Vandenberg Air Force Base. Offshore rookeries include the Channel and Coronado Islands. (Yochem, 2007) It is likely these extant rookeries that are contemplated in the statements in the DEIR indicating that displaced individuals may be forced to use more distant areas.

Not all extant rookeries may be hospitable for these seals, which are used to the Casa Beach area. In one study, the NMFS found a high degree of site fidelity in harbor seals utilizing haul outs at Vandenberg Air Force Base, but only those who were accustomed to the launch noise were unphased by it. (67 Fed. Reg. 2843, (Jan. 22, 2001)) Further, the DEIR does not make it clear whether there is adequate space at another pre-existing rookery (such as Vandenberg) for an influx of seals from another location, or whether the unfamiliar and/or atypical disturbance of a new site would be tolerated by seals unaccustomed to it.

Some studies have found inter-annual site fidelity, particularly in highly urbanized areas. For example Grigg and her co-authors (Grigg, et al 2005) studied harbor seals in San Francisco and found that females used the site for up to 8 years of observation and female pups were seen to return to their natal sites to pup when they themselves were reproductively mature.

F-5 Please see the response to comment A-5.

Further, in some seal species, interannual associations occur between breeding females. At least one study found that even when females were displaced, there was a greater than predicted interannual association between females form the original site. This preference for association was argued by the authors to "contribute significantly to socioecological models of social evolution." (Pomeroy, et al. 2004) Despite the accessibility of individuals for study at Casa Beach, long term associations of females and/or natal site fidelity have not been studied. Thus it is not clear what the result will be of simply denying sufficient room at Children's Pool for all female seals to return.

F-6 (cont.)

Additionally studies in Elkhorn Slough have indicated that males (which in other studies have been shown to have lower site fidelity) use a mating strategy similar to terrestrial "hotspot leks" to define territories for mating along female high-traffic corridors. (Hayes, et al 2004) If females are dispersed from this area, and not able to congregate as before, there may be a disruption of mating behavior, the consequences of which are unaddressed in the DEIR. The DEIR should analyze the consequences of the displacement of animals should they not be able to simply re-group and recolonize the named nearby areas for purposes of establishing an alternative rookery. While it may be of little consequence to the overall abundance of harbor seals on the west coast, the disturbance (and potential destruction) of the southernmost rookery in the continental U.S. deserves analysis as to effects on socioecology of the species.

Long Term Impacts on Local Tourism

Harbor seals at Children's Pool are largely habituated to regular human presence. Because of this they are readily accessible to local residents and visitors who come to this area to see seals and their newborns at close proximity.

F-7

Yet in section 3.8, where impacts on recreational resources are discussed, the DEIR makes no attempt to assess potentially adverse impacts to local tourism from dramatically reducing or eliminating seals from Children's Beach. Aside from mentioning that there are health concerns for swimmers at Children's Beach that may be improved by the dredging, the only reference to tourism focuses on Ellen Scripp's Park. The DEIR quotes from AAA magazine stating that it is one of the most photographed spots in San Diego. We wish to note that Via (the AAA travel companion magazine) not only discusses the beauty of this Park, but also takes great pains to discuss the abundant marine wildlife, stating "[a]round Children's Pool Beach, a crowd watches the resident harbor seals inch across the sand…" The photograph chosen to accompany this article about things to do in LaJolla is of just that scene.

Indeed, the attraction of the seals for visitors to the area is given little to no mention in the DEIR. The long-term impacts section (3.8-5) assures only that additional swimming opportunities will be created but mentions nothing about potential loss of revenue from likely decrease in numbers of visitors coming to observe the seals who will have been displaced.

The *San Diego Union Tribune* recently estimated that up to 80,000 people a month visit the area to observe seals (*Rope Barrier Ordered to Protect Seal Colony*, San Diego Union-Tribune, December 19, 2008). While there are many beaches in the San Diego area, there are no other mainland coastal areas south of Carpinteria that provide such a unique opportunity to observe

F-6 Please see the response to comment A-5.

F-7 (cont.)

wild seals and their pups. A poll conducted in 2007 found that 80 percent of San Diegans supported preserving the beach for use by seals, with over 90 percent of those in District 1 supporting preservation of their habitat. It is also increasingly clear that the City benefits from the attraction the seals provide for visitors who can observe these fascinating animals up close. Tourism is an important part of the local economy and travel books and web sites often prominently feature the seals as a "must-see" attraction for visitors to the area (among these are virtual tourist.com, Frommer's guides, American West Travelogue, and the NY Times which listed watching seals at the Children's Pool as a "mesmerizing" experience)

The DEIR has ignored the long term impact to tourism in the LaJolla area, and the loss of educational opportunities for local school children who visit the area for class trips. Rather than ignoring these potentially significant impacts to the local economy, the DEIR should have evaluated potential loss of income to the area if the 80,000 people a month coming to observe seals no longer visit the area.

The Public Trust Obligations for Considering and Protecting State Wildlife

F-8

The proposed site development at Casa Beach also violates the public trust, the legal doctrine whereby land and wildlife is held by the government on behalf of the people. *Ctr. for Biological Diversity, Inc. v. FPL Group, Inc.*, 166 Cal.App.4th 1349, 1360 (2008). California courts have recognized that public trust protections go beyond traditional protections for commerce, navigation, and fisheries. *Marks v. Whitney*, 6 Cal.3d 251, 259 (Cal. 1971). Public trusts encompass "changing public needs" and there is a "growing public recognition that one of the most important public uses . . . is the preservation of those lands in their natural state." *Id.* Open spaces are valued as "ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life, and which favorably affect the scenery and climate of the area." *Id.* at 260. The planned construction will indisputably impact the "environments which provide food and habitat for birds and marine life."

Furthermore, wildlife and its protection are specifically within the scope of California's public trust. California cases as far back as the 1800s have recognized the public ownership of wildlife,[1] and the recent *CBD* case undisputedly clarified that "the public trust doctrine encompasses the protection of undomesticated birds and wildlife." 166 Cal.App.4th at 1363. In fact, the state has an affirmative duty protect wildlife, *id.*, and "to protect the people's common heritage of streams, lakes, marshlands and tidelands, surrendering that right of protection only in rare cases where the abandonment of that right is consistent with the purposes of the trust." *Nat'l Audubon Soc'y v. Superior Court*, 33 Cal.3d 419, 441 (Cal. 1983).[2] *Audubon* effectively imposes a duty upon the

[1] *See People v. Truckee Lumber Co.*, 116 Cal. 397 (1897), a nuisance action regarding the fish-killing discharge of a sawmill in which the court recognized that "[t]he fish within our waters constitute the most important constituent of that species of property commonly designated as wild game, the general right and ownership of which is in the people of the state." *Id.* at 399. *See also People v. Stafford Packing Co.*, 193 Cal. 719 (1924), in which the public trust provided grounds for equitable relief separate and apart from the statute at issue; *People v. Monterey Fish Products Co.*, 195 Cal. 548, 564 (1925), in which the defendant violated property rights encompassed in the public trust by causing the deterioration and waste of supplies of fish.

[2] Even though the primary values plaintiffs sought to protect were recreational and ecological (scenic views and bird habitat), the court found that the plaintiffs could rely on the public trust doctrine to seek reconsideration of how water in a lake had been allocated. *Audubon*, 33 Cal. 3d at 452.

F-7 The EIR analyzes the project's effects on the physical environment, as required by CEQA. This comment suggests that the seals' presence at Children's Pool is an asset to the local tourism industry and important to the education of local children. Tourism and education are economic and social considerations, respectively—factors that are not typically considered under CEQA (see Section 15131(a) of the State CEQA Guidelines).

government to 1) "take the public trust into account" 2) "protect public trust uses whenever feasible" and 3) "continu[e] supervision over the taking and use" of the public trust. *Id.* at 446-47. The DEIR does not discuss the state and the City's public trust obligation for wildlife, nor how the Alternatives will impact that trust resource. Further, the extensive excavation and hazards to wildlife caused by this project are hardly in line with the purpose of ensuring that wildlife habitat (in this case an established rookery) is protected, and the government therefore will fail in its duty to protect the public trust if it allows for this excavation project.

F-8 (cont.)

In addition to the common law public trust doctrine, the state also maintains a statutory obligation to protect wildlife. In *Environmental Protection and Information Center v. California Dept. of Forestry & Fire Protection*, 44 Cal.4th 459 (Cal. 4th 2008), the court conceptualized two distinct public trust doctrines, one derived from the common law duty of the government to protect public resources and the other from statute, specifically Fish and Game Code section 711.7, which states that "fish and wildlife resources are held in trust for the people of the state by and through the department." *Id.* at 515. The court noted an "overlap between the two public trust doctrines" and that "it matters not whether the obligations imposed by the public trust are considered to be derived from the common law or from statutory law, or from both," and, as the *CBD* court put it, public agencies "must consider the protection and preservation of wildlife" either way. *Id.* at 599-600. Accordingly, the DEIR also fails to consider the statutory obligation to "preserve and protect" state wildlife. The consideration of the protection of wildlife thus far in the DEIR has been cursory and underdeveloped, and California may fail its affirmative duty from both common and state law to protect the public trust by allowing this excavation project at Casa Beach and the subsequent displacement of an established harbor seal rookery.

Conclusion

F-9

The DEIR has not adequately evaluated the long-term impacts of displacing all or most of the seals from Children's Pool Beach. It has neither considered the consequences to the seals themselves nor provided any suggested mitigation for long-term displacement of an established rookery. Further, the DEIR omits mention of the likely impacts of the loss educational opportunities for local school children and loss of significant tourism revenue if the seals that attract thousands of visitors are forced to leave the area. Finally, the DEIR does not discuss how the project affects the government's public trust obligations for wildlife. The DEIR needs to be supplemented and these impacts considered and/or mitigated before dredging can proceed.

Thank your for your attention to our concerns.

Sincerely,

Sharon B. Young

Sharon B. Young
Marine Issues Field Director
The Humane Society of the United States
syoung@hsus.org
t: 508-833-0181

F-8 The purpose of the EIR, as mandated by the California Environmental Quality Act, is to analyze the project's potential to result in physical adverse effects on the environment. The asserted "violation of the public trust doctrine" falls outside of the scope of the EIR.

F-9 This summary of The Humane Society's specific comments on the Draft EIR is noted. Please see the detailed responses above to The Humane Society's specific comments on the Draft EIR.

Letter of Comment

La Jolla Community Planning Association

8 May 2009

Allison Sherwood, Environmental Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

Sent via email to dsdeas@sandiego.gov

RE: La Jolla Children's Pool Draft Environmental Impact Report
JO: 298725, Project No 71362. SCH No. 1999011060

Dear Allison:

The La Jolla Community Planning Association (CPA) appreciates the opportunity to submit comments on the draft EIR. The CPA unanimously approved sending this letter at its regular meeting of May 7, 2009.

We would like to thank City Staff for correcting its March 23, 2009 Public Notice of the Draft Environmental Impact Report so that it is consistent with the conclusions of the Draft EIR. We would also like to express our gratitude for extending the deadline for public comment to allow the CPA to submit its comments.

G-1 The CPA limited its detailed review to the following areas: Aesthetics/Neighborhood Character, Land Use, and Transportation and Circulation. We found the discussion of Existing Condition, Impacts and Mitigation Measures to be complete.

We also note the following areas where the draft EIR needs further analysis:

- Human Health, Public Safety, and Hazardous Materials
  - G-2 Lack of analysis of the potential impacts to lifeguard operation during the construction period as the existing direct ocean access via Children's Pool and South Casa Beach will be temporarily prohibited.
  - G-3 The adequacy of the proposal to disinfect the sand removed from Children's Pool by simply an exposure to the sun (ultraviolet light).
  - G-4 Noise – lack of analysis of potential noise impacts to recreation users in the vicinity as well as the adjacent retirement home during construction.
- Alternatives
  - G-5 Re-evaluate the alternative of exposing and reopening the sluiceways as a permanent solution.
  - G-6 Add an alternative of removing and trucking out the sand to eliminate the need for disinfection.
- G-7 Add discussion about the narrow window of construction to perform the proposed task with regard to the "ultraviolet disinfecting" and address what happens to the construction activity if it can not be accomplished in sixty days.

Sincerely,
La Jolla Community Planning Association
Joseph LaCava
Joe LaCava
President

PO Box 889, La Jolla, CA 92038 ♦ 458.456.7900 ♦ http://www.LaJollaCPA.org ♦ info@LaJollaCPA.org

Response to Comment

G-1 The City acknowledges the La Jolla Community Planning Association's belief that the EIR's discussion of existing conditions, impacts, and mitigation measures is generally complete.

G-2 Lifeguard access to the coastal waters surrounding Children's Pool will be maintained at all times throughout construction of the project. No adverse safety impacts would occur.

G-3 Coastal Environments researched the effectiveness of killing fecal coliform bacteria—the chief contaminant in the Children's Pool sand—by sunlight exposure and incorporated their findings into their "La Jolla Children's Pool Sand Excavation Plan" technical report, which was included as Appendix E of the Draft EIR. In their report they cite several studies that found this method to be effective, including Fujioka et al. (1981 and 2002), which showed that 90% of fecal coliforms were killed within 90 minutes of exposure to sunlight. Additionally, a more recent study of a beach-sand cleanup following a sewage spill in the Los Angeles area found that moisture levels and temperature of the sand were important factors in achieving disinfection of E. coli (Jennifer Jay, "Fecal Indicator Bacteria and Pathogen Persistence in Dry Beach Sand and Sediment Biofilms" 2008, available on the Web at: <http://www.lib.berkeley.edu/WRCA/WRC/pdfs/JAY08WRC.pdf>)
Based on the opinion of Coastal Environments in review of the available literature, the City anticipates that exposing layers of excavated sand to sunlight will dry the sand out and elevate its temperature to effectively kill the bacterial contaminants in a short amount of time.

G-4 Page 3.7-4 of the Draft EIR notes that project construction would result in temporary noise that would be received by surrounding uses, including recreational users and residences. These temporary impacts are considered less than significant.

G-5 Opening the sluiceways was analyzed in Chapter 5 of the Draft EIR as Alternative 4 (see page 5-10 through 5-13 of the Draft EIR). While this alternative may achieve certain project objectives—reducing water and, potentially, sand contaminants—the alternative would not return and maintain the Children's Pool to its 1941 condition, thereby preventing achievement of the primary project objective. Furthermore, potential safety concerns for swimmers that would be caused by maintaining the open sluices represents a public safety impact that would not occur under the proposed project, and limits the alternative's ability to meet the project objective of keeping the Children's Pool safe for public swimming and recreation.

La Jolla Community Planning Association

8 May 2009

Allison Sherwood, Environmental Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

Sent via email to dsdeas@sandiego.gov

RE: La Jolla Children's Pool Draft Environmental Impact Report
JO: 298725, Project No 71362. SCH No. 1999011060

Dear Allison:

The La Jolla Community Planning Association (CPA) appreciates the opportunity to submit comments on the draft EIR. The CPA unanimously approved sending this letter at its regular meeting of May 7, 2009.

We would like to thank City Staff for correcting its March 23, 2009 Public Notice of the Draft Environmental Impact Report so that it is consistent with the conclusions of the Draft EIR. We would also like to express our gratitude for extending the deadline for public comment to allow the CPA to submit its comments.

G-1 The CPA limited its detailed review to the following areas: Aesthetics/Neighborhood Character, Land Use, and Transportation and Circulation. We found the discussion of Existing Condition, Impacts and Mitigation Measures to be complete.

We also note the following areas where the draft EIR needs further analysis:

- Human Health, Public Safety, and Hazardous Materials
  - G-2 Lack of analysis of the potential impacts to lifeguard operation during the construction period as the existing direct ocean access via Children's Pool and South Casa Beach will be temporarily prohibited.
  - G-3 The adequacy of the proposal to disinfect the sand removed from Children's Pool by simply an exposure to the sun (ultraviolet light).
  - G-4 Noise – lack of analysis of potential noise impacts to recreation users in the vicinity as well as the adjacent retirement home during construction.
- Alternatives
  - G-5 Re-evaluate the alternative of exposing and reopening the sluiceways as a permanent solution.
  - G-6 Add an alternative of removing and trucking out the sand to eliminate the need for disinfection.
- G-7 Add discussion about the narrow window of construction to perform the proposed task with regard to the "ultraviolet disinfecting" and address what happens to the construction activity if it can not be accomplished in sixty days.

Sincerely,
La Jolla Community Planning Association
Joseph LaCava
Joe LaCava
President

PO Box 889, La Jolla, CA 92038 ♦ 458.456.7900 ♦ http://www.LaJollaCPA.org ♦ info@LaJollaCPA.org

G-6 As stated above in the response to comment G-3, the City has no reason to believe the sand decontamination effort could not be accomplished in the allotted timeframe. Accordingly, the City does not believe it will be necessary to deposit sand off site. Furthermore, the City feels it is important to keep the project-related sand on local beaches, and that depositing it in a landfill would be a poor use of important local resources. Therefore, off-site hauling is not an appropriate alternative to the proposed project and will not be examined as such in the Final EIR.

G-7 As stated above in the response to comment G-3, the City has no reason to believe the sand decontamination effort could not be accomplished in the allotted timeframe, as is incorporated into the project description and examined in the Draft EIR. If unforeseen circumstances arise and the decontamination requires more time, the sand would be treated in a contained area adjacent to the lifeguard tower before being deposited on South Casa Beach.

San Diego County Archaeological Society, Inc.

Environmental Review Committee

10 April 2009

To: Ms. Allison Sherwood
Development Services Department
City of San Diego
1222 First Avenue, Mail Station 501
San Diego, California 92101

Subject: Draft Environmental Impact Report
La Jolla Children's Pool
Project No. 71362

Dear Ms. Sherwood:

I have reviewed the historical resources aspects of the subject DEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DEIR, we have the following comments:

H-1
1. It is not clear in Section 3.4 of the DEIR whether the breakwater and Children's Pool are listed as an historical landmark by the City of San Diego. If not, completion of the necessary nomination forms and submittal and approval by the Historical Resources Board should be required as part of this project. Doing so would help ensure that any potential modifications to the breakwater are reviewed by the HRB. We note the resource is almost certainly also eligible for listing in the National Register of Historical Places, and nomination for that should also be considered.

H-2
2. We agree with the specified archaeological and Native American monitoring program specified in the DEIR.

SDCAS appreciates being provided this DEIR for our review and comment.

Sincerely,

James W. Royle, Jr., Chairperson
Environmental Review Committee

cc: ICF Jones & Stokes
SDCAS President
File

P.O. Box 81106 • San Diego, CA 92138-1106 • (858) 538-0935

H-1 Page 3.4-14 of the Draft EIR discusses the status of the breakwater as being California Register eligible as an historic resource. The breakwater and Children's Pool are currently not a City of San Diego designated historic site, nor are they listed on the State or Federal registers. The City concurs that the breakwater is eligible for listing and has significance as an historic resource. However, the proposed project specifically prohibits any modifications or impacts to the breakwater (refer to Figures 2-6a,b,c which show the project plans and state "NOTE: No construction activities shall encroach upon or alter the physical characteristics of the breakwater, bedrock outcrops, bluffs, or stairs.") Therefore, nomination of this resource has no relation to the actions contemplated by the City and is not being considered as part of the proposed project.

H-2 The City acknowledges that the San Diego County Archaeological Society agrees with the archaeological and Native American monitoring program specified in the Draft EIR and appreciates their review and comment.

SIERRA CLUB
FOUNDED 1892
San Diego Chapter

8304 Clairemont Mesa Blvd, San Diego, CA 92111
Chapter Chair: Joe Zechman 619-709-6268
joe.air@mac.com
Chapter Coordinator: Cheryl Reiff 858-569-6005
creiff@sierraclubsandiego.org
http://sandiego.sierraclub.org

May 22, 20009

Attention: Allison Sherwood
Environmental Planner
City of San Diego
Development Services Center
1222 First Ave. MS 501
San Diego, CA 92101
DSDEAS@sandiego.gov

Dear Ms. Sherwood,

The following comments are provided to assist in detailing why the San Diego Sierra Club, and the California Conservation Committee of the Sierra Club, supports the No Action alternative project # 71362, The La Jolla Children's Pool draft EIR.

This is the second time that this project has been proposed in 10 years, and due to the highly controversial nature of this project, along with the extremely high cost to the City that this project would generate (see sections regarding dredging and the need for recurrent dredging every other year pursuant to the initial project completion), the following summary of pertinent points of history leading up to this proposal and the primary issue surrounding its controversy are outlined as follows:

I-1

Harbor seals have inhabited Casa Beach, also known as the Children's Pool Beach, in La Jolla for as long as we have records of the area (going back to the 1800's) (see 'figure 11", seal rock historical map, and Botsford & Heald historical map 1887, attached). In 1931 the seawall was built from funding provided by a philanthropist Ellen Browning Scripps. In 1999 a non-profit group, La Jolla Friends of Seals, was created to educate the public about the seals, and in April, 2000 this group was awarded the Environmental Hero Award by the National Oceanic and Atmospheric Administration (NOAA) signed by Al Gore (see attached, pp 1- 2). Concurrently a faction of local residents has been fighting to remove the seals, as they prefer human use to be for themselves as swimmers and beachgoers as opposed to use by people recreating by means of wildlife watching. Lifeguard records show that an average of 110,000 people a month come to view the seals, and many of the local businesses support their presence as an important tourist attraction.

I-2

1. The DEIR's claims of 'no significant impact' to various environmental resources do not follows the spirit of federal and regional legislation, including a potential violation of the California Coastal Act.

I-1 This summary of project history is noted.

I-2 This comment summary is noted. Responses provided below address more detailed comments summarized here.

The underlying, basic reason posed by this DEIR for the support of the proposed dredging project is that the seals purportedly create a health hazard to swimmers and beachgoers at the Children's Pool Beach, thus supposedly making the removal of 3,000 cubic feet of sand necessary to re-establish a healthy environment for humans on the beach.

Interestingly, when this same project was proposed and denied by the City Council in 1999, the proposal then was to remove 5,000 cubic feet of sand. Why has the amount deemed necessary to make the beach 'safe' for beachgoers been reduced by almost a third?

I-3

Although we do not agree with the basis for this assumption, due in large part to the paucity of evidence in support of this assumption, we do support the No Project Action. If, for the sake of argument, we accept the DEIR assumption of seals as a health hazard, we present the following: if the seals are left alone (No Action) to continue as a breeding rookery where people are not allowed to swim or reside on the beach in proximity to (within 100 feet) of seals – as per the stated laws of harassment under the Marine Mammal Protection Act (MMPA) – then, since no humans would be recreating in the 'contaminated' area used by seals, there would be no risk of infection by the alleged health hazards posed by seals. Regarding the prohibition of harassment under MMPA Section 1099(h), please see comment # 19 of this document.

I-4

Scientific data supports the fact that nearshore habitats along beaches is constantly circulated by ocean currents and animal waste, whether from seals, fish, or other is naturally occurring species, is dissipated by natural tidal cycles and wave action. Human sewage and agricultural runoff pose a far greater threat to our health and recreational use of the beaches county wide. Contrary to popular, media-generated speculation, wherever pinnipeds are found their waste provides nourishment to the inshore marine habitat, and as a natural source of marine fertilizer contributes to a more diverse ecosystem.

I-5

This No Action alternative not only solves the problem of alleged health risk, it also is in compliance with the MMPA, and it follows the spirit not only of this federal law, but other legislation relevant to this site.

For example, the proposal to dredge the beach, i.e. remove a natural marine habitat for the sake of enhanced recreation for humans, is directly contrary to land use designation and environmental goals of the State of **California Coastal Commission**, which include to "Protect, conserve, restore, and enhance environmental resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations."

I-6

As this project will result in the reduction in the number of protected animals under the MMPA, cause significant impact to coastal marine habitat, and by removing the seal rookery will result in significant, irreversible environmental changes. Such impacts are not addressed appropriately, and is required, **under CEQA Section 15126.2(c) Why have they been overlooked?**

I-7

Further, this project and the DEIR's claims of minimal significant impact are in contradiction to the **Coastal Act**, which goes as follows,
"(1) Public Resources Code Section 30230: 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

2

I-3 The EIR has not been prepared in support of sand removal or other aspects of implementing the project, as this comment suggests; it has been prepared to provide CEQA-compliant environmental analysis of the court-ordered project to return Children's Pool to its 1941 configuration and reduce water contaminants to levels safe for humans.

This comment's stated preference for an alternative to the project that entails maintaining the site as a seal rookery and precluding human swimming in the Children's Pool waters is noted. This alternative has not been analyzed in the EIR because it would not meet any of the project objectives and would not comply with any aspects of the referenced court order.

I-4 As stated in the Draft EIR (see page 3.5-3 and Appendix D), the water in Children's Pool is contaminated with E. coli such that the water exceeds state standards for fecal coliform concentration, and seal feces has been identified as the primary reason for this contamination. As for the environmental benefits provided by seal feces, please note that the project does not entail the removal of seals from the nearby marine environment, and thus seal feces would still be present in the local marine ecosystem.

I-5 The No Action Alternative, titled "No Project Alternative" in the EIR, would not address the existing health risk at Children's Pool because it would not allow decontamination of the water and sand at the project site. The project site is not a natural marine habitat, but a beach and pool that was created by human alteration decades ago and deeded to the City in trust for public use. The project intends to return this manmade feature to its prior configuration, and in so doing to enable continued public use pursuant to its initial intent. Please note that the Coastal Commission is entrusted with oversight of "environmental and human-based resources of the California coast and ocean"—not only with the natural environment—and that this project is compatible with their mission (see Coastal Commission website: http://www.coastal.ca.gov/whoweare.html).

I-6 The Draft EIR presents a complete analysis of the project's effects on the physical environment, in accordance with CEQA requirements, including impacts to wildlife species, habitat, and the seal rookery—all of which can be found in Section 3.2. The referenced section of the State CEQA Guidelines requires analysis of a project's impacts with respect to the use or commitment to use of a substantial amount of nonrenewable resources or large-scale irreversible damage due to environmental accidents. Neither of these would occur under the proposed project.

healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes."

I-7 (cont.)

And, under Public Resources Code Section 30233: "(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted [only] in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative**, and where feasible mitigation measures have been provided to minimize adverse environmental effects"**

Please explain how this project applies to any of the restoration or other categories listed under this Code, for which the primary purpose is to enhance native species habitat and productivity.

I-7 This opinion regarding the project's alleged conflict with the California Coastal Act is noted. The Draft EIR was prepared to analyze the project's effect on the physical environment, and interpreting the Coastal Act is beyond the scope of the EIR.

I-8

The California Coastal Act, (CCA) Section 30251 is described in Vol. I, Chapter 2, p. 15, and specifically recognizes that the scenic and visual qualities of our coastline are significant resources which must be protected. The spirit of this entire DEIR ignores this important public policy. Vol. II. p. 11 reports that the evaluation of the project from December, 2004 by Coastal Environments led to the conclusion that are that there will be no significant impacts on the coastal resources to complete this project. Then, in Appendix E, under Project Team, p. 4, it is stated that Coastal Environments will be responsible for planning and overseeing (with san Diego City staff) the excavation operation for the La Jolla Children's Pool.

One must question the impropriety of Coastal Environments making so many of the assessments for the DEIR, when this same company will be directing the oversight of the project.

Is this not a direct Conflict of Interest for the same company to do the project feasibility, conclude that the project will have no significant impacts, and then receive the contract for the project?

I-8 Section 3.1 of the Draft EIR presents an extensive analysis of the project's aesthetics impacts, including those to the "scenic and visual quality of the coastline," and concludes that the impacts would be less than significant.

As for the portion of this comment questioning the City's association with Coastal Environments, please note that Coastal Environments is a qualified engineering firm employing experienced, fully licensed professionals. All analysis, conclusions, and recommendations from Coastal Environments have been conducted and determined with professional integrity and pursuant to strict professional guidelines. Coastal Environments has not been selected to carry out any of the work related to project implementation. If this project is approved, the project will be subject to the City's regular competitive bidding process and, if Coastal Environments is selected for any subsequent work to implement the project, their work will be conducted under professional circumstances.

2. This DEIR Fails to Adequately or Correctly Assess Short and Long Term Impacts to Marine Wildlife

I-9

In the biological sources section, the document completely fails to provide accurate definitions, supporting evidence, and current relevant data regarding the basic biology and natural history of almost all of the marine species mentioned – and of those present at the site, but not mentioned or discussed - in this report! To address each of these errors would constitute another document, with citations, perhaps as long as this DEIR itself. The errors from this section alone demonstrate that this report is a fatally flawed report, and falls far short of meeting the reporting requirements. However, for the sake of brevity, and in the expectation of having all questions and comments responded to, we will highlight some of the most egregious errors and omissions regarding the Biological Sections of this report.

I-9 As required under CEQA, the Draft EIR presents complete information on the existing environmental conditions in the project area and the project's physical effects on the environment. Section 3.2 provides this information and analysis with respect to biological resources, including an extensive discussion of the marine wildlife occurring in the project area (see pages 3.2-8 through 3.2-18) and the associated impacts (see pages 3.2-21 through 3.2-35). Responses to more specific comments on this issue are provided below.

I-10

To begin with, this DEIR fails to accurately assess the resultant significant impacts to removal of an entire harbor seal rookery.

a) In section 3-2.17, in referring to the Pacific Harbor seal, the DEIR states that "there are approximately 1,000 haul out sites distributed throughout the state. This information is misleading, and one of the key points necessary to evaluate impacts to the species by this project. The information provided in the section (and others) on biological Resources (Vol. I, 3.2) regarding the Harbor seals is drawn from the document provided for Appendix C, Biology

Report: The Biological Report and Recommendations for Construction Regarding Pinniped Surveys at the La Jolla Children's Pool, California. This document was prepared in support of a project different to the one addressed by this DEIR, namely, it was prepared for the proposed project involving the reconstruction of the lifeguard tower that overlooks the Casa Beach / Children's Pool Beach. Any recommendations found within this document do not, and should not be used to support any actions or decision regarding the project that this DEIR concerns, as the scope and goals of this project, i.e. removing and entire breeding rookery, permanently (as would be the stated desired outcome according to the goals of this proposed project, despite unclear contradictions to this initial stated goals throughout the document) from the Children's Pool Beach, are completely different from that of the project regarding lifeguard tower reconstruction.

I-10 (cont.)

Therefore, this DEIR is incomplete and does not meet the basic required reporting needs under CEQA, specifically in that it does not present a valid Biological Report that supports the conclusions regarding the potential short term and long term significant impacts of dredging to the local wildlife, namely, the local population of Pacific Harbor seals.

Such a document is essential for the accurate assessment of significant impacts to pinnipeds that live and breed on this beach. Why has one not been provided?

There are various institutions that have more current, accurate, and detailed information on this rookery – such as historical and current counts of seals and human visitors year-round, haul out site information, reproductive data and behavior, instances of intentional and unintentional harassment - including data collected from (a) an ongoing research study on visitor counts, seal counts and harassment data (begun in 2007) by Owens Wildlife Biology, llc, (b) docents of the La Jolla Friends of Seals, (c) La Jolla Seal Watch volunteers, a 4) ongoing research by Dr. Jim Moore of UCSD. Why were none of these organizations, biologists, or similar related groups, who have been keeping records of seals up to the present, been consulted to provide pertinent information for this Section?

I-11

b) In section 3-2.17, in referring to the Pacific Harbor seals, the DEIR states that "there are approximately 1,000 haul out sites distributed throughout the state" and in Section 3-2.24 concludes that impacts would be insignificant, in part because "there are numerous beaches and rocky areas along Southern California coastlines where seals can haul out and/or use such habitat for rookery purposes." This piece of information and conclusion is misleading, yet it is one of the key points necessary to evaluate impacts to the species by this project.

I-12

(1) On page p. 3 of the Biological Report and Recommendations for Construction, as prepared by Doyle Hanan, it states "In California, there are at least 1,000 hauling sites and the number of seals hauled out at individual hauling sites range from 1-1,000 with an average of about 50 seals per site." Mr. Hanan does not say where he gets this information, which is at best misleading, and at worst wholly unsupported by existing data.

Where does he get this conclusion, based on what scientific data, including a map demonstrating these locations, generating an accurate image of exactly where these species are found, throughout the year, and in what numbers locally?

He does not define in any way what constitutes a haul out site – although he has managed to count them, and thus somehow, presumably, has had them defined for his own censusing

I-10 For a discussion of the Draft EIR's coverage of long-term impacts on seals, please see the response to comment A-5. Further, Mitigation Measure BIO-1.1.d specifies that seal pupping season lasts from December to June and states that project-related excavation will not occur within this timeframe unless a qualified biologist determines that the pupping season has concluded or as determined by and in consultation with the resource agencies.

I-11 The Draft EIR presents objective facts and analysis. The data provided on page 3.2-18 is factual and sources have been provided. See the response to comment I-10 above.

purposes (or, were defined somehow by whichever entity(ies) that did the censusing that he is basing his definition on). Based upon Hanan's generalized description, a haul out "site" includes any individual space where a seal has exited the water and rested. According to the definition in Section 3.2, a haul out site is defined as a place where Harbor seals "crawl onto land or low structures at the water's edge." In Hanan's report he then states that such sites number, in California, "at least 1,000". This is misleading for several reasons: If one were to follow Hanna's implied reasoning and the definition provided, on would conclude that if the population of Harbor seals numbered, say, 200,000 individuals, there could be a minimum of 200,000 haul out sites for these animals, since each of these animals needs to exit the water on a daily basis, somewhere. It is important to define terms such as this for specific reasons, primarily because knowing where such "sites" are, and being able to count them with any accuracy, is one of the key variables applied to models which government and other agencies use not only to count populations and track any changes in such populations, but also - as this draft EIR demonstrates - to make decisions based upon accurate knowledge of these population dynamics. Therefore, defining the number of haul out sites is not merely a matter of curiosity in describing these animals, it is an important aspect of quantifiable data regarding this marine mammal species that has historically been misused, incorrectly assessed, and misconstrued, as it is in more than once this DEIR.

Mr. Hanan report claims there are an average of "50 seals per haul out site". Where is the citation(s) upon which this information is based?

I-12 (cont.)

In stating this, Hanan, and the DEIR, generates an understanding based on an implied image, at least to the average reviewer who is not an expert at counting Harbor seals state-wide, of there being "at least" 1,000 beaches along California's coast where Harbor seals can be found, year round, numbering at least 50 animals, and possibly much more. This image is based upon the general knowledge (or lack thereof) of citizens, politicians, and the majority of the general public who recognize no difference between a "haul out site" and what is technically a *breeding rookery*, two very distinct concepts when discussing pinniped biology and behavior. This is no small detail, for this misinformation has become a defining myth in the discussion of seals, to the point of creating well established inaccuracies in our assessment of seal populations, thus generating the potential for gross mismanagement of these wild populations. What is central to this document is the argument as to whether or not removing (and thus destroying) an entire breeding population, and in this case specifically, a breeding rookery, of seals on the beach in question, will incur significant impacts to the wildlife.

As Mr. Hanan should be aware, not only do "tide cycles, day length, weather, and disturbance" determine haul out site *preference*, but more completely there are many changing variables that define whether a site is used by seals *at all*, including various aspects of the species natural history, time of year, breeding behavior, prey abundance, and generalized location in respect to geography and presence of other seal individuals / communities, and of course, presence of humans, all play a role in determining where, and what, constitutes a "haul out site" or a rookery for this particular species, and these definition should be clearly noted when the ultimate goal, as in the case of the document for which this report supports, relates to assessing the question of whether or not it will be significant environmental impact to remove all of the 200 plus individuals that constitute not only a haul out 'site', but a breeding rookery, thus destroying a significant part of the breeding habitat of this entire local population.

I-12 The referenced paragraph of Appendix B of the Draft EIR cites a NOAA Technical Memorandum prepared in 2001. Appendix B was prepared by qualified professional seal experts who incorporated the best available literature and information and relied on their professional judgment to make conclusions and recommendations. Please note that "haulout site" and "breeding rookery" bear no difference from a legal protection standpoint under the MMPA. Furthermore, the Draft EIR identifies the "rookery" (P. 3.2-18) and requires mitigation to avoid construction during pupping (BIO-1.1.d).

(2) The DEIR nor the supporting documentation (Appendix C) accurately describe or recognize the short or long term impacts to removing an entire breeding population. How can impacts be appropriately assessed without this information?

(a) Section 3-2 p. 4 concludes that impacts would be insignificant, in part because "there are numerous beaches and rocky areas along Southern California coastlines where seals can haul out and/or use such habitat for rookery purposes."

This simplistic explanation fails to describe that (1) the population found on the Children's pool beach is a breeding rookery, and not just a site where a seal or few, on occasion, haul out to 'rest', contrary to the description provided in Section 3. In a letter dated Feb 2, 2000, to Patrick Lee Hord, former Director of the La Jolla Friends of Seals, from James Lecky, then Assistant Regional Administrator for Protected Resources, Southwest Region of the National Marine Fisheries Service, Mr. Lecky states that "It is now apparent that Harbor seals are utilizing CPB as a natural haulout and rookery and that we must manage the site biologically as a natural habitat for harbor seals."(see attachment). He goes on to say that, "We look forward to working with the La Jolla Friends of Seals in educating the general public about this unique site and natural resource, and of the importance of our policy of non-human intervention in an animal's natural habitat." Even Mr. Lecky recognized the presence of the rookery as a unique and natural resource.

I-13

Why does the DEIR not discuss its loss, and resultant impacts, in light of this definition?

It is accepted biological fact that a harbor seal rookery is an area of *sandy* shoreline where the seals come together to find mates, give birth, raise their pups, and protect their young from predators. It is an integral part of the seals' life, without which the population cannot survive. Contrary to popular belief hauling out is crucial not only for resting, but also for molting, nursing pups, and maintaining a healthy immune system and metabolism. Three necessities of any safe haul out site are (a) quick access to deep water (>25 feet) , (b) proximity to food source, (c) relative safety from terrestrial predators and disturbance. The time that a seal spends hauled out is directly related to health of the individual, and studies have shown that harassment from humans causes significantly reduced haul-out durations, and this point is actually cited in Mr. Hanan's report (Appendix C). If, due to harassment the animals fail to haul out for the minimum required time on a daily basis, their immune systems can be compromised, which will potentially negatively impact both the individual and any unborn offspring.

(b) The conclusion of "no significant impacts" as a result of removing (or "shooing," as used in the EIR) the beach and the entire rookery, including first year pups, is highly inadequate. Section 3.2, p 24 states,

> "there are numerous beaches and rocky areas along Southern California coastlines where seals can haul out and/or use such habitat for rookery purposes. The excavation activity would affect the sandy beach habitat used by harbor seals, sea lions, and elephant seals. The beach surface area would be reduced to approximately half its current size, and therefore the available surface area for seal haul out would be reduced. It is anticipated that creation of the sand berm prior to the excavation activity would dissuade the seals from coming ashore. Construction activity, and shooing methods (one alternative proposed by the City) such as non-invasive measures like clapping or armwaving, if necessary, should be sufficient to flush the animals from the beach into the water. As discussed above in the Marine Faunal Section, the harbor seal population in southern California is healthy and there are numerous other beaches and rocky areas along southern California coastlines where seals can haul out and/or use such habitat for rookery purposes. It is likely that many of the seals 'dissuaded' from hauling out on Casa Beach would haul out on nearby rock

I-14

I-13 "Haulout site" and "rookery" bear no difference from a legal protection standpoint under the MMPA. Furthermore, the Draft EIR identifies the "rookery" (P. 3.2-18) and requires mitigation to avoid construction during pupping (BIO-1.1.d).

The Draft EIR addresses both short and long-term impacts on seals on page 3.2-25, concluding that the project, "…is unlikely to displace any seal populations geographically, and the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces along the adjacent areas of coastline." Furthermore, seal experts Dr. Hanan and Mr. Lecky are cited as supporting the conclusion that the project would not result in significant impacts on seals.

outcrops (e.g., Seal Rock) and/or pocket beaches (e.g., Shell Beach) where they have been observed in the past (Yochem and Stewart 1998).

According to this statement and the conclusions of "no significant impact" the DEIR is inferring that once all seals are removed, or "dissuaded", an entire population of over 200 individuals - as per the 2007-2009 data collected by Owens Wildlife Biology, docents of La Jolla Friends of Seals, La Jolla Seal Watch, among others - will simply go somewhere else.

This begs the question, where will they go? The report does not adequately address this question, which constitutes a significant long term impact.

I-14 (cont.)

Although the rookery seals continue to be flushed by non-intentional, and intentional harassment, on a regular basis, breeding seals do continue to return to use this beach each year, year-round. This demonstrates an important fact relating to seal natural history and behavior: along a highly developed coastline with millions of residents, 'just going somewhere else' to live and raise offspring, undisturbed by humans, on a sandy beach is no longer a simple option for wildlife. **In southern California, where can you find an uninhabited sandy beach where you can guarantee that people will not approach the seals up close (thus risking a citation under the MMPA), where other, larger pinnipeds do not already inhabit the area, thus out-competing this species?** (Harbor seals are the smallest of the pinniped species locally, and do not successfully compete with the much larger sea lions or elephant seals for haul out or rookery sites.) Any discussion of significant impacts must address this point directly.

Relocating seals is prohibitively expensive. Additional, the authors do not address the obvious question of how one would halt the seals' natural instinct, which is to return their place of birth, due to a highly developed instinct of natal site fidelity, since removal of the seals as an alleged 'health risk' is the primary goal of this project proposal?

Finally, how can you be sure which, if any, piece of coastal marine habitat will meet the animals' specific needs for successful pupping, feeding, predator avoidance, freedom from harassment, etc?

Like all animals, this species has specific needs related to the particular habitat it they evolved in, and to assume they will 'just go somewhere else' is incredibly irresponsible for a biological report.

I-15

The report provides only two examples of where the seals can relocate to, based on sightings of seals in these areas already. This conclusion is biologically specious: as described elsewhere in this DEIR, "Seal Rock" refers to the small outcrop of rocks that are located just to the north of the Children's Pool beach. When these rocks are exposed during low tide, they are typically inhabited by hauled out seals. It is important to note, however, that (a) These seals do not use this rock for pupping or nursing as it is typically too difficult for first year, unweaned pups to haul out to this site (Harbor seals belong to the Family Phocidae, and their physiology is significantly different than that of the Family Otariidae (eg.,sea lions), whereby it is much more difficult for the small Phocids like Harbor seals to inhabit many of the commonly recognized sites for haul out that sea lions are able to habitat). (b) This small group of rocks is covered by the tide during medium to high tide, and thus not a location seals are able to use for at least half of each day. (c) Based on the fact that seals already use these rocks as a haul out site while many other seals are

I-14 For a discussion of the Draft EIR's coverage of seal displacement and associated impacts on seals, please see the responses to comments A-5 and B-3.

I-15 (cont.)

concurrently observed as using the beach to haul out, it can be concluded that this site already maintains near to maximum usage by seals prior to any dredging event.

This section names 'Shell Beach' as the only other example of where these (over 200 displaced) seals may go. This conclusion is also without logic. Shell Beach refers to the small beach that is locate just to the north of the 'Seal Rock'. Although a few individual seals have been observed at this beach in previous years, they have rarely, if ever been present on this beach over the past years, particularly since 2004, when enforcement of harassment under the MMPA was discontinued, for reasons not made public, by the National Marine Fisheries Service. Seals currently do not use this beach for one simple reason: humans do, in fact there is a public access stairway leading to this beach, and if seals attempt to haul out on this beach they are ultimately harassed, i.e. flushed into he water, (both intentionally and non-intentionally) by humans using the beach. What goes unaddressed in this assessment is the important behavioral fact that seals do not "share" beaches in proximity to humans on the same stretch of sand. Despite the common anthropomorphism that the seals do not mind sharing a beach with humans, this is a myth. Seals (especially pups) are hunted by humans internationally, and have terrestrial predators including bears, canines, and large birds of prey. Even though they may become habituated to the proximity of humans *above* the beach, as is the case with the Children's Pool Beach, they have evolved over millions of years to recognize humans as predators, and this habituation has its limits. The presence of people *on the beach* creates stress, incites the seals to flee, can weaken their immune systems, and has been the cause of pup abandonment and death due to separation from their mothers (such harassment incidents recorded on video and submitted to the National Marine Fisheries Service enforcement division by La Jolla Friends of Seals, Seal Watch volunteers, and others, in 2004, 2005, and 2007.)

In light of these facts, how do the authors support their claim of 'no significant impact' to the seals, or to humans, by the proposed activity?

I-15 See the response to comment I-14 above.

Contrary to the claims and conclusions presented by this DIER, the accepted biology and behavioral research of Harbor seals by independent biologists over the past decades clearly supports the conclusion that seals do not successfully "share" any beach in proximity to humans, and making claims of no significance to the species unsupported, as there will be a high likelihood of injury and predation to animals that do not have a nearby, reliable place to haul out, breed, and give birth.

I-16

The contradiction to fact of the concepts of "shared use" and 'just going somewhere else, undisturbed' is further supported by **Mr. Rodney McInnis, Regional administrator of the Southwest Region, National Marine Fisheries Service. In his letter to P. Lamon Ewell, City Manager, City of San Diego, on March 21, 2005, (see attached),** expressing his "concern for the potential for harassment of harbor seals at Children's Pool Beach." He goes on to state that "NOAA's National Marine Fisheries Service is concerned about the particularly high rate of pup abandonment this year …we are concerned that it may be due to the human activity near the animals, " and "NMFS believes it is critical that the City of San Diego take action to minimize the possibility that harbor seals and their pups are disturbed by human activities there, and that "in the absence of a [physical] barrier, it is likely that there be disturbance of harbor seals by beachgoers, which can potentially lead to the abandonment and/or injury of harbor seal pups. Also, beachgoers that harass a marine mammal in the wild can be cited for a take under the Marine Mammal Protection Act (MMPA)."

I-16 Joint-use alternatives are analyzed in the Draft EIR as Alternative 2 and Alternative 3 (see pages 5-5 through 5-10). The Draft EIR concludes that joint use, which is the subject of this comment, "poses potential risks to both seal and human health and safety," in the seal's case due to harassment by humans.

Although this project alleges that the presence of the seals and their feces is the primary reason for pursuing dredging, it does not address the question of how such an alleged problem would not be recreated on another beach, by these same seals.

I-17

If, according to the DEIR's description, dispersal by the dredging and 'dissuasion' of over 200 seals from returning to this beach is successful, what guarantee is there that this would not result in the seals simply relocating to another beach to resume their natural behaviors, since the seal's instinctual behavior pattern is to haul out in a group where breeding and pupping may occur? How would such an impact not be significant over the long term, to the seals and beachgoers, and how do they propose to mitigate this?

I-18

c) Finally, the description in this section, and elsewhere (such as in the discussion on Recreation) make the common but inaccurate assumption that the seals are present at the Children's Pool Beach due to the construction of the breakwater wall in 1931, and resultant build up of sand over time. Based upon this point, the authors of the DEIR conclude that once seals are removed from the beach, will generally not return – as this is the basic tenant and underlying assumption for this project, as the seals are purported to be the primary cause of a 'health risk' at this beach. . This is contrary to historical records, one of which shows the original point from where the wall was constructed as being called "Seal Rock", and the area just south of this location known as "Seal Rock Point" (see attachment, San Diego Historical Society, Research Archives, 1887).

I-19

Impacts to endangered species: The DEIR repeatedly refers to the federally endangered species, the Brown Pelican, by stating that it 'may" inhabit the Children's Pool area, and that any dredging would cause "no significant impact". In fact, this species is known to inhabit the beach and nearby rock outcrops year round, during all times of the day, and can be observed on almost any day of the year at this location. Given the fact that this species is federally protected, was know to regionally suffer a large die-off at the end of 2008 and in 2009 due to domoic acid poisoning, and is a year round resident of the Children's pool area, how do the authors propose to mitigate impacts to this species? It should also be noted that the fact that the authors did not recognize that one of them most regular inhabitants of this beach as being indeed, present, creates major concern over the standards or protocols used to collect biological data at this site.

3.The DEIR failed to consider inclusive or alternative definitions of "recreation".

I-20

Using the Children's Pool for swimming is frequently mentioned throughout the document. However, there is no discussion that includes what are commonly known to be other common forms of recreation, such as wildlife watching. For example, Volume II, Appendix E, p. 1 Introduction states, "…these efforts will provide a safe swimming environment and are likely to improve the water quality for recreational purposes as well".. Recreation is characterized as a human sporting activity. Every month over 100,000 people visit the beach for viewing nature and the wildlife as a recreational activity; this information was collected by the lifeguard station between 1998 and 1999. In fact, as the seals have become increasingly well known to the populace, increasingly larger numbers of visitors have been counted above the beach - viewing the seals - over the past several years.

Note: SB 428 is now making its way through the California legislature, and if passed will cancel the court ordered dredging, and the mandate to dredge will be null and void.

I-17 See the response to comment I-14 above.

I-18 The EIR does not imply that use of Children's Pool by seals is the result of sand buildup at Casa Beach, as this comment suggests; rather, the EIR states that seals may be attracted to the sheltered cove created by the breakwater. Accordingly, the EIR does not conclude that simply removing sand, as proposed in this project, would exclude seals from the beach. It is likely that an increased human presence on the beach and in the waters of Children's Pool following its reversion to the 1941 configuration would serve as a deterrent to the levels of seal activity that have developed over the past couple of decades. The City also acknowledges the likely historic presence of seals and other marine mammals at Casa Beach and surrounding areas, as is implied by the historical maps attached to this letter.

I-19 The Draft EIR states on page 3.2-20: "The brown pelican…could potentially occur…within the project area. However, the site does not support any suitable breeding habitat." Page 3.2-30 concludes that pelicans "are mobile and would likely vacate the area" during construction and thus significant impacts would not occur.

I-20 Under the "Areas of Controversy" header on page S-3, the Draft EIR recognizes that wildlife viewing has become a popular use of Children's Pool. While seal viewing has become a popular activity at Children's Pool, it is neither a designated nor unofficial "recreational resource" of the City. Further, the potential for the reduction or loss of seal viewing at the project site would not result in physical effects on the environment and is not required to be analyzed as such in the EIR.

4.The DEIR fails to address the Public Trust Doctrine.

I-21 This accepted doctrine requires that certain resources, "air, rivers, lakes, timberland, seas, oceans, wildlife" be preserved and maintained for the public's use. In effect, we are trustees for our children. This DEIR follows the judgment of the faulty O'Sullivan v. The City of San Diego court order of 2005, directing the City to maintain Casa Beach exclusively for human use, which, aside from being legally flawed for reasons that will be addressed below, is also a virtual impossibility for this (and any) natural outdoor setting that interfaces with wildlife. No allowance was made for current environmental laws (including the federal Marine Mammal Protection Act) and awareness which have been passed or the changed conditions since the state granted the land to the city.

5. Impacts to Recreational Resources are not adequately addressed.

I-22 The assessment of impacts in relation to Recreational Resources (Vol. 1, Section 8) is completely inadequate in as it does not accurately address any of the undeniable impacts – short term, long term, or cumulative - especially those that will be instigated by the removal of the Harbor seal rookery (an entire breeding population that resides at this location), and what those impacts will mean, economically for the local and San Diego community. The discussion itself is highly flawed:

Under Recreational Resources, Vol. I, Chapter 3, Section 8, no reference is made to tourism, even though in Vol. II, p.7, a recommendation is made to discuss ways in which the proposed project could significantly 'enhance' economic growth.

If such is the case, why was this not considered in the Neighborhood Aesthetics section?

I-23 An analysis of seal and visitor counts from 1999 to 2003 suggests that when seals are present, more tourists visit the beach than when seals are absent or in low numbers (Casa Pool Seal and Visitor Count analysis, attached)This supports the fact that seals bring in a significant amount of revenue for tourism in the area.

How do the authors propose to mitigate for this loss of revenue?

Ecotourism is an important source of revenue that will be lost if Casa Beach is a bathing pool only. There is no recognition in the DEIR of the quantified fact that that seal watching is an increasingly acceptable use of Casa Beach. Between 1998 and 1999, the lifeguards at the Children's Pool station generated statistics that 100,000 visitors or more visit the pool every month. Casa Beach seals and the pupping rookery are specifically named in numerous tourist attraction brochures throughout San Diego, and a 2007 poll collected by the La Jolla Friends of Seals indicated that La Jolla businesses see the attraction as an economic asset, and that children (and adults) are delighted to watch wild animals living in a natural place, as opposed to a swimming pool as in Sea World, and a 1999 survey by an elementary student revealed that over 90% of the students questioned preferred watching seals over swimming in the same area.

6. Where is the definition between direct impacts and indirect impacts?

I-24 Reference is made to "indirect impacts" in Vol. I, p. 2. **What are examples?** The DEIR scope is limited to the actual project.

I-21 The purpose of the EIR, as mandated by the California Environmental Quality Act, is to analyze the project's potential to result in physical adverse effects on the environment. The asserted "violation of the public trust doctrine" falls outside of the scope of the EIR.

I-22 For a response regarding wildlife viewing as a recreational resource, please see the response to comment A-6. Additionally, analysis of the project's neighborhood character impacts is provided in the EIR in Section 3.1, and followed City policies for CEQA review. The City's "CEQA Significance Determination Thresholds" state that a project would have a significant neighborhood character impact if it "severely contrast[s] with the surrounding neighborhood character." To meet this threshold, one or more of the following conditions must apply: "a) The project severely exceeds the allowable height or bulk regulations and the height and bulk of the existing patterns of development of the vicinity of the project…; b) The project would have an architectural style or use building materials in stark contrast to adjacent development…; c) The project would result in the physical loss, isolation or degradation of a community identification symbol or landmark (e.g., a stand of trees, coastal bluff, historic landmark) which is identified in the General Plan, applicable community plan or local coastal program; d) The project is located in a highly visible area…and would strongly contrast with the surrounding development or natural topography through excessive height, bulk, signage, or architectural projections; or e) The project would have a cumulative effect by opening up a new area for development or changing the overall character of the area (e.g., rural to urban, single-family to multi-family)…" (see City's CEQA Significance Determination Thresholds, pg. 75). For this project, only condition "c" is relevant, but because the seals are not identified as a significant visual resource by the City, their removal from the project site does not constitute a significant impact on neighborhood character, and this condition is not met. Therefore, the project would not result in a significant neighborhood character impact.

I-23 The EIR analyzes the project's effects on the physical environment, as required by CEQA. This comment suggests the importance of the Children's Pool as an "ecotourism" site and, by extension, as an asset to the local economy. Economic considerations are factors that are not typically considered under CEQA (see Section 15131(a) of the State CEQA Guidelines), and the EIR is not required to identify economically related mitigation.

I-24 (cont.)

How will long term, yet unforeseen indirect impacts be recognized and considered?

7. Informal consultations are unacceptable in a DEIR.

I-25

The narrative makes frequent reference to "informal consultation" with various agencies. (Vol. I, Executive Summary, p. 1; Project Description, p. 9; et al.) - refers to conversation which will be held in the future, at a vague, indeterminate time, with no definite content, or prescribed response. The Draft EIR must address actions that are being done or have been done – not informal consultations on policy which will be done in the future.

9. What is the end goal for "increased access?

I-26

The "No Project" alternative (Vol. I, p. 3), makes an inaccurate statement "…there would be a potentially significant impact to recreational resources since increased access to recreational resources would not occur". **Access to the water is currently allowed. How would increased access occur, by taking no action?** The only temporary impediment is the rope placed for the safety of people viewing seals during pupping season. In actuality this rope is in fact not a deterrent, and only a perceived impediment, as there are weekly and often daily incursions onto the beach.

10. Vol. I, p. 4 Points (a.) and (b.) are misleading and must be re-addressed.

The "Year- Round Joint Use" alternative states that (a) the problems associated with sand and water contamination from fecal coliform may or may not occur, and (b) seals may be harassed and/or harmed by human activity which could disturb them during breeding/pupping season from December to June.

I-27

Point (a.) The assumption is that the *E. coli* bacteria found in the waters on or near the pool area are contributed by the seals. However, the summary in Appendix D, Volume II, Biological Appendix, prepared in 1997, does not confirm that conclusion. Dr. Simmons states, "Also, because of the newness of this technology, for ecological analysis, the understanding of strain fidelity with respect to specific animal groups across wide geographic areas is also limited". In table 5, page 14, the graph implies that the fecal samples could be canine. It is important to note here that dogs on leash are allowed on Casa Beach after 4 pm until morning hours (8 am). In his final conclusion, Dr. Simmons states that the fecal samples "suggest" a seal origin.

Further, in Volume II, Appendix D, p.1 of the Executive Summary, Dr. Simmons states that his library and laboratories are in Blacksburg, Virginia, "At this stage of the research, I do not know how useful or valid the DNA fingerprints are in my library in trying to identify *E. coli* strains from the west coast."

On p. 2 "compared to the total number of strains in nature, his library is quite small. For example, strains from domestic animals have not been added…that is, other sources cannot be excluded".

On p. 15 "One of the serious limitations of our library at the present time, particularly in reference to this particular study, is the inability to distinguish between human vs. canine (dog) and seal vs. canine E. coli strains. This may be due to the fact that the *E. coli* from canines is

I-24 The Draft EIR analyzes the project's potential to result in both direct and indirect impacts. Direct impacts are alterations to the physical environment that occur as a direct result of project features or project implementation (i.e., clearing vegetation for construction of project-related structures). Indirect impacts are alterations to the physical environment that do not occur as a direct result of project features or project implementation, but that are attributable to project-related activity (e.g., construction equipment carrying invasive species into the project area).

I-25 "Informal consultation" between a lead agency and a responsible agency is a common, proper, and encouraged means to proceed with a project's environmental review. This is in contrast to "formal consultation," a term that references the process of agency coordination and analysis pursuant to the permitting process for a project, such as consultation with the U.S. Fish & Wildlife Service pursuant to Section 7 of the Endangered Species Act.

I-26 The project proposes increased human recreational access to the Children's Pool by cleaning the water and sand to make the pool safe for human use. As discussed on page 5-4 of the Draft EIR, the No Project Alternative would not accomplish this, and therefore a significant recreational impact is identified for the No Project Alternative, which is essentially the perpetuation of an existing significant recreational impact. No revision to the EIR is necessary to respond to this comment.

quite similar to the E. coli from humans and seals". The researcher admits he does not have control samples from the west coast which could prove the origin of the samples.

Despite the note in Volume II, p. 7 the DEIR should describe the current water quality at Children's Pool in regard to fecal coliform bacteria from the seals, however the data presented is from 1998. It is incomprehensible that this 1997 inconclusive study, from a laboratory on the east coast, was re-submitted as a part of this 2009 DEIR.

I-27 (cont.)

Have no analyses of the water quality been done since that time?

Has the analysis technology changed so that more conclusive results could be obtained?

Why did the city sub-contract with an east coast laboratory unfamiliar with west coast ecology?

When was the last fecal sampling taken at Casa Beach?

Can the contamination now be positively attributed to seals? Where is the evidence?

Point (b.) The court order on which this DEIR is based states that no laws shall be violated in carrying out this decision. This Superior court order violates Federal, State and the San Diego Municipal Code, all of which restrict the harassment of wild animals. San Diego's Municipal Code (Section 63.0102(b)(10) states: ["It is unlawful to take, kill, wound, disturb or maltreat any bird ort animal, either wild or domesticated, unless the same shall have been declared noxious…..]

What would constitute "noxious", specifically?

This has been discussed at length between the NMFS and the Marine Mammal Commission (letter to NMFS dated 25 May, 1990), without resolution.

I-28

Why is there no admission of this in the DEIR?

The basic assumption underlying the purported need for this project proposal is that the alleged health risk, caused by the presence of *E. coli*, is higher than at other beaches. Otherwise, it would follow that other beaches used by humans - or desirous of use by humans - with equivalent or *E. coli* counts would be also subject to dredging. San Diego County Environmental Health lists other beaches with high counts equivalent to, and higher, than that of the Children's pool Beach, where no seals are know or recorded to reside. Such beaches include beaches as La Jolla Shores and Point Loma. No cleaning or intervention has been performed, required, or proposed at these sites.

In light of this contradiction, how do the DEIR authors defend need for dredging based on a real as opposed to a perceived health risk, and with what evidence has been presented of actual persons becoming sick due to illness directly traceable to seal generated *E.coli*, as opposed to of the many other mammalian sources of *E.coli*, including humans, agricultural, and suburban runoff?

I-29

11. Why have the conclusions made known to the City by Dr. Inman not been addressed?

12

I-27 The 1998 report "Potential Sources of Escherichia coli to Children's Pool in La Jolla, California," included in the Draft EIR as Appendix D and referenced in this comment letter, provides clear evidence that the E. coli contamination at Children's Pool is from seals. The study compared E. coli in Children's Pool water samples to E. coli in actual seal scat samples collected from the beach at Children's Pool. Page 2 of the report states that 87% of identifiable water samples "showed an 80% similarity or greater with a seal strain," and page 6 of the report notes "one would have to conclude that most of the water isolates shared similarities with E. coli from seal scat on the beach." This comment mostly addresses the second part of that study, which sought to compare E. coli samples from Children's Pool with those in the university's database. If the researchers were not in possession of known seal scat to which they could compare the water-based samples, then they may not have been able to come to the same conclusions—that the water-based E. coli matched the scat-based E. coli known to be of seal origin—but that is not the case, because they were in possession of those scat samples and could draw valid conclusions. DNA technology has likely improved since this study was performed over a decade ago, but the conclusions of an updated study would certainly have yielded the same results, that the great majority of E. coli in Children's Pool water matches that of seal scat obtained from the beach.

I-28 The project has not been proposed because the City has deemed the seals "noxious" animals pursuant to the referenced section of the Municipal Code, but because they have been ordered to carry out the project by an order of the California Superior Court. Interpreting this section of the Municipal Code is beyond the scope of the EIR, which analyzes the project's physical effect on the environment. The portion of this comment suggesting a direct link between the project-related sand removal and sand contamination at Casa Beach is mistaken. The project proposes to remove sand from Casa Beach in order to achieve the physical configuration of Children's Pool as it was originally intended, and not because the sand is contaminated. The project-related sand must be decontaminated prior to its deposition on other sites because the presence of fecal coliforms makes it unsuitable for reuse elsewhere. Sand and water contamination at other local beaches is not at issue in this project or in the EIR, and there is no contradiction in the terms of the project or in the EIR. Please also note the water at Children's Pool is contaminated with E. coli such that the water exceeds state standards for fecal coliform concentration (see page 3.5-3 and Appendix D); accordingly, contamination at Children's Pool is a real health risk, and not a perceived one, as this comment suggests.

The statement is made in Vol. I, Executive Summary, p. 4 Environmental Effects : Impact Determination: that "impacts on Children's Pool and the adjacent pocket beaches would be limited to the project's "construction" period".

I-29 (cont.)

Doug Inman, PhD., from Scripps Institution of Oceanography, states in a letter to the San Diego Development Services, dated 26 January, 1999 that, "There are several basic beach principles that indicate the present plan to take sand from Children's pool and place it elsewhere is not a wise procedure." He also states that the breakwater will continue to impede the dispersal of incoming sand. It would seem the northern beaches would lose some of their sand almost immediately to fill in the recently excavated pit at Casa Beach – not two to three years in the future.

12. Faulty Conclusion made for No Mitigation is Required

The question in Vol. I, p. 5 states, "Would the proposed project result in the loss, covering or modification of any unique geologic or physical features such as a sand stone bluff or rock outcrop? The determination given is no. "

On what evidence is the claim made that the removal of three feet of sand at the foot of a bluff not alter the stability of the bluff?

I-30

How much more force of wave action will be impacting the base with each incoming swell?

How will the highway and walkways built on top of the cliffs withstand the reduced base?

In particular, what about that free-standing and iconic pedestal of rock at the shore line, heavily used by pelicans and other migrating birds. Its base is narrow and removing more of the sandy fortification seems likely to accelerate erosion leading to collapse. **Have the impacts on this pedestal been evaluated?**

13. Fate of harbor seals displacement is speculative.

It is speculated in Vol. I on Page S-7, that "although the available haul out area surrounding the pool will be reduced, the harbor seals will search out alternative areas for hauling out ."

I-31

As seals have high natal site fidelity to their place of birth, why won't the elimination of their natural habitat be considered harassment?

How will mitigation measures be taken if, for example, La Jolla Shores becomes colonized by the displaced seals?

14. Inadequate Mitigation for avoiding damage to habitats.

I-32

The proposed mitigation in Vol. I, p. S-7, for spiny lobsters is to avoid surf grass turfs to the maximum extent practicable.

13

I-29 This comment references a letter from Dr. Inman submitted in relation to the CEQA process undertaken in 1999 for a different iteration of this project that proposed removing sand from Children's Pool and hauling it to more distant beaches such as La Jolla Shores, rather than on an adjacent pocket beach, as would occur under the proposed project. Section 3.3 of the Draft EIR presents the findings of a geology study conducted for the project by a qualified geologist and informed by the fundamental principles of coastal geomorphology, which concludes that the sand redistribution proposed as part of the project would not have a negative effect on beach and bluff erosion in the area surrounding the project site. Under existing conditions, sand erodes from beaches and cliffs north of the project site and is transported (mostly toward the south) by natural coastal processes, to be deposited on beaches and off-shore areas. The presence of a lesser amount of sand at Casa Beach would not cause more sand to erode from northern beaches. Children's Pool will continue to attract sand that is moving within the littoral cell as part of natural processes. With respect to the portion of this comment suggesting that the breakwater would continue to impede the dispersal of incoming sand, that is assumed to be correct, and that is the reason the project entails periodic removal of the additional sand that would build up on Casa Beach. The gradual filling of Children's Pool with sand is the reason this project includes an "ongoing maintenance" component, as described beginning on page 2-7 of the Draft EIR. The removal of sand from Casa Beach as part of the project is not expected to accelerate the southward movement of sand from its existing rate.

I-30 The bluffs adjacent to Children's Pool are shielded from strong surf and currents by the breakwater, limiting the erosive effects. Removing sand from Casa Beach will not change these conditions. As stated on page 3.3-9 of the Draft EIR, "the existing breakwater would continue to provide shoreline erosion protection to Children's Pool," and erosion conditions would be limited to rare heavy storm events, which would occur with or without project implementation. With respect to the stand-alone rock outcrop at the project-area shoreline, a lesser amount of sand was present around this feature prior to the sand build-up at Casa Beach, and this feature was not subject to excessive erosion. For the reasons stated above, project-related sand removal would not subject this feature to excessive erosion.

I-31 For a discussion of the Draft EIR's coverage of seal displacement and associated impacts on seals, please see the responses to comments A-5 and B-3.

I-32 (cont.) **What is the "allowable" damage limit to invertebrates and fish habitat and other small creatures living in the area if their habitats are affected for the period of time during excavation?**

15. Damage to grunion spawning ground is unacceptable.

I-33 In Vol. I, p. S-7, reference is made to grunion, with consideration given only during the time period of the actual "construction". When the project is done, the grunion will not return to spawn at Casa Beach due to human presence day and night.

Has the proper agency authorized the city to obliterate a once viable "spawning ground"? How will this be mitigated?

16. DEIR ignores potential impacts of removal of top predator.

I-34 The question in Vol. I, p. S-8 is "Would the proposed project result in substantial change in the diversity of any species of animals or plants?" The response is to place a silt curtain to minimize turbidity and nutrient changes to minimize changes in species composition.

The response is short-sighted. The unknown ecological effects of predator removal, such as the seals, are important. Studies of nutrient disposition indicate that the harbor seal waste material significantly enriches the nutrient web. **Elimination of the top predator will cause serious impacts of this healthy habitat, and must be addressed as a significant long term impact.**

17. Conclusions dismiss the "effects of the project".

I-35 The statement in Vol. I, p. S-9 refers to the impact of periodic maintenance activities: "Nonetheless, repeated disturbance to established benthic communities, in the absence of mitigation measures, could result in overall degradation of species diversity and resultant deterioration of the habitats that support these species." There are many such conclusions dismissing the "effects of the project" throughout the entire DEIR.

Why is the concern only with these related impacts during the actual four to eight weeks of Excavation, and how have the long term and cumulative impacts from the project been taken into account?

18. Casa Beach seals may be remnant population:

I-36 The DEIR concludes in Vol. I, p. S-9, that "the overall migration of seals along this stretch of coastline will not be significantly impacted by the project", yet the stated goal is to eliminate the seal presence on Casa Beach. This is the only mainland rookery south of Carpinteria (located three miles south of Santa Barbara, see photos, attached).

Have the authors considered the importance of this remnant colony if disaster in either the Channel Islands and the Coronado Islands in Mexico were to occur? This points to the significance, again, of removal of an entire breeding rookery of over 200 individuals..

I-37 **19. Nuisance Clause of 109(h) of MMPA remains controversial.**

I-32 The main component of the mitigation measure referenced in this comment (BIO-1.1.a) is for a qualified biologist to be on hand to monitor the sand excavation and deposit to ensure avoidance of sensitive species and habitat and to ensure implementation of appropriate BMPs, such as those listed later in the mitigation. The biologist will use their professional judgment to ensure the minimization of habitat and species impacts. Specifying an "allowable damage limit," as recommended in this comment is neither necessary nor required under CEQA.

I-33 Grunion are known to spawn on beaches frequented by humans throughout the region, so the project would not "obliterate a spawning ground and the project's impact on this species would be limited to the construction phase. Grunion are not a protected species, and no permit is required for potential impacts on this species, as is suggested by this comment. Furthermore, please note that the project would not result in considerable night-time occupation of Casa Beach, as this comment suggests.

I-34 The Draft EIR concludes that the project, "…is unlikely to displace any seal populations geographically, and the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces along the adjacent areas of coastline." (see page 3.2-25) The project would not entail removing a predator from local waters, or any other substantial changes to the ecosystem. After implementation of the project, it is anticipated that seals will continue to excrete feces locally, though these feces will not be concentrated in Children's Pool as they are under existing conditions.

I-35 The Draft EIR adequately analyzes the short-term and long-term impacts of sand removal and re-depositing on the local marine environment. This environment is a dynamic one that is accustomed to regular storms and other coastal processes that keep sand quantities and formation in a near constant state of flux. Therefore, the long-term impact of this aspect of the project is expected to be less-than-significant impacts on seals

I-36 For a discussion of the Draft EIR's coverage of seal displacement and associated impacts on seals, please see the responses to comments A-5 and B-3.

I-37 (cont.)

The Project Description in Vol. I, Chapter 2, p. 11, mentions that removing a large number of seals remains controversial. Mr. Kennerson, Esq. claims that the city does not require a permit to "take" this colony. The clause 109(h) of the MMPA, never has been, was never meant to be used for other than one or a small number of animals. Examples of noxious behavior are identified in the MMPA. The Children's Pool colony does not fit any of these criteria. The National Marine Fisheries Service is required to give a permit to allow one individual to be removed under this clause, therefore it follows that a permit will certainly be required to move an entire breeding population. Such a permit for an entire population has never been granted under 109(h) thus far in the history of the MMPA, and would set a dangerous precedent, not to mention put both the City and/or the federal agency (NMFS) at risk of being the subject of a lawsuit.

If made, this decision will be referenced when other communities are faced with a similar situation under the MMPA. Is this a legacy the city wants to leave? Thee advisory board to NOAA, the Marine Mammal Commission, has written to the city on 25 May, 1990 that "Congress meant only to allow the take of marine mammals without a permit if an emergency existed." In fact, section 109(a)(4) refers to the take of "a marine mammal".

How does an entire breeding colony apply where the law refers only to individuals?

Has this difference of interpretation ever been decided definitively by an arbitration court?

I-37 The purpose of the EIR is to analyze the potential for the project to result in physical adverse impacts to the environment. The EIR adequately analyzes the project's impacts on seals. Interpretation of the MMPA falls outside the scope of the EIR.

I-38

20. Relevant Agency guidelines not included:

Vol. I, Chapter 2, p.15, states that the California Department of Fish and Game is the lead agency charged with implementing, safeguarding and regulating the uses of wildlife, and oversee the management of marine species through several programs.

Why were no comments on this project included in the formation of guidelines for this proposal?

I-38 The City has properly involved CDFG in the public review process for this project and Draft EIR, including during the EIR scoping phase and the Draft EIR public review phase, in accordance with CEQA requirements. Please note that CDFG wrote a comment letter on the Draft EIR, included as letter "D" in the Final EIR response to comments, which states, "the DEIR appears to have adequately addressed impacts to the Fish and Wildlife resources under the jurisdiction of the Department," and expresses satisfaction with the biological resources mitigation measures incorporated into the EIR.

I-39

21. No Follow-up answers to questions brought up at on Scoping Meeting.

Comments during the Scoping Meeting November 15, 2007 are found in Vol. II, Appendix A. Bill Valentine asked why the EIR is being done after the MND was approved in 1999. Greg Salas asked about Neighborhood Character. Is Eco- tourism not a significant aspect of this? Bobbi Weaver talked about the educational benefits of the beach as a place to learn about nature. Jim Moore asked similar questions. Todd Cardiff asked about the feasibility of returning the beach to the state.

Why were these questions not addressed in the DEIR?

I-39 The City reviewed all comments received during the scoping process, including those raised in the referenced meeting, and prepared the Draft EIR in consideration of those comments, in accordance with Section 15084(c) of the State CEQA Guidelines. CEQA does not require an EIR to specifically address all comments raised during the project scoping process, but rather to consider all comments in its preparation.

I-40

22. Outdated cost estimates need to be re-evaluated.

Why have the cost estimates shown in Vol. II, p. 16, not been updated? How will the City Development Services justify to the City Council and the taxpayers this expenditure in this financially depressed period of library closures, public school teacher lay-offs, reduction in force of our firefighters and police, etc.?

15

I-40 (cont.) **How will they justify the cost and feasibility of this project as ongoing without predictable end, as per the stated goals that the beach will need to be re-dredged every other year, indefinitely?**

23. Unexplained / conflicting goals regarding eliminating seals.

Recommendations for Construction in Vol. II, p. 10 states, …"if more than the recommended number of seals (perhaps 50 to 70%) are flushed by construction…construction should be halted until a certain number or percentage return".

I-41

Apparently, the original plan was to share the use of the beach with seals. When was this goal changed to complete elimination? And how can any given percentage of seals returning meet this goal?

The DEIR appears fatally flawed in that the authors have not clearly identified the goal, with sufficient supporting evidence, for proposing this project.

24. Inadequate biological survey data submitted.

Summary of Marine Habitat Assessment for Children's Pool area in Volume 2, Appendix H:

a. Brant Primrose, a biologist, admits that the observations on the general habit and botanical survey was done mid-summer (August) and may have not observed some plants which may have gone dormant. With a year allotted to prepare the DEIR, the small window of time reported in the survey is inadequate.

I-42

b. Kylie Fischer, also working for ICF Jones and Stokes, prepared a wildlife assessment on only one day, August 5th.

Why weren't observations made every few, or at the least, during the height of the seal and majority of bird breeding season, to get a complete and representative sample of the floral and faunal species at the Children's Pool? This is standard practice in conducting any biological surveys for an Initial Study or Biological Report.

How can one day's observation be sufficient, especially for consideration of migratory species?

Thank you for your time and consideration of this letter.

Sincerely,
(email copy)

Renee Owens, MSc
Owens Wildlife Biology, llc.

Ellen Shively
Treasurer, Conservation Committee, Sierra Club San Diego Chapter

16

I-40 CEQA requires an EIR analyze a project's physical effects on the environment. It does not require an examination of project costs and, accordingly, previous estimates of the proposed project's costs have not been updated for incorporation into the EIR.

I-41 It is not clear what document this comment references, so the City cannot provide a full response. The project's objectives do not involve "complete elimination" of seals, as this comment suggests, but rather returning Children's Pool to its prior configuration and making the sand and water safe for human activity. These objectives are clearly stated on page 2-1 of the Draft EIR.

I-42 The biological surveys conducted for the project and incorporated into Appendix H were performed by qualified biologists, meet professional standards, and allow adequate explanation of the existing biological resources conditions at the site and analysis of the project's impacts on biological resources.

Attachments:

1. 'figure 11' historical map of seal rock and point
2. Botsford & Heald 1887 historical map of seal rock and point
3. Environmental Hero Award pp 1-2
4. Letter from James Lecky of NMFS pp 1-2
5. Letter from Rodney McInnis of NMFS pp 1- 2
6. Casa Pool Seal and Visitor Analysis graph
7. Photos 1 - 4 of Carpenteria beach and harbor seal colony signage.

Note: these photos are included to demonstrate the contrast between management attitudes of California harbor seal colonies. This beach is the next closest mainland rookery for Harbor seals, the Children's Pool Beach being the southernmost of its kind in the United States, and is locate approximately 3 miles south of Santa Barbara. This colony in Carpenteria is managed and its habitat preserved for perpetuity.

TODD T. CARDIFF, Esq.
ATTORNEY AT LAW

121 BROADWAY
SUITE 358
SAN DIEGO CA
92101

T 619 546 5123
F 619 546 5133

cardifflaw@cox.net

May 22, 2009 *Delivered via first class mail and email*

Allison Sherwood
Environmental Planner
City of San Diego Development Services
1222 First Avenue, MS 501
San Diego, CA 92101
DSDEAS@sandiego.gov

RE: SURFRIDER COMMENTS ON EIR
PROJECT NO. 71362, SCH. NO. 1999011060

Honorable Allison Sherwood

The Surfrider Foundation is a non-profit, grassroots organization dedicated to the preservation and enjoyment of the World's ocean's, waves and beaches through conservation, activism, research and education. The Surfrider Foundation currently has over 60,000 members in the United States in 62 local chapters, and affiliates in Europe, Brazil, Argentina, Costa Rica, Mexico, Japan, and Australia. These comments are submitted on behalf of the San Diego Chapter, the Surfrider Foundation's oldest and largest chapter. The Surfrider Foundation is strongly opposed to the dredging Casa Beach and strongly supports the continued presence of the seals at Casa Beach.

J-1

A. THE EIR SHOULD DISCUSS THE IMPACT OF SENATE BILL 428 ON THE ANALYSIS OF PROJECT ALTERNATIVES IN THE EIR.

First, we believe that the EIR should include a statement concerning Senate Bill 428 that was introduced by Senator Christine Kehoe. SB 428 amends the legislation that granted Casa Beach to the City of San Diego to include, "marine mammal park for the enjoyment and educational benefit of children" as one of its uses. Such bill passed the Senate on April 16, 2009 on a 30-4 vote. The bill will likely pass the State Assembly without much opposition and the Governor will likely sign such bill. Including such information is important for informed decisionmaking. (Pub. Res. Code § 21061; CEQA Guidelines § 15002). In addition, including such information may prevent the requirement to recirculate the EIR later once SB 428 becomes law. (CEQA Guidelines § 15088; 15162(c).)

J-2

Surfrider suggests that the following statement be inserted into the EIR on page 2-4, after the indented block quote of the court order:

J-1 Surfrider Foundation's opposition to the project is noted.

On February 26, 2009, Senator Christine Kehoe introduced Senate Bill 428, which would amend the 1931 State tidelands grant of Casa Beach to the City of San Diego. SB 428 amends the purposes for which Casa Beach can be used to include, "*marine mammal park for the enjoyment and educational benefit of children.*" The legislation, if passed into law, will change the analysis of the FEIR, making alternatives 1 through 4 legally and technically feasible.

J-2 (cont.)

Obviously, SB 428 will have a substantial impact on the analysis of the alternatives, completely changing the emphasis of the EIR. Instead of stating that various alternatives are "deemed infeasible due to non-compliance with the court order" (DEIR pp. 5-3, 5-5, 5-8, 5-11), such alternatives will be considered legally feasible.

In addition, a discussion of the legislative efforts of SB 428 should be included in the Regulatory section of the Project description 2.0, or as a separate section behind the description of state regulatory laws under a new heading "PROPOSED LEGISLATION". Such section should include a legal analysis of the affect of SB 428. This additional section is important to provide the City Council enough information to make an informed decision.

J-3

Finally, Surfrider disputes that all the alternatives are currently infeasible, despite the incorrect court order. Nevertheless, we would suggest that after the above statement of infeasibility, the following statement be inserted into page 5-3, 5-5, 5-8, "However, if SB 428 is enacted into law, this alternative would be deemed feasible and environmentally superior to the proposed project. " We do not believe that Alternative Four is environmentally superior to the proposed project.

J-4

B. THE BASELINE FOR SIGNIFICANT IMPACTS IS THE CURRENT CONDITIONS, NOT POTENTIAL FUTURE IMPROVEMENTS.

J-5

The EIR states in a number of sections that the alternatives which do not completely remove the seals or do not restore unrestricted public access to the water would result in significant impacts to recreation. (See e.g. DEIR 5-4, 5-10, 5-19). We disagree that recreational resources are harmed by continuing the status quo of restricted access. The EIR

J-2 The City acknowledges that while this Final EIR was being prepared, Senate Bill 428 (SB 428) passed the state legislature and was signed by the governor. The bill is intended to go into effect in January 2010. A brief discussion of SB 428 is provided in the preface to the Final EIR for informational purposes. The City has not considered how the revised statute may affect the future of Children's Pool in preparing this Final EIR. A hearing has been scheduled for October 6, 2009, in front of Judge Yuri Hofmann to decide whether to vacate the order of Judge William Pate issued in 2005 to remove sand from and reconfigure Children's Pool in light of SB 428's enactment.

J-3 Surfrider Foundation's opinion regarding the feasibility of the alternatives analyzed in the EIR is noted. It is the City's opinion that the referenced alternatives are infeasible because they do not comply with the court order. Any subsequent version of the project considered in light of SB 428's prospective passage would require the appropriate CEQA review.

J-4 Surfrider Foundation's opinion that Alternative 4 is not environmentally superior to the proposed project is noted. Please note that the EIR identifies Alternative Four as environmentally superior among the alternatives discussed in the EIR, but this is not meant to imply that it is superior to the proposed project.

improperly consider the failure to improve public access a significant impact.

J-5 (cont.)

CEQA Guideline section 15126.6 states, "the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced." It is the actual baseline use that is used for determining the environmental baseline. [*Eureka Citizens for Responsible Government v. City of Eureka* (2007)147 Cal. App. 4th 357, 370.] Failing to improve access does not create a significant adverse impact.

In addition, the EIR fails to provide any analysis demonstrating that opening up of Casa Beach for human use would be a significant positive impact to recreation. To determine the significant impact, the EIR should describe the amount of recreational beach in San Diego, perhaps determine the length of beach suitable for children, then compare that to the amount of beach that would be made additionally available by the project.

J-6

For example, San Diego has approximately 7 miles of public beach. The amount of beach that is proposed to be made accessible to the public for "recreation" by the project is approximately 200 feet as measured off of "design shoreline" on Figure 2-6c). Thus, assuming that 7 miles of beaches are available for swimming, then the opening of Casa Beach (200 ft. wide) is not a significant positive impact on recreation. It would be approximately ½ percent increase in beach availability. Hardly a significant increase.

Probably a better analsysi would be to take the acreage of Casa Beach and compare it with the total amount of beach available for the public in San Diego. Without such analysis in the EIR, the decisionmaker is at loss of how much of an improvement to "recreation" the project would have. The EIR will remain legally inadequate until it identifies and quantifies the amount of recreational beach within 1 mile, 5 miles and 10 miles of Casa Beach, and then determines how much of an improvement the project would have on "recreation".

J-5 Surfrider Foundation's opinion regarding the project's and alternatives' recreational impacts is noted. The alternatives analysis does not consider an improper baseline. The impact conclusions referenced in this comment have to do with a continuation in the future of a recreational impact that exists under current conditions, namely the inaccessibility of Children's Pool to safe human use due to on-site water and sand contamination.

J-6 The EIR identifies the project's environmental effects in compliance with CEQA. CEQA does not require examination of a project's benefits; therefore, an analysis of the project-related increase in beach area is not required to be included in the EIR

C. REDUCING THE NUMBER OF SEALS AT THE CHILDREN'S POOL WILL HAVE A SIGNIFICANT IMPACT ON AESTHETICS AND COASTAL VIEWS.

It has long been recognized that aesthetic quality is an important natural resource that requires protection under CEQA. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal. App. 4th 903, 937.) While the appendix G (Checklist) to CEQA guidelines identifies aesthetics in terms of "scenic vista", "existing visual character or quality of the site", such as "trees, rock outcroppings or historic buildings" the language of such checklist is inclusive, not limited. (See Appendix G, (I)(b).)

The EIR considers the aesthetics of the site to include the "steep hillsides, canyons, bluffs, parks, beaches, tide pools, and breaking coastal waters, primarily establish the visual quality of the Children's Pool." (DEIR p. 3.1-6) Such definition conspicuously leaves out the seals present at the pool as an aesthetic asset, and thus considers the impact to aesthetics "less than significant." The failure to analyze and mitigate the aesthetic impacts of removing the seals from Casa Beach is a substantial failure that renders the EIR fatally defective.

J-7

The ability of view seals in a natural environment as opposed to an aquarium or Seaworld or zoo is a major aesthetic attraction of the area. The seals are readily accessible for children, adults, the elderly and the disabled. The opportunity to view seals in a natural environment, according to lifeguard reports, draws 70,000 – 80,000 people a month to Casa Beach. Removing the seals will substantially reduce the aesthetic quality of Casa Beach and La Jolla, and destroy a major low-cost visitor serving site in violation of the California Coastal Act. (Pub. Res. Code §30213.)

Further, it is ironic that the EIR identifies tide-pools as a major aesthetic resource for the site, but not the seals. It is what lives in the tide-pools that creates a draw for people. People are not really interested in holes rocks, but are interested in the fish, crabs, sea anenomies, starfish and plant life in the tide pools. Obviously, a hypothetical project that scrubbed the tide pools of life would be considered to have a significant impact to the aesthetics, even if the project failed to alter the tide pools in any other way. The seals, likewise, are the important aesthetic draw of

See next page for response J-7

Casa Beach. Removing the seals is a significant aesthetic impact that must be analyzed and mitigated in the EIR.

J-7 (cont.)

Because the EIR failed to consider the removal of the seals an important aesthetic impact, the EIR failed to consider mitigation measures that would reduce the impacts to the loss of such aesthetic resource. For example, creating suitable seal rookery habitat at southern Casa Beach may be an option. Or perhaps creating some kind of platforms close to shore, visible to the tourists that usually visit the seals could be created. The EIR failed to consider whether there are treatments that may clean the water and contamination without removing the sand. The EIR quickly dispatched such options as alternatives, without further analysis, but did not consider such projects as mitigation for the significant impact to aesthetics caused by the removal of the seals. (DEIR at 5-16.)

J-8

J-9

In addition, the economic impact of destroying the aesthetic draw of the seals should be analyzed. While economics alone are not ordinarily analyzed in an EIR, the economic impact of a physical change in the environment should be considered in an EIR. (CEQA Guidelines 15064(e).) Much like growth-inducing impacts of a project must be considered, the loss of tourist revenue caused by the project should be considered. (CEQA Guidelines 15126.2(d).) It is only through an analysis of the loss of tax revenue generated by loss of 80,000 people of month visiting Casa Beach can the City Council adequately evaluate the merits of the project. This is especially important in the dire economic times that we are currently experiencing.

D. HARASSING SEALS VIOLATES THE SAN DIEGO MUNICIPAL CODE.

J-10

The EIR incorrectly argues that the project does not violate any land use plans. This is not correct. San Diego Municipal Code section 63.0102(b)(10) states:

> It is unlawful to take, kill, wound, disturb, or maltreat any bird or animal, either wild or domesticated, unless the same shall have been declared noxious by the City Manager and a permit issued for the killing of such noxious animals;

J-7 Analysis of the project's aesthetics impacts is provided in Section 3.1. The City's "La Jolla Community Plan and Local Coastal Plan" (Community Plan) does not identify seals in Children's Pool or elsewhere as important visual resources. Furthermore, seals are not permanent fixtures in the project area landscape, as would typically warrant the City's future consideration for assigning landmark status and, accordingly, treatment as a significant visual resource. Because the seals are not identified as a significant visual resource by the City, their removal from the project site does not constitute a significant impact on aesthetics. With respect to the portion of this comment regarding tide pools, please note that the Draft EIR does not specifically identify tide pools as significant visual resources, as suggested in this comment. Tide pools are referenced in the EIR as a component of the valued visual setting in this coastal area, along with other topographic features and landmarks. The EIR properly analyzed the project's impacts to visual resources. Please also note that the merits, limitations, and environmental effects of creating of a seal-viewing platform, as recommended in this comment, were discussed in the Draft EIR as Alternative 6.

J-8 The chief objective of the project is to return Children's Pool to its 1941 configuration, which requires removing sand that has built up due to the presence of the breakwater. Cleaning the sand in place would not accomplish this objective and, therefore, is not a viable alternative to the project and is not being considered by the City. Additionally, please note that the EIR does not identify removing seals as a significant aesthetics impact; therefore, no mitigation or project alternative is required.

J-9 The EIR analyzes the project's effects on the physical environment, as required by CEQA. As this comment points out, CEQA does not require an EIR to analyze a project's economic impacts (see Section 15064(e) and 15131(a) of the State CEQA Guidelines).

SDMC § 63.0102(b)(10) is contained in Article 3 of the municipal code under a section entitled "uses of public parks and beaches regulated." In other words, the above provision is a land use plan.

The EIR fails to mention this municipal code and how such conflict can be resolved. Has the City Manager declared harbor seals "noxious?" If so, has the City Manager issued a permit to kill harbor seals? If not, then an analysis of the project compatibility with SDMC § 63.0102(b)(10) should be provided and the issue resolved in the EIR. The City Council should be informed that the project violates the rules on the harassment of animals in public parks and beaches.

J-10 (cont.)

CONCLUSION

The San Diego Chapter of the Surfrider Foundation is 100% against the removal of the seals at Casa Beach. We urge the City to properly look at the options and avoid disturbing the seal rookery. Clearly the seals are an important part of the local economy in La Jolla. The proposed project should be denied.

J-11

Sincerely,

Todd T. Cardiff, Esq.
Attorney for the San Diego Chapter
Surfrider Foundation

J-10 This referenced section of the Municipal Code is not a land-use planning document requiring analysis of project compatibility in the EIR, but a regulation of personal conduct on public property. Furthermore, the project has not been proposed because the City has deemed the seals "noxious" animals pursuant to the referenced code section, but because they have been ordered to carry out the project by an order of the California Superior Court. Interpreting this section of the Municipal Code is beyond the scope of the EIR, which analyzes the project's physical effect on the environment.

J-11 Surfrider Foundation's opposition to the project is noted.

From: Debbie Beacham [db@san.rr.com]
Sent: Thursday, May 07, 2009 6:05 PM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060 Children's Pool
Attachments: Hiram Newton Savage April 7 1932.jpg; ATT00001.htm; HNSavage 4-7-32.jpg; ATT00002.htm; april penera..jpg; ATT00003.htm; water.jpg; ATT00004.htm; IMG_5896.jpg; ATT00005.htm

In case the first sending of this was too large a file here is a smaller file.

From: Debbie Beacham <db@san.rr.com>
Date: May 7, 2009 5:55:15 PM PDT
To: dsdeas@sandiego.gov
Subject: Public Input to Project 71362, SCH No. 1999011060 Children's Pool

Children's Pool Draft EIR comments:

Year-Round Joint Use Alternative:

K-1 The first paragraph should include a discussion of the legal findings in the United States Humane Society v. City of San Diego that it is unlikely that the presence of humans at Children's Pool pose a threat to harbor seals or their pups.

K-2 The city should strike the language "this alternative would not comply with the Court Order." The Court orders the the city to take all reasonable steps to address two issues: sand accretion and water quality. Seals were presumably present at Children's pool in 1941, but probably not in numbers that resulted in unsafe water quality.

K-3 This paragraph should note that the federal government recommends against shared use because of the danger of a child being bitten and the public being cited for harassment .

Seasonal Joint Use Alternative

K-4 For the reasons stated above the city should strike the language stating that this alternative would not comply with the court order.

K-5 A Seasonal Joint Use approach could be to simply and economically **address the water quality issue at this beach.** A simple management plan giving priority to seals during pupping season and priority to non seal viewing uses during non pupping season.

Use of NOAA's "*Human Pinniped Interaction area* would give the human priority time period more shelter from a "take" when seals flush into the water.

Open Breakwater Sluiceways Alternative

K-6 The report should strike the language concerning the possibility of a child drowning as a result of the sluiceways being open. There is no evidence of that in the public record, including newspaper archives to support this assertion.

1

K-1 It is not necessary to cite a court case as a reference for conclusions about the project's or alternatives' environmental impacts. Furthermore, adding the language suggested in this comment would not change the assessment of Alternative 2's impacts or feasibility.

K-2 The Draft EIR concludes that Alternative 2 would not comply with the court order because it would not "return Children's Pool to its 1941 condition by removing sand buildup." This is a true statement, and no changes are necessary.

K-3 The discussion of Alternative 2 in the Draft EIR states that joint use poses potential risks to both seal and human health and safety; adding the language suggested in this comment would not change the assessment of Alternative 2's impacts or feasibility.

K-4 The Draft EIR concludes that Alternative 3 would not comply with the court order because it would not "return Children's Pool to its 1941 condition by removing sand buildup." This is a true statement, and no changes are necessary.

K-5 This comment's suggestion for adding an alternative that involves a "human pinniped interaction area" is noted. Please note that the Draft EIR considers two alternatives that involve joint use of Children's Pool by humans and seals. The Draft EIR includes a reasonable range of alternatives and compares their environmental impacts to those of the proposed project, and the City is not required to incorporate additional alternatives.

K-6 The referenced language has been struck from Chapter 5 of the Final EIR, as the City has been unable to corroborate the anecdotal evidence of drowning incidents at Children's Pool. However, the safety concerns with opening the sluiceways remain valid.

Letter of Comment

The report should discuss the documentary evidence from 1931, the Savage Report, which shows that the sluiceways were designed to have gates which would be periodically opened and closed in order to allow natural sand movement.

K-7 The Savage Report shows that the gates were closed in 1931 because a sand bar formed which was deemed desirable as a beach for parents and children using the pool. The architect, Hiram Savage, commented that if it was ever deemed desirable then the gates could be periodically reopened.

The report should state whether the record shows that the gates were ever opened, which seems unlikely, after 1931, and if so the circumstance of their being closed.

K-8 The report should either document or delete the language that says opening the sluiceways would affect the integrity of the wall. The wall was designed to have integrity whether the sluiceways were open or closed. What was the flaw in the design? The report needs to discuss that.

The report should discuss the issue of whether the city could open the sluiceways as a "feasabiltiy study" without the necessity of CEQA or other govenmental agency approvals. It seems that no approvals would be required

K-9 Savage understood that the sea wall would interfere with the natural sand movement processes at Children's Pool; the sluiceways and gates are a practical, economical solution to this issue. The report should give consideration to suggesting that the city claim exemptions and engage in controled experiments to determine whether the sluiceway design is valid.

The paragraph should delete the language that opening the sluiceways would violate the court order. The court orders the city to take "all reasonable" steps to address the sand accretion issue. Opening one or more sluiceways and digging channels at least on an experimental basis after the summer swimming season would seem to be a reasonable approach to reducing the sand levels in the pool.

K-10 I believe that establishing a priority use policy as I have outlined above in conjunction with conducting a feasiblility study after this summer concerning the sluiceways is the most reasonable and economical approach to addressing the water quality and sand accretion issues at this beach.

Debbie Beacham
858 692-1217

2

Response to Comment

K-7 The City is unaware of any evidence suggesting that the sluiceway gates were ever opened after their initial closure.

K-8 The referenced statement in the Alternative 4 discussion is not an absolute statement that performing the work on the sluiceways would damage the wall; it correctly notes that doing this work would create a risk for damaging the breakwater from a structural and historical standpoint. This is a true statement, and no changes are necessary.

K-9 Please note that Alternative 4, as examined in the Draft EIR, entails opening the sluiceways instead of actively removing sand from Casa Beach and depositing it on South Casa Beach, which is essentially the same alternative recommended in this comment. Opening the sluiceway gates on an experimental basis would not be exempt from CEQA, as suggested in this comment, because it would entail impacts on the physical environment. This alternative would, at the very least, also require permits from the Corps under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, as explained for the proposed project on pages 2-34 and 2-35 of the Draft EIR. The referenced statement in the Draft EIR that Alternative 4 would violate the court order is correct because the alternative would not “return Children's Pool to its 1941 condition.” Though this alternative would potentially remove sand buildup, it is uncertain how quickly and effectively this would reconfigure Children's Pool. Furthermore, potential safety concerns for swimmers under this alternative limits the alternative's ability to meet the project objective of keeping the Children's Pool safe for public swimming and recreation.

K-10 This comment's stated preference for the joint-use alternative outlined in this comment letter is noted. As stated in the response to comment K-5, the recommended alternative is not feasible because it would not meet the main project objective of returning the Children's Pool to its 1941 configuration.

To: Allison Sherwood May 13, 2009
Environmental Planner
City of San Diego Development Services Center
1222 First Avenue, MS-501
San Diego, CA 92101
ASherwood@sandiego.gov

From: Michael Costello
La Jolla, CA 92037
emsmike@san.rr.com

Comments on: The Draft Environmental Impact Report, March 23, 2009,
(JO:298725) for the Children's Pool Dredging (Project # 71362)

I would like to thank the City Staff for correcting its March 23, 2009, Public Notice of the Draft Environmental Impact Report (Draft EIR) where the Staff has re-written the Notice to be consistent with the conclusions of the Draft EIR and the synopsis written by City Staff.

L-1

I have carefully reviewed the Draft EIR and the aspects of:
Land Use,
Aesthetics/Neighborhood Character,
Biological resources,
Geology/Soils,
Historical resources,
Hydrology/Water Quality,
Human Health/Public Safety/Hazardous Materials,
Recreational Resources and
Traffic/Circulation,
and agree with the Draft EIR that any potential impacts have an easy mitigation.

After careful review, I have some suggestions to make the final EIR for the removal of sand from the Children's Pool Beach a more complete Report, the sand removal a better, easier Project (**1., 2., 3.**) and to correct some omissions (**4., 5.**).

L-2

1. Make Project Simpler. The permit processes and the project could be made simpler by trucking the excavated sand to the Miramar Land Fill (or other location or use).

Many of the problems identified in the Report come with sand placement on South Casa Beach, where replenished sand could inundate subtidal organisms.

Also, it is not convincing that this volume of sand can be disinfected by solar ultraviolet light in the short time available for this project. Ultraviolet light will only penetrate a few hundred microns of sand necessitating constantly exposing new contaminated layers of sand to Sun light. Constantly exposing new surfaces while mixing disinfected with contaminated sand seems a process unlikely to succeed in a reasonable length of time. If the City does pursue sand replenishment, the City may wish to consider alternate, more direct, bactericidal methods such as using sodium hypochlorite in conjunction with judicious titration. Anyone with a State Water Treatment or Distribution License can assist with the process.

It is recognized that SANDAG, other agencies, officials, and the many of the public call sand a needed resource and they would want the sand to replenish beaches, but here, the obstacles are too great.

L-1 This comment's stated opinion regarding the availability of mitigation measures to reduce all significant impacts to less-than-significant levels is noted.

L-2 The effect of placing decontaminated sand on South Casa Beach, including impacts on subtidal organisms as referenced in this comment, was examined in the Draft EIR. This impact was found to be less than significant with incorporation of Mitigation Measure BIO-1.1.a. Accordingly, there is no need to haul the project-related sand to an landfill or other off-site location. Furthermore, the City feels it is important to keep the project-related sand on local beaches, and that depositing it in a landfill would be a poor use of important local resources. As to the portion of this comment addressing the effectiveness of the UV disinfection plan, Coastal Environments researched the effectiveness of killing fecal coliform bacteria—the chief contaminant in the Children's Pool sand—by sunlight exposure. They cite several studies that found this method to be effective, including Fujioka et al. (1981 and 2002), which showed that 90% of fecal coliforms were killed within 90 minutes of exposure to sunlight. Additionally, a more recent study of a beach-sand cleanup following a sewage spill in the Los Angeles area found that moisture levels and temperature of the sand were important factors in achieving disinfection of E. coli (Jennifer Jay, "Fecal Indicator Bacteria and Pathogen Persistence in Dry Beach Sand and Sediment Biofilms" 2008, available on the Web at: <http://www.lib.berkeley.edu/WRCA/WRC/pdfs/JAY08WRC.pdf>) Based on the opinion of Coastal Environments in review of the available literature, the City anticipates that exposing layers of excavated sand to sunlight will dry the sand out and elevate its temperature to effectively kill the bacterial contaminants. Finally, the City also believes that bactericidal methods of sand decontamination would have negative effects on the marine and terrestrial environment, and is not considering utilizing such a method to decontaminate the sand.

L-3 **2. A Better Project with Very Low or No Maintenance.** Removing sand down to a level where the sluiceways are exposed and then opening the sluiceways would allow natural wave action to prevent future build up of sand. Thus, no maintenance will be needed. This is how the Children's Pool was designed, and it is the best option to follow this design. Bacterial contamination would also be reduced.

L-4 **3. Combine with Replacement Life Guard Tower Permit Process.** This permit process could be combined with the new replacement Life Guard Tower permit and review process to save time and costs for both. The Life Guard Station replacement has already been analyzed by this Report under "Cumulative Impacts".

L-5 **4. Context with Natural Events.** The effect of natural seasonal/cyclic storms is not mentioned until too far into the report and understates the effect of storms. This is an important comparison and should be mentioned much earlier in the Report. Intertidal and subtidal communities had to evolve/adapt to these violent events of scouring and abrasions and covering and uncovering by sand and rocks. Sand excavation and replenishment can't be worse than the 6-12-18 foot waves at energies of 100's or 1,000's of horse power crashing on these communities.

L-6 **5. Effect of High Concentrations Seal Fecal Bacteria and Parasites on Marine Organisms.** In the event of a null alternative, the effect of high concentrations of seal fecal bacteria on near shore and intertidal organisms, especially grunion eggs, juvenile lobsters, and other invertebrates was not addressed. The high concentration of parasites and parasite eggs from seal feces on other species, including humans, has not been considered in any of the null or shared use alternatives.

L-7 **In Conclusion.** This will be a far simpler, cheaper Project if excavated sand is trucked away, the sluiceways exposed, and opened. This will also comply with Judge Pate's Court Order.

L-3 Opening the sluiceways was analyzed in Chapter 5 of the Draft EIR as Alternative 4 (see page 5-10 through 5-13 of the Draft EIR). While this alternative may reduce water and sand contaminants, the alternative would not return and maintain the Children's Pool to its 1941 condition, thereby preventing achievement of the initial project objective. Furthermore, potential safety concerns for swimmers that would be caused by maintaining the open sluices represents a public safety impact that would not occur under the proposed project, and limits the alternative's ability to meet the project objective of keeping the Children's Pool safe for public swimming and recreation.

L-4 Because the lifeguard tower project referenced in this comment is underway, it is impossible to combine the projects for environmental review, permitting, and construction purposes. As noted in this comment, the lifeguard tower project is considered as a cumulative project in the Draft EIR's cumulative impacts analysis.

L-5 The impact analysis presented in the EIR did consider the fact that the plants, wildlife, and geological features in the project area are accustomed to a certain degree of disturbance due to the coastal process of waves, currents, storms, and sand shifting. No revision of the EIR is necessary to address this comment.

L-6 Chapter 5 of the Draft EIR concludes that the No Project Alternative would result in continued impacts with respect to sand and water contamination that would not occur under the proposed project. This focuses on impacts on humans, as contaminants' impacts on other organisms are uncertain and discussion of these would be speculative.

L-7 This comment's stated opinion regarding the effectiveness of means in which the project could be carried out is noted.

From: Dante Galli [dgalli@exp-eng.com]
Sent: Monday, May 04, 2009 1:23 PM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

To Whom it may concern,

Please find the following comment on the "Draft Environmental Impact Report" for Children's pool, La Jolla California

Community Plan Area: La Jolla Community Plan
Council District 1

M-1

This EIR has a "Recommended Findings" on the cover page that states

Recommended Finding: The draft Environmental Impact Report concludes that the project would result in significant environmental impacts in the following areas: Land Use, Aesthetics/Neighborhood Character, Biological resources, Geology/Soils, Historical resources, Hydrology/Water Quality, Human Health/Public Safety/Hazardous Materials, Recreational Resources and Traffic/Circulation.

Yet on the following "conclusions" pages for all reviewed mitigation and alternative scenarios the findings state clearly that:

"No significant unmitigated impacts have been identified." Pg2 Para2.

M-2

In fact it is clear that returning the beach to its former condition will improve such things as water quality in all but the "No Project Alternative". The "Do Nothing" solution?
Therefore, if we can justly state that no significant impact is made from any of the alternatives then it stands to reason that improving the water quality, always a concern in San Diego especially on our beaches and in our bays, is a ***significant*** reason to return the Children's Pool to its former condition.

Thank you for the opportunity to submit my comments.

Dante Galli
Electrical Engineer | Expertise Engineering
www.exp-eng.com
4186-J Sorrento Valley Blvd
San Diego, CA 92121
858.642.7639

M-1 This comment refers to the initial introductory cover memo published with the Draft EIR, which contained an error that was corrected in a subsequent iteration.

M-2 This comment's stated opinion regarding the benefit to water quality of implementing the project is noted. One of the project's objectives, as stated in Chapter 2 of the Draft EIR (page 2-1), is to enhance water quality in the area surrounding the project site. Please note that the purpose of conducting environmental review pursuant to CEQA is not necessarily to identify the environmental benefit of implementing the project, but to identify environmental impacts that may result from implementing the project and, if impacts are considered significant, to present mitigation measures that could be undertaken to minimize those impacts to less-than-significant levels.

From: donna gookin [dgook@hotmail.com]
Sent: Monday, May 04, 2009 3:30 PM
To: DSD EAS
Subject: ProjectNo.71362SCHNo.1999011060

To Whom it may concern:

N-1 We feel that the EIR is deceptive in that it states that there could be archaelogical and environmental reasons for not removing the sand. In fact there could only be pluses. Clean water would foster the habitat of ecosystems that existed before the pollution and were destroyed by over protection of seals. As I remember it back in the 40tys the water was clean, the drainage intact in the wall and use by sea life and human life was in harmony. There is no reason to sidestep the order to clean up this beach and restore it as it was. The environment will be improved with the elimination of the sand containing rotting feces!

Edwin and Donna Gookin
5946 Wenrich Dr.
San Diego, CA 92120

Hotmail® has a new way to see what's up with your friends. Check it out.

N-1 In accordance with CEQA, the Draft EIR identifies significant environmental impacts that may result from project implementation and presents mitigation measures that would reduce those impacts to less-than-significant levels. Identifying significant impacts and associated mitigation measures does not mean that the City is citing "reasons for not removing the sand" and implementing the project, as suggested in this comment; this information is meant to inform the public and project decision makers of the project's effect on the environment. The overall conclusion of the EIR is that the project would not result in any significant impacts that could not be mitigated by the measures stated in the EIR. As for the project's environmental benefits cited in this comment, please note that the project's objectives, as stated in Chapter 2 of the Draft EIR (page 2-1), include reducing sand contamination and enhancing water quality in the area surrounding the project site. However, please also note that the purpose of conducting environmental review pursuant to CEQA is not necessarily to identify the environmental benefit of implementing the project, but to identify environmental impacts that may result from implementing the project and, if impacts are considered significant, to present mitigation measures that could be undertaken to minimize those impacts to less-than-significant levels. The Draft EIR identified impacts and mitigation measures in accordance with CEQA. In preparing this Draft EIR and concluding that the project would have significant environmental impacts, the City is not attempting to—in the words of this comment—"sidestep" the court order to implement the project, but to comply with State law.

From: donna gookin [dgook@hotmail.com]
Sent: Monday, May 04, 2009 3:43 PM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

N-2 This report is lacking in alternatives to sand removal. More alternatives should be listed.

Mr.and Mrs. E Gookin

Hotmail® goes with you. Get it on your BlackBerry or iPhone.

4

N-2 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. Alternative methods of sand removal amount to alternative construction methods, not alternative projects.

May 22, 2009

Environmental Planner, City of San Diego Development Services Center

Allison Sherwood,

Comments to the La Jolla Children's Pool Draft EIR – Project #71362

O-1

Since the removal of the rope barrier at the Casa Beach in 2004, there has been increased default "joint or shared use" of both the sand beach and the adjacent waters. In direct contradiction to the stated reasoning for dredging the Casa Beach, the City of San Diego:

1) Has not, for the last several years, clearly posted *advisory or warning sings in regard to what the City claims is a "significant" health risk – i.e. contaminated water and sand.

Question: *Please provide an explanation as to why warning signs were not used and people were allowed to use the beach – in fact encouraged by City Lifeguards - if the sand and water posed alleged "significant" and "serious health concerns" ?*

O-2

2) Has not demonstrated cases of reported illness as a result of contact with sand and water at the site or defined "serious heath concerns" as stated in the EIR.

Question: *Which "serious health concerns have been identified at the project site" and how they relate to actual cases of sickness in people from contact with the sand and water at the Casa Beach site ? Please provide case documentation of illness to support.*

O-3

3) Has not demonstrated why the Harbor seals may be "noxious animals" as stated in **San Diego Municipal Code 63.0102(b)(10).

Question: *Please provide a definition of "noxious" and how the Harbor seals pose this threat. Please provide an explanation of why the City Ordinance should be excluded from consideration in the EIR.*

O-4

4 Must provide ongoing water testing results to confirm contamination.

Question: *Please provide water testing results to confirm contamination of the sand and water at the Casa Beach. Specifically, from the date of the first court order to dredge to present.*

O-1 The Draft EIR properly identified existing conditions with respect to contamination at the project site. Please note that posting signs for water quality closures and advisories at local beaches is the responsibility of the County DEH, and not the City of San Diego. This comment does not address the adequacy of the EIR or the environmental impacts of the proposed project; therefore, additional response is not necessary.

O-2 As stated in Section 3.5 of the Draft EIR (page 3.5-3), water quality tests in Children's Pool in October 2004 by County Department of Environmental Health revealed concentration of fecal coliform at 15 times the State standard, indicating considerable and unsafe contamination, regardless of whether it has been confirmed to have caused illness in Children's Pool users.

O-3 The project has not been proposed because the City has deemed the seals "noxious" animals pursuant to the referenced code section, but because they have been ordered to carry out the project by an order of the California Superior Court. Interpreting this section of the Municipal Code is beyond the scope of the EIR, which analyzes the project's physical effect on the environment.

O-4 As stated on page 3.5-3 of the Draft EIR 2004 water quality tests revealed concentration of fecal coliform at 15 times the State standard, indicating considerable and unsafe contamination. A July 2009 test conducted by the City of San Diego Stormwater Department indicated enterococcus levels just below the State standard. This single test result is not conclusive in determining water contamination levels at Children's Pool, which remain a concern. An extensive testing program would need to be performed in order to determine accurate water quality levels in the Children's pool. Please also note that water quality testing of local beaches is the responsibility of the County DEH and not the City of San Diego.

5) The EIR for the Children's Pool Coastal Development Permit states:

[Due to the concentration of these marine species and their excrement activities on or near the Children's Pool area, serious health concerns have been identified on the project site. Today, because of sand and water contamination, Children's Pool has been deemed unfit for human use by the San Diego County Environmental Health Department.]

O-5 This is completely contradictory to the basic reasoning for dredging the Casa Beach in lieu of and regardless of the court order as beach access has not been restricted since 1999 and clearly not since the court order.

Question: *Please provide an explanation why the City of San Diego has disregarded the assessment of the San Diego County Environmental Health Department (stated in the DEIR) by allowing free access to the Casa Beach since 1999 ?*

Please explain why the EIR has this contradictory explanation/conclusion as a basis for dredging ?

6) The basic assumption underlying the purported need for this project proposal is that the alleged health risk, caused by the presence of *E. coli*, is higher than at other beaches. Otherwise, it would follow that other beaches used by humans - or desirous of use by humans - with equivalent or higher *E. coli* counts would be also subject to dredging. San Diego County Environmental Health lists other beaches with high counts equivalent to, and higher, than that of the Children's pool Beach, where no seals are know O-6 or recorded to reside. Such beaches include beaches as La Jolla Shores and Point Loma. No cleaning or intervention has been performed, required, or proposed at these sites.

Question: *In light of this contradiction, how do the DEIR authors defend the need for dredging based on a real as opposed to a perceived health risk, and with what evidence of actual persons becoming sick due to illness directly traceable to seal generated E.coli, as opposed to one of the many other mammalian sources of E.coli, including humans waste and agricultural and suburban runoff?*

7) There are fundamental questions as to the proposed configuration of the Casa Beach as stated in the DEIR.

O-7 The proposed "1941 configuration" is flawed in respect to the efficacy of decontamination and the return of Harbor seals. This 1941 configuration was

O-5 The referenced statement in the EIR correctly explains that the County Department of Environmental Health has deemed Children's Pool unfit for human use due to sand and water contamination. The City advises against using the pool and has posted signs to that effect. Please also note that the sand removal aspect of the project is intended to return Children's Pool to its 1941 configuration, and is not being undertaken because of sand contamination. However, since the sand that will be removed is contaminated, it must be decontaminated prior to depositing it on adjacent beaches.

O-6 The sand removal aspect of the project is intended to return Children's Pool to its 1941 configuration, and is not being undertaken because of sand contamination. Sand and water contamination at other local beaches is not at issue in this project or in the EIR, and there is no contradiction in the terms of the project or in the EIR. Please also note the sand and water contamination at Children's Pool is a real health risk, and not a perceived one, as this comment suggests.

O-7 (cont.)

promulgated by a court order predicated on an arbitrary date and delineation.

1940/41 photographs confirm the beach/sand was not far back from its present position seaward and not far below the present grade seaward.

O-8

Question: *Has the City determined the amount of sand to be removed will, in fact, decontaminate the remaining beach ?*

If the beach is "re-contaminated" do to the return of seals or other pinnipeds, will the remaining beach be removed to reduce the stated health concerns ?

If the beach is "re-contaminated" do to the return of seals or other pinnipeds, please indicate how 2 – 5 year removal of sand will be effective in reducing the alleged heath problem ?

O-9

Why has the City not proposed the "original 1931 configuration" and the removal of 5000 cubic yards of sand as proposed for the 1999 dredging ? Why the reduction in scope and volume ?

Thank you,

Patrick Lee Hord,

Co-founder and former Executive Director of La Jolla Friends of the Seals
Former Executive Director of the Wildlife Center of Silicon Valley
Projects Coordinator for San Diego Animal Advocates

*** [Beach Advisories / Warnings**
An advisory or warning is the placement of signs at a public beach that warns the public against swimming and/or water contact due to the risk of possible illness. White warning signs reading "*Warning - Contact With This Water May Cause Illness. Bacteria Levels Exceed Health Standards*" indicate an advisory/ warning. An advisory/ warning is a consequence of bacteria levels in monitoring results exceeding State standards. The source of the bacteria is usually unknown, but may include domestic pet, wildlife, bird, or human feces, soils, or decaying plant matter.] San Diego County Environmental Health

O-7 Figure 2-4 of the EIR shows an oblique aerial photograph of Children's Pool. Comparing the water/sand line in that photo to the configuration shown in the current aerial photo in Figure 2-3 of the EIR clearly shows the extent of sand buildup on Casa Beach over the years. As to 1941 being an "arbitrary date," 1941 is the year specified in the court order requiring the City to reconfigure and decontaminate Children's Pool and, accordingly, is the year identified as the target configuration as discussed in the EIR.

O-8 Please note that the volume of sand to be removed from Casa Beach was not determined because of the need to decontaminate the sand, but rather in order to reconfigure the beach to its 1941 appearance. The project-related decontamination effort is necessary to make the sand suitable for reuse elsewhere, and the process of exposing the sand to sunlight is anticipated to be an effective method. If the beach is for some reason re-contaminated in the future, then any sand that is removed and deposited elsewhere in conjunction with the project's ongoing maintenance aspect would likely be decontaminated in the same manner of sun exposure. If decontamination persists beyond that, then the City would investigate options for solving that problem on an as-needed basis.

O-9 As stated above, the 1941 configuration is specified by court order. The 3,000 cubic yards of sand removal is based on an updated estimate performed for the Draft EIR. There is no change to the project.

** San Diego Municipal Code 63.0102(b)(10)

(10) Mistreatment of Animals. It is unlawful to take, kill, wound, disturb, or maltreat any bird or animal, either wild or domesticated, unless the same shall have been declared noxious by the City Manager and a permit issued for the killing of such noxious animals; provided, however, that Section 63.0102(b)(10) does not apply to any exhibits in the San Diego Zoo of Balboa Park when done by any employee in the course of his or her duties.

From: James Hudnall [balaena@pacbell.net]
Sent: Friday, May 22, 2009 3:59 PM
To: DSD EAS
Cc: James Hudnall
Subject: Project No. 71362

Public Comment Re: Draft Environmental Impact Report JO:298725, Project NO. 71362, SCH No. 1999011060, Subject: **La Jolla Children's Pool Dredging**

Comments submitted by James Hudnall, 1433 Park Row, La Jolla, CA 92037

P-1 The Draft Environmental Impact Report ("DEIR") above fails to disclose the following ecological impacts:
E1. Ecological impacts to Children's Pool beach sand habitat inhabitants
E2. Ecological impact to nearshore ocean habitat Caused by removal of harbor seal rookery seals.
E3. Ecological impact to adjacent bluffs from sand removal at Children's Pool.

Discussion:

P-2 E1: Beach sand is at the base of the food chain. Animals dependent on the beach include shorebirds, as well as many species at low trophic levels such as crabs and forage fish. The sand of Children's Pool Beach ("CPB") is especially nutrient-rich due to the presence of a harbor seal rookery and the resulting defecation as well as birthing fluids ejected by the seals which inhabit this rookery. The effect of removing this nutrient rich sand has not been analyzed relative to food chain nourishment and near shore ecosystem benefit.

P-3 E2: The harbor seal rookery at CPB has approximately 200 harbor seals hauling out during the pupping season. Although there are fewer seals using the rookery at other times of the year, harbor seals do use the rookery every 24-hour day of the year when undisturbed by humans.
According to the oldest maps of La Jolla (1887, 1894, "Seal Rock" is the rock complex upon which he seawall is built, and "Seal Point" lies under the existing lifeguard tower. The presence of these names on the oldest maps of La Jolla, and on the current U.S.G.S. map, strongly suggests that harbor seals have been using this rookery area for as long as history has been recorded in this vicinity, although hunting of harbor seals from the late 1800's through 1971 decimated the population and caused seals to temporarily disappear from coastal waters off La Jolla. (One should note here that the rock located between CPB and Shell Beach is not the true "Seal Rock," but rather is the figment of some planner's imagination in the 1990's.)

P-4 A Masters Thesis study conducted on the scats of harbor seals using CPB concludes that these seals feed primarily offshore, in the kelp beds and beyond. However, the presence of harbor seals hauling out at CPB on a daily basis enriches the beach and nearshore ecosystem through the deposition of seal-defecation nutrients. In effect, because of their feeding habits and defecation habits, the CPB seals are mass transporters of nutrients from offshore to inshore, where defecated nutrients are utilized by invertebrates and other scavenger species, which are then utilized by other species on up the food chain. A classic example of a short food-chain link is the case of the filter-feeding blue mussels which eat seal defecation particles, with those same mussels being eaten by the spiny lobsters. Divers and commercial lobster fishermen value the nearshore ocean habitat of spiny lobsters in the vicinity of CPB because of the rich population of lobsters. The DEIR has not considered the impact on lobster and blue mussel populations of the proposed dredging and associated seal removal project.

P-5 E3: According to Scripps Institution geologist Dr. Douglas Inman, sand removal from CPB will cause increased bluff erosion between CPB and Boomer Beach, due to the nature of sand transport in the area and the limited availability of sand.
--James Hudnall

1

P-1 This summary of specific comments on the Draft EIR contained in this letter is noted. Please see the responses below, which provide detailed discussion of these specific comments.

P-2 The project does not entail the total removal of seal feces from the nearby marine environment, and this project will not have an effect on the health of the local ecosystem. After implementation of the project, it is anticipated that seals will continue to excrete feces and give birth locally, though these feces and other fluids will not be concentrated in Children's Pool as they are under existing conditions. Removing this highly concentrated material from the small area of Children's Pool does not constitute a significant impact on the ecosystem.

P-3 The 2004 study that is included in the Draft EIR as Appendix C recorded a daily on-site seal population as high as 164, but noted a smaller average. The City also acknowledges the likely historic presence of seals and other marine mammals at Casa Beach and surrounding areas, as is implied by the historical maps attached to this letter. The numbers of seals that use the site, their frequency of use, and their historic presence does not affect the conclusions of the Draft EIR.

P-4 The project does not entail the complete removal of seals from the local ecosystem. The Draft EIR concludes that the project is unlikely to cause major geographical displacement of the seal population, and that "the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces along the adjacent areas of coastline." (see page 3.2-25) The project would not have a major impact on the ecosystem by altering the seal's presence or role.

P-5 Under current conditions, sand that erodes from areas north of Children's Pool may move south and deposit in Children's Pool, blocked by the breakwater from continuing further south. The proposed project would not change this coastal dynamic, and removing sand from Casa Beach as part of the project is not expected to accelerate the southward movement of sand from its existing rate. For a more in-depth explanation, please see the response to comment I-29.

Letter of Comment

Allison Sherwood
Environmental Planner
City of San Diego Development Services
1222 First Avenue, MS 501
San Diego,CA 92101
DSDEAS@sandiego.gov

7 May 2009

Re: La Jolla Children's Pool: Draft Environmental EIR

Dear Ms. Sherwood:

I would like to make some brief comments on what I consider to be the inadequacy of the EIR.

Q-1 First, with regard to the availability of the materials to review, the Technical appendices were not posted online at the city's website until May 1, last Monday, just 6 days prior to the end of the comment period. I therefore request an extension of the review period.

Q-2 Second, the Biological Technical Report (Appendix C) dates from 2004, and therefore appears too out of date to be valid.

Q-3 Third, the seals are present year-round in some years (e.g. 1996,Yochem) and therefore the alternative for shared use appears to be merely a straw man.

I look forward to submitting a more detailed comment letter if the opportunity is given for an extension of the comment period.

Thank you,

Isabelle Kay
3163A Evening Way
La Jolla, CA 92037
ikay@ucsd.edu

Response to Comment

Q-1 Please note that the City met its statutory obligation to make the EIR, including the technical appendices, available to the public. The documents were available for review at the offices of the City Development Services Department (1222 First Avenue, San Diego), and a CD copy of the document was available for purchase. The City is not required by law to post CEQA documents on their website, but did post Volume I of the Draft EIR as a courtesy to interested members of the public. Volume II of the Draft EIR was also made available on line at a later date. It should also be noted that during the public review period, which was initially to end on May 7, 2009, the City extended the review date until May 22, 2009.

Q-2 The City determined that there have been no significant changes to the physical conditions or regulatory environment under which the 2004 Biological Technical Report was prepared and, accordingly, decided that the 2004 report was sufficient for use in the EIR.

Q-3 Comment noted. The Draft EIR considered two joint-use alternatives (Alternative 2 and Alternative 3) and concluded that both were infeasible. The frequency of the seals' presence does not affect the conclusions of the Draft EIR.

Sherwood, Allison

From: John Leek [jleek001@san.rr.com]
Sent: Thursday, April 30, 2009 10:30 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

Allison Sherwood, Environmental Planner, City of San Diego Development Services Center, 1222 First Avenue, MS,501, San Diego, CA 92101

Although the City has published notice of public input "regarding the adequacy of the document" a number of things are unclear to me.

R-1

1. Adequate to what end? Adequate to justify a City permit for the project?
2. Adequate to justify a Coastal Permit for the project?
3. Adequate to meet the court order the City has to obtain all permits that it can immediately?
4. Adequate to justify the $1/4 million no-bid contract?
5. Adequate to my personal requirements as a taxpayer?
6. Adequate to make it seem there is no possible way to carry out the O'Sullivan judgment?

Next questions: How is this input to be judged? I have no desire to waste your time.
Is content relevant, or will only the number of ayes and nays be talleyed, period?
Is input to be traceable, with address and such included, or can any person send in 100 anonymous comments?
Is there any imperative for the City to act on any amount of this input or is it informational only? Calling them "comments" is ominous.
How shall the volume of comment eventually be attached to the EIR records?

1

R-1 The Draft EIR adequately meets the City's obligations of environmental review under CEQA. As for the aspect of this comment addressing the comment and response process, Section 15088(a) of the State CEQA Guidelines requires a lead agency to "evaluate comments on environmental issues received from persons who reviewed the draft EIR and [to] prepare a written response."

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:20 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

R-2 The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

Project information Page:

R-3 1) **Subject:** The report uses the word "dredge" which is a false description of the methods at hand, used only by people who have wished to characterize the restoration of sand level as being destructive. It was wrong for the report to start out borrowing a mis-terminology taken from enemies of the project.

From the Wikepedia, the word:

"A **dredge** is a device for scraping or sucking the seabed,..... Dredging can create disturbance in aquatic ecosystems, often with adverse impacts."

Dredging is like trawling, dragging a huge claw through the ocean floor. The term is completely inappropriate, does not describe any plans ever investigated by the City and is not contained in the O'Sullivan court order

14

R-2 This comment's opinions regarding the adequacy and correctness of the Draft EIR are noted.

Please note that this introductory remark is repeated in several of the subsequent emails from Mr. Leek, and this response from the City to this individual comment is also applied to these subsequent iterations of the comment, but will not be repeated in this responses document.

R-3 The reference to "dredging" sand in the brief project summary presented in the public notice is incorrect. As correctly stated in the project description of the EIR (see page 2-5), the project proposes "the excavation of 3,000 cubic yards of sand from the upper, landward side of Casa Beach." This explanation of the proposed activities is used throughout the EIR, and the EIR does not reference proposals to "dredge" sand from Casa Beach. No correction in the EIR is needed for the referenced statement.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:21 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-4

Project information Page:
It calls the area "Children's Pool Beach" There was no beach in 1931. Before the seawall it was a big tide pool, known simply as The Pool". The enclosed Pool was officially dedicated in 1931 as **"Children's Pool"**. One end serves as a beach now because a 9' deep sand drift has filled the Pool. Removal of this sand dune they call a beach is the restoration of the **Children's Pool**.

This inaccuracy needs to be corrected.

John Leek 3090 Admiral Ave San Diego, CA 92123

13

R-4 The reference to "Children's pool beach" in the brief project summary presented in the public notice is incorrect, and should have read "Casa Beach," which is the longstanding name used to identify the beach area where the Children's Pool was created in 1931 by constructing the breakwater. Please note that historic photographs of Children's Pool do show the presence of Casa Beach after the breakwater was constructed, a beach that has grown in size over the years due to sand deposition noted in this comment. No correction in the EIR is needed for the referenced statement.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:24 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-5

On the first page - Project information Page:

Recommended Finding – has already been ruled to be so inaccurate that a judge had to order the City to correct it. In light of that, the entire public review process should have begun over again.

John Leek 3090 Admiral Ave San Diego, CA 92123

12

R-5 The Draft EIR introductory memo from City staff, which follows the Public Notice in the published version of the Draft EIR and is referenced in this comment, initially contained an error. It was corrected and the City extended the public review period until May 22, 2009.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:25 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-6

Page 1.

CONCLUSIONS: The description completely ignores the requirement of the project to conform to the O'Sullivan court order, pretending the City thought this up on its own. Since the City is trying everything it can to not do that, the report is supporting a myth, and cannot adequately present a complete picture.

John Leek 3090 Admiral Ave San Diego, CA 92123

11

R-6 The introductory memo presented in the Draft EIR presents an appropriate summary of the project description for the Draft EIR's subject action. The court order to restore the Children's Pool to its 1941 configuration is appropriately explained under the "Project Background" heading in Chapter 2 of the Draft EIR (page 2-4). Though one of the reasons for undertaking the project—and thus for preparing the EIR—is the referenced court order, the EIR was prepared to analyze the environmental effects of the City's discretionary decision at issue in this project, namely the City Council's consideration of a Coastal Development Permit, a Site Development Permit, and approval for project funding.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:26 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

Page 1.

R-7 Bottom of page – the City's summary misidentifies Children's Pool as "Casa Beach" – again borrowing from the detractors of the project. The point is to restore a pool, not clean a beach. There is not supposed to be a beach there.

John Leek 3090 Admiral Ave San Diego, CA 92123

10

R-7 The reference to Casa Beach noted in this comment indicates that the sand to be removed as a part of this project would come from the beach. Stating instead that the project entails removing sand from Children's Pool would be misleading, as it could suggest that the majority of sand would come from the surface beneath the pool waters. Summarizing the project description in this way was not a deliberate attempt by the City to advocate for either denial or approval of the project.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:26 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-8

Page 2.

"…until sand returns to safe levels" cannot be done. The unsafe levels are seal coliform that flag County Health beach testing, but that is done in the water at a beach. County Health has no way to test a pile of sand for safety standards.

John Leek 3090 Admiral Ave San Diego, CA 92123

R-8 The project entails cleaning the excavated sand by exposing it to ultraviolet rays, which is expected to successfully return the sand to safe levels. "Safe levels" here implies that the fecal coliform bacteria in the sand would be killed. The sand will be tested before it is deposited to determine that it is safe.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:27 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-9 End of second paragraph should have been the headline in the summary. "No significant unmitigated impacts have been identified". This should not have been hidden down there.

John Leek 3090 Admiral Ave San Diego, CA 92123

8

R-9 The referenced paragraph accurately expresses the conclusions of the environmental analysis, and is not an attempt to hide the information, as suggested in this comment.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:27 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-10

Page 2:

"Could result in potential impacts to unique, rare, sensitive or fully protected species…" is nonsense. Only sand is being touched. There is nothing special alive in it. The cleverly concealed reference to "fully protected species" is a very cute way of saying "seals" which federal authorities have assured San Diego it can move anytime it wants.

John Leek 3090 Admiral Ave San Diego, CA 92123

7

R-10 This comment's stated opinion regarding the EIR's conclusions on biological resources impacts is noted. Please note that the biological resources impacts analysis presented in the EIR was conducted by qualified professional biologists, and changes to their conclusions are not necessary.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:28 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

Page 2.

R-11

Mentioning grunion is also silly. The "beach" covering the end of Children's Pool is too steep to induce grunion to do their spawning there. Had they consulted a qualified biologist, or even checked local history, they would have known grunion have never spawned there.

John Leek 3090 Admiral Ave San Diego, CA 92123

6

R-11 This comment's stated opinion regarding the EIR's conclusions on grunion impacts. Please note that the biological resources impacts analysis presented in the EIR was conducted by qualified professional biologists, and changes to their conclusions are not necessary.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:28 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-12 The report suggests the project be prohibited during half a year, over possible lobster interference, yet has no input from DFG or any biological source. It only suggests somebody ought to get some. Anybody could have said that, and not charged the City a bunch of money for it.

John Leek 3090 Admiral Ave San Diego, CA 92123

R-12 This comment's stated opinion regarding the EIR's conclusions on lobster impacts is noted. Please note that the biological resources impacts analysis presented in the EIR was conducted by qualified professional biologists, and changes to their conclusions are not necessary.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:30 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-13

Page 2.

Had the writers researched seals they would have found pupping season is from January to mid April according to biologists and NOAA. Instead, they suggest somebody should get such information, when it was readily available. How can the City pay for a report that did not carry out the simplest investigations?

John Leek 3090 Admiral Ave San Diego, CA 92123

R-13 The Draft EIR states that seals may "molt and pup anywhere December to June," which is a correct statement. This timeframe includes the pupping season timeframe referenced in this comment.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:30 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-14

Page 2.

Impact to seals also recommends the project be forbidden for half a year, with no mention of the possibility of clearing the seals before then as had been recommended by NOAA and the Superior Court, and by the same court that has ruled the City can proceed and must.

John Leek 3090 Admiral Ave San Diego, CA 92123

R-14 Mitigation Measure BIO-1.1.d requires excavation to be limited to outside the breeding season in order to limit the project's impacts on seals. This measure adequately mitigates the identified impact.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:31 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-15

Page 3.

ALTERNATIVES: This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.
This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

John Leek 3090 Admiral Ave San Diego, CA 92123

R-15 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration. The City gave no direction to the consultant that would in any way preclude their objective analysis of the project and alternatives. This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:31 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060

The subject EIR is adequate to allow the project to proceed. It is inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-16

Page 3.

The Whole Archeology section is also an insult to our intelligence. There is only sand being scooped out of a hole that was blasted and cleared with a dragline before 1930. There cannot be any remnants of ancient civilizations under that sand. The writers of this report paid no attention to history or common sense.

John Leek 3090 Admiral Ave San Diego, CA 92123

R-16 This comment's stated opinion regarding the EIR's conclusions on archeological resources impacts is noted. Please note that the archeological resources impacts analysis presented in the EIR was conducted by qualified professional archeologists, and changes to their conclusions are not necessary.

From: John Leek [jleek001@san.rr.com]
Sent: Tuesday, May 05, 2009 8:42 AM
To: DSD EAS
Subject: Project No. 71362, SCH No. 1999011060
Attachments: Resolution302160.pdf

The subject EIR is adequate to allow the project to proceed. It is NOT inadequate to meet the requirements of the court order.
It is overdone, and contains several errors and misstatements designed to make the process more difficult than it need be.

R-17 All the conditions it cited to meet CEQA are invalid. CEQA does not apply to an area less than 5 acres. This is shown in a City Resolution 302160 which a federal court recently, though temporarily, ordered the City to abide by. (Bottom of first page)

John Leek 3090 Admiral Ave San Diego, CA 92123

1

R-17 The project is not exempt from CEQA because none of the statutory exemptions and categorical exemptions respectively listed in Article 18 and Article 19 of the State CEQA Guidelines applies to the project. The City resolution referenced in this comment relates to placement of the rope barrier at Children's Pool to prevent human/seal interaction, a project that was found to be exempt from CEQA environmental review by the "Class 33" exemption under CEQA Section 15333. This exemption applies to projects smaller than five acres that are being undertaken "to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife." First, the project is intended to restore Children's Pool to its intended configuration, not to maintain, restore, enhance, or protect habitat, as was the rope-barrier project. Secondly, there are several qualifications applied to this exemption, the first two of which preclude application of the exemption if there would be "significant adverse impact on endangered, rare or threatened species or their habitat pursuant to section 15065" and if there are "hazardous materials at or around the project site that may be disturbed or removed…" Because the project has been found to result in significant (mitigated) impacts on protected species and because the on-site water and sand are contaminated, this exemption could not be applied to the project even if it were being undertaken to restore or protect habitat. Furthermore, note that CEQA Section 15300.2(c) states that no categorical exemption may be used for projects that result in significant environmental impacts.

From: John Leek [jleek001@san.rr.com]
Sent: Sunday, May 17, 2009 10:01 AM
To: DSD EAS; Dye, Morris; CLK City Clerk
Cc: Lightner, Councilmember Sherri
Subject: Project #71362, SCH No. 1999011060

R-18

Rumor has it that the period for public input for the Children's Pool EIR had been extended past May 7th.
Is this true?
The amended EIR public notice was posted by the City Clerk at http://docs.sandiego.gov/citybulletin_publicnotices/CEQA/ChildrenspoolEIRpubnoticeamended.pdf , published with a date of notice of March 23, but that is the date of the first notice of the existence of the EIR itself and NOT the date of the amendment. A simple right click on the document allows viewing its Document Properties, showing it was created on April 23. (after a ruling of the Superior Court.)
This is a serious misrepresentation of the time the public was actually advised to give input on the actual document.

The public notices that made the EIR available did not include the attachments, even in the one library where it was published as a reference document. That meant it was NOT a legal document. The attachments are available now, through the City Clerk's website under http://www.sandiego.gov/city-clerk/officialdocs/notices/index.shtml and searching for "Children's Pool". NOTE that the postings are all dated 5/1/09, well after the La Jolla CPA held the public hearing for the project. The City remains under a standing past-due court order to obtain all needed permits for the restoration of Children's Pool with all due effort, and this shabby effort to get public input for the EIR as mandated by City ordinances too, will just be more evidence for a contempt of court proceeding. I hope the window for public input did not indeed close on 5/7 as all the documents available from the City indicate.

1

R-18 In response to several requests to extend the Draft EIR public review date, the City extended the review date until May 22, 2009. The public review period for the Draft EIR was properly conducted, and posted publication dates for the Draft EIR and the accompanying public notice were not intended to be misleading or misrepresentative.

From: John Leek [jleek001@san.rr.com]
Sent: Monday, May 18, 2009 1:22 AM
To: DSD EAS; Dye, Morris; CLK City Clerk
Cc: Lightner, Councilmember Sherri
Subject: Re: Project #71362, SCH No. 1999011060
Attachments: cpoollightnerextensionpr-1.pdf

R-19

Ah, I was given a copy of a memorandum to Councilperson Lightner that should have gone to the original distribution members, but I can't find a copy on the City Clerk website. It seems to have gone to persons listed in the EIR as "On Distribution" and not to those listed as "Notice Only".
The original scoping plan (Attachment A) of the EIR listed everybody as distribution and had no "Notice Only" category.
And the 5/1 posting of the Attachments was not after the La Jolla Community Planning Association meeting, but less than a week in advance, so probably the members at the meeting were unaware of it. As for why the Attachments took so long to become public, it worked to the City's advantage that the pubic did not see that this EIR was a paste job of numerous studies the City had previously paid for and not used, only differing in the larger number of obstacles presented to make the project seem as unfeasible as possible.

John Leek wrote:
> Rumor has it that the period for public input for the Children's Pool
> EIR had been extended past May 7th.
> Is this true? The amended EIR public notice was posted by the City
> Clerk at
> http://docs.sandiego.gov/citybulletin_publicnotices/CEQA/Childrenspool
> EIRpubnoticeamended.pdf , published with a date of notice of March 23,
> but that is the date of the first notice of the existence of the EIR
> itself and NOT the date
> of the amendment. A simple right click on the document allows
> viewing its Document Properties, showing it was created on April 23.
> (after a ruling of the Superior Court.)
> This is a serious misrepresentation of the time the public was
> actually advised to give input on the actual document.
> The public notices that made the EIR available did not include the
> attachments, even in the one library where it was published as a
> reference document. That meant it was NOT a legal document. The
> attachments are available now, through the City Clerk's website under
> http://www.sandiego.gov/city-clerk/officialdocs/notices/index.shtml
> and searching for "Children's Pool". NOTE that the postings are all
> dated 5/1/09, well after the La Jolla CPA held the public hearing for
> the project. The City remains under a standing past-due court order
> to obtain all needed permits for the restoration of Children's Pool
> with all due effort, and this shabby effort to get public input for
> the EIR as mandated by City ordinances too, will just be more evidence
> for a contempt of court proceeding. I hope the window for public
> input did not indeed close on 5/7 as all the documents available from
> the City indicate.
>
>
>
>
>
>

1

R-19 This comment does not pertain to the adequacy of the Draft EIR or to environmental impacts of the proposed project. As noted above in the response to comment R-17, the public review period for the Draft EIR was properly conducted. No additional response is necessary to address this comment.

COUNCILMEMBER SHERRI S. LIGHTNER

FIRST DISTRICT
CITY OF SAN DIEGO

May 22, 2009

Allison Sherwood
Environmental Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

Subject: Draft Environmental Impact Report, JO: 298725, La Jolla Children's Pool: Coastal Development Permit (CDP), Site Development Permit (SDP) and City Council Approval.

I request that comments on the following topics be appropriately included in the subject document:

1. Mitigated Negative Declaration.

   There is no mention in the Environmental Impact Report of the MND performed in 1999. This document should be included at least as an attachment to the Environmental Impact Report (EIR). MND LDR No. 98-0671, Children's Pool Dredging, Final Report dated March 5, 1999.

   The MND includes a Mitigation, Monitoring and Reporting Program, comment letters, resolution of comments and an initial issues checklist.

S-1

2. Scoping Meeting.

   Speakers slips/comment forms were provided and collected at the November 15, 2007 Scoping Meeting. On page 2 of the transcript, "That is why we have forms in the back if you put your comments on if you cannot complete your time in two (2) minutes. So you are basically giving us 2 minutes of comments." While the verbal comments were transcribed and included in Appendix A of this EIR, the comment forms do not appear. A number of the forms did have written comments. Why were these not included as a part of the

S-2

202 C STREET • SAN DIEGO, CALIFORNIA 92101
(619) 236-6611 • FAX (619) 236-6999 • EMAIL: SHERRILIGHTNER@SANDIEGO.GOV

S-1 As noted in this comment, a Mitigated Negative Declaration was prepared by City planning and development review staff in 1999 to analyze a prior version of this project. The MND was deemed inadequate to bring the current iteration of the project into CEQA compliance, leading the City to prepare the EIR now under consideration. CEQA does not require that an EIR or other CEQA document incorporate past CEQA documents into present proposals, and the City determined that the MND was not appropriate to incorporate into the EIR as an attachment. No changes to the EIR are required to address this comment.

S-2 (cont.) documentation? Were any email comments received that should be included as a part of the Scoping or the EIR?

3. Initial Issues.

S-3 The EIR does not have an Initial Issues checklist. Is there a reason for this?

Usually an Initial Issues checklist is provided to identify the topics for discussion and is based upon the "City of San Diego's Significance Determination Thresholds, California Environmental Quality Act (CEQA)." One of the Initial Issues which should have been identified and discussed is Public Services. Although Public Safety is identified in the EIR, it is Public Health related only and does not address the security issues related to the existing situation at Children's Pool and possibly with the proposed project all of the alternatives. There have been Public Safety issues at the site and this should have been addressed in the EIR.

S-4 In particular the City's Determination Thresholds includes, "Would the proposal (or alternatives) have an effect upon, or result in a need for new or altered governmental services in any of the following areas: Police protection, .. lifeguard service?"

Why was the issue of public safety not addressed for the existing situation, the proposed dredging or any of the alternatives?

How many people visit the Children's Pool on an annual basis? Does this present an additional challenge to law enforcement and in what ways?

4. Alternatives.

There are several alternatives identified in the EIR. They are the following:

- No Project
- Year-round (spatial) Joint Use
- Seasonal (temporal) Joint Use
- Open Sluiceways
- New Children's Pool
- Offshore Seal Platform

S-5 It is not clear why some of these are considered alternatives, since they do not meet the requirements of the court order. It is also unclear why these particular scenarios cannot be combined with the proposed project. For example, why can't the dredging be combined with the Offshore Seal Platform?

S-2 CEQA does not require a lead agency to incorporate into an EIR the NOP prepared for the respective project or any associated documents. The City decided to include the NOP prepared for the project as an appendix, along with letters responding to the NOP, though they elected not to include the comment cards for purposes of volume. Please note that Appendix A has been revised in the Final EIR to include three letters responding to the NOP that were inadvertently omitted from Appendix A as it appeared in the Draft EIR.

S-3 As stated in the October 19, 2007, scoping letter for the Draft EIR (included in Appendix of the Draft EIR), the City's Environmental Analysis Section conducted an initial study of the project to determine the scope of the EIR. The scoping letter covers all of the CEQA environmental checklist issues that were identified as needing analysis in the EIR. CEQA does not require that an initial study prepared for a project be incorporated into an EIR. However, the EIR has been revised to present a discussion of the environmental issues areas for which effects were determined to be less than significant during preliminary review of the project. This discussion is provided in the beginning of Chapter 3 in the Final EIR, before the individual issue area impact analysis sections.

S-4 As noted above in the response to comment S-3, Chapter 3 of the Final EIR presents a discussion of effects found not to be significant. One of these is public services. Because the project does not entail new development or increase in intensity of use of the site, it would not create additional demand for fire, police, or lifeguard services. The environmental setting description in the Draft EIR (page 2-3) notes the presence of people on the project site and the surrounding area, but there is no public safety issue here that would be considered an environmental condition worthy of note in the existing conditions. The project site is located in an area of La Jolla that generally experiences a high volume of visitors throughout the year, but the presence of people under existing conditions does not present a particular challenge to law enforcement. As the project would not increase demand for these services, the project would not result in an impact on law enforcement.

S-5 (cont.)

One of the alternatives – Open Sluiceways – might possibly achieve the objectives of the Court Order over the course of time, but it does not necessarily have to be done as described. Has this alternative been evaluated using a cofferdam to allow excavation to the level of the sluiceway, followed by the work needed to open the sluiceways?

5. Transportation/Circulation/Parking

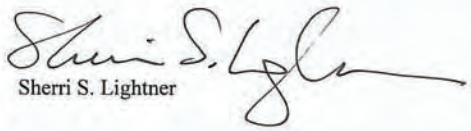
S-6

The existing situation (Children's Pool as a de facto preserve) has caused additional traffic and parking needs for vehicles of all sizes – including buses. The claims as to the number of additional visitors vary widely (10,000 to 70,000 visitors monthly), but there has not been an evaluation of the actual number of additional trips attributable to this destination and the traffic impacts these additional trips bring to the already impacted community of La Jolla. The discussion of parking impacts relates only to the construction phase and does not address the parking demands of this as a destination for viewing seals contrasted with the demands if there was no seal viewing.

6. Mitigation, Monitoring and Reporting Program

S-7

CUL-1.1 comments on Night and/or Weekend Work. Given the residential character of the neighborhood, it is strongly recommended that Night Work be avoided.



Sherri S. Lightner

S-5 As discussed in Chapter 5 of the Draft EIR (see page 5-2), potential alternatives to the project are limited because those that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration. However, in accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. The alternatives presented in Chapter 5 are meant for disclosure and discussion purposes, though none of the alternatives is feasible, in light of the court order.

As for the portion of this comment that discusses combining Alternative 6 (seal platform) with the proposed project, please note that the Draft EIR (page 5-16) explains that the efficacy of constructing an artificial platform for seal haulout is debatable and is not guaranteed to deter the seals from using Casa Beach. Furthermore, as explained in the impact analysis for Alternative 6, constructing the platform was found to have worse impacts on most of the environmental issue areas than those resulting from the proposed project.

With respect to the portion of this comment that suggests a modification of Alternative 4 (Open Breakwater Sluiceways), the suggested variation would not reconfigure Children's Pool, similar to Alternative 4 as presented in the Draft EIR, so this variation would also be infeasible. However, this suggestion is noted.

S-6 Section 3.9 has been revised in the Final EIR to provide a discussion of the project's impacts with respect to regular, non-maintenance-related vehicle trips. The project is not expected to result in an increase in trips. The project may result in a decrease in trips, as use of Children's Pool as a bathing pool would likely generate fewer trips on a regular basis than it does as a wildlife viewing area under existing conditions. However, as the project isn't anticipated to result in a considerable geographical relocation of the seals, whose viewing generates traffic under existing conditions, seal viewers may still travel to adjacent beaches for similar reasons after the project is implemented.

S-7 Night work is not anticipated for the proposed project. The reference to night work in Mitigation Measure CUL-1.1 is a standard clause often incorporated into cultural resources monitoring programs in the event that such work is indeed necessary, and does not indicate that such work will be needed for the proposed project.

Letter of Comment

From: Melinda Merryweather [mbeherenow@sbcglobal.net]
Sent: Monday, May 04, 2009 11:23 AM
To: DSD EAS
Subject: Childrens Pool.

T-1 I do not believe it is a good thing to place shark bate on a beach,that in surrounded by thousands of swimmers and divers and serfers, at this point it is not if it is when,some one is killed and the city will be responsible,it makes no sense to take a public beach and turn it in to a polluted hazard. Melinda Merryweather

1

Response to Comment

T-1 This comment's stated opinions regarding safety and pollution at Children's Pool are noted. Please note that the potential for shark presence in the project area is discussed in Section 3.5 of the Draft EIR (see page 3.5-2), that the project is intended in part to alleviate pollution at Children's Pool, and that the project would not attract sharks.

UNIVERSITY OF CALIFORNIA, SAN DIEGO UCSD

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO SANTA BARBARA • SANTA CRUZ

DEPARTMENT OF ANTHROPOLOGY
Fax: (858) 534-5946

9500 GILMAN DRIVE, 0532
LA JOLLA, CALIFORNIA 92093–0532

7 May 2009

Allison Sherwood
Environmental Planner
City of San Diego Development Services Center
1222 First Ave., MS 501
San Diego CA 92101
DSDEAS@sandiego.gov

Project No. 71362, La Jolla Children's Pool.

U-1 It is a political truism that "proper" control of the agenda and the question can virtually determine the outcome of the decision-making process. By framing the DEIR narrowly (and then amending it to further restrict the scope), the analysis fails to consider the most fundamental question regarding recreational use of Casa Beach/Children's Pool: is the best use of that location swimming and SCUBA diving, or is it recreational wildlife viewing? There are other places locally where it is possible to swim, dive, and play on the sand; there is no other place where it is possible to watch wild seals (or indeed any other large animals). The formulation of the DEIR elides this central point. I ask that the City Council not follow suit.

U-2 If the City is not required by law to dredge Casa Beach (e.g. as a consequence of passage of SB 428), then I urge the Council to adopt an alternative that does not involve dredging or seal removal. I respectfully suggest that joint use with divers and ocean swimmers could be accommodated by installation of a rope corridor approx. 3' wide connecting the upper beach with the water, about 25% of the distance from the east side of the beach (Alternative 2). The seals have demonstrated their ability to habituate to human activity and this access avenue would allow joint use while minimizing risk of injury to either species.

Comments on the DEIR

U-3 I am a biological anthropologist with over 30 years of experience conducting behavioral and demographic research on nonhuman primates, with concomitant attention to conservation and wildlife management issues. I have been a Life Member of the Society for Marine Mammalogy for nearly as long, and have participated in field research on whales and dolphins. Since 1999, I have been informally studying the seals at Children's Pool and have supervised a number of individual and group student research projects involving the seals and the controversy concerning alternative uses of the site. For the last year I have been working with a UCSD graduate student, Traci Linder, in a photo-identification study of the Casa Beach seals. I have also assisted the La Jolla Friends of the Seals (LJFOS) with entry of their docent-collected count data, some of which I have cited below. The LJFOS data was collected by a variety of docents under varying conditions and with varying degrees of training (and bias); I have accordingly been conservative with interpretations. I have no formal affiliation with any of the special interest groups involved. I am not specially concerned about the seals that use Casa Beach, but feel strongly that the rookery as it is represents a unique and valuable educational and aesthetic resource for the children (and adults) of the region; dredging would send an appalling message of callous disregard for nature and wildlife to an international audience.

U-1 The City has prepared the EIR to reflect their independent judgment as to the project's environmental effects, in compliance with CEQA, and does not represent any improper control of the project agenda or ignorance of impacts. For a response regarding the project's recreational impacts on wildlife viewing, please see the response to comment A-6.

U-2 This comment's stated preference for a joint-use alternative to the proposed project is noted.

U-3 This comment's stated opinion regarding the value of the rookery is noted. The rookery's status as a biological resource, as defined by federal and state regulations, is discussed in Section 3.2 of the Draft EIR (see page 3.2-16 through 3.2-17).

Executive Summary

Areas of Controversy

U-4

S-3. "While the project's intent of cleaning the beach sand and providing a safe swimming area … would appear to be of unanimous benefit to beach users, swimmers, divers, and other recreationalists, it would also temporarily restrict the seal population from using the beach and potentially result in a condition that would dissuade them from returning over the long term." This sentence explicitly excludes recreational wildlife viewers from the category of "beach users" and wildlife viewing from "recreation". Statistics on the popularity of wildlife viewing/tourism (nationally and internationally) are readily available. Although the subsequent sentence acknowledges that "[s]eal viewing has become popular over the past decade", this observation is implicitly independent of the interests of "beach users" and irrelevant to "recreationalists". No consideration is given to the cost born by those recreational wildlife viewers if the seals are "[dissuaded] from returning over the long term."

This ***false, misleading and prejudicial characterization of the underlying issues behind the proposed Project renders this DEIR unacceptable.***

Table S-1:

Environmental Effects.

U-5

Aesthetics and neighborhood character. It is on the face of it absurd to conclude that the visual quality and existing character of the Beach will be minimally and only temporarily affected by the (potentially permanent) removal of the seals. The seals currently define the visual quality and character of Casa Beach; that is the basis of the controversy!

Biological Resources.

U-6

"Although the available haul out area surrounding the pool will be reduced, the harbor seals will search out alternative areas for hauling out." What are the City's plans regarding appropriate response[s] if these alternative areas include other local public beaches? Failure to address such issues seems to constitute a procedural oversight in preparation of the DEIR.

Historical Resources.

U-7

Does a resource become "historical" only by the passage of time? Clearly the common description of the recent presidential inauguration as "an historical moment" belies that definition in favor of one that recognizes a unique confluence of setting and use which creates a situation/artifact that is not easily replicable and possesses intrinsic value. By such a definition the harbor seal rookery at Children's Pool is itself an historical resource: it is unprecedented, valued, and cannot be replicated (given that nobody understands why the rookery formed in such a populated setting). Destruction of this Historical Resource by dredging cannot, at this time, be mitigated and should not be allowed.

Recreational Resources.

U-8

Total failure to acknowledge the existence of the primary current recreational activity at Casa Beach renders the finding of "Less than significant" effects spurious if not ridiculous. Note that because the project would "potentially result in a condition that would dissuade them [seals] from returning over the long term", no claim that recreational wildlife viewing would be only temporarily affected can be sustained. The Cumulative Impact Determination must be framed in the context of other opportunities for recreational wildlife viewing in San Diego. Though there are many localities at which birdwatching is possible, there is quite simply no other place within the County that is comparable in terms of observing non-rodent mammals. The Cumulative Impact of decisions regarding dredging is not only a quantifiable loss of opportunity to observe wildlife, but also should include the impact of the decision on recognition of social priorities. Quite simply, Richard Louv and others have eloquently argued that we, and especially our children, suffer from "nature deficit

U-4 The referenced discussion in the Draft EIR notes that wildlife viewing has become a popular activity at Children's Pool. For a response regarding the project's recreational impacts on wildlife viewing, please see the response to comment A-6.

U-5 This comment's stated opinion regarding seals' contribution to the aesthetics and neighborhood character of the Children's Pool site is noted. For discussion of the Draft EIR's analysis of neighborhood character impacts, please see the response to comment I-22.

U-6 Long-term management of harbor seals on City of San Diego beaches is outside the scope of this EIR.

U-7 This comment's stated opinion regarding the seal rookery's status as a historical resource is noted. While the EIR addresses the rookery as a biological resource, the City does not consider the rookery a historical resource and has not revised the EIR to address this issue. The EIR identifies the breakwater structure as a historic resource because of its association with important figures in local history. Though wildlife viewing at Children's Pool may be a popular activity, this does not assign historical significance to the landscape such that it would be considered a historical resource under CEQA.

U-8 (cont.)

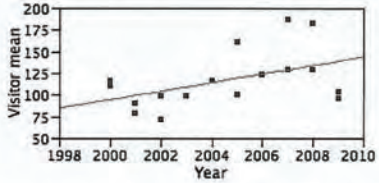
disorder" in which consumptive resource use is privileged over observational and humans are framed as inherently in opposition to nature – as is the case here, with the spurious contrast of "human versus seal" use of the Beach. As an internationally-known visitor experience, destruction of the seal-viewing opportunity at Children's Pool/Casa Beach would have a Cumulative Impact beyond the borders of San Diego.

Chapter 2, Project Description

U-9

• 2-4. Citing fecal coliform levels, the DEIR states that "[d]ue to these hazards, public use of Casa Beach and the Children's Pool has reduced substantially over the last 10 years (Appendix B)". ***This assertion appears to be false***. No data whatsoever are provided in support of this assertion. The failure of Appendix B to consider the validity of recreational wildlife viewing as a "use" suggests that the statement reflects only a subset of uses. Data collected between 1999-2009 by LJFOS (see below) shows an average of 100 – 130 people present at the site between the hours of 9am – 6pm during pupping season (February/March); for October and July the figures are 65 and 91 respectively. These numbers are consistent with thousands of people/day visiting the site, year-round, and the number of people at the site during Feb/Mar has been increasing with time:

LJFOS Data.
Monthly averages, number of people at the site between 9am – 6pm, Feb/March only, by year.



Importantly, no such significant increases have occurred for the months of July and October, indicating that the increase in popularity is related to increasing popularity of seal (pup) watching. Without pre-1996 data on numbers of people using the Children's Pool area it is hard to know whether current recreational use is greater than in pre-haulout days, but it seems plausible that it is and usage is increasing, not decreasing.

U-10

• 2-4. Citing Appendix C, the DEIR states that "[t]he number of seals using the site has continued to grow, with numbers reaching as high as 164 in a 2004 count, but typically averaging between 70 and 80". This is mildly misleading, in that it perpetuates the impression of slow growth in the number of seals using the site. Appendix C cites Yochem & Stewart 1998 as reporting a high count of 172, and its Figure 1 shows a count of >140 in June 1996. It is more accurate to say that the number of seals using the site grew rapidly, with numbers reaching as high as 140 by 1996, well before beach closure. The implications of this are discussed below.

Chapter 3, Environmental Analysis

3.2, Biological Resources

U-11

3.2 - 32: Pedantic point: "it is possible that fish diversity and abundance would increase slightly in the area if the harbor seals ultimately relocate away …". Removal of top predators sometimes decreases prey diversity by various mechanisms (permitting competitive exclusion; competitive release of other predators, etc.). The effect here is unlikely to be significant but the passage suggests either biological naïveté or underlying anti-seal bias (or both).

3.7, Land Use

U-12

3.7-3: "The proposed project will enable residents and visitors to continue utilizing this significant local recreational resource." As noted elsewhere, this statement is predicated

U-8 This comment's opinion regarding the recreational-resources impact analysis in the Draft EIR is noted. Children's Pool is a recreational resource of the City of San Diego that was completed in 1931 as a safe swimming area for children and granted to the City by the State for those purposes. For a response regarding the project's recreational impacts on wildlife viewing, please see the response to comment A-6.

U-9 The referenced statement in Appendix B of the Draft EIR refers to declining use by people of the sandy beach and ocean at Children's Pool for bathing or associated uses. Page 2-4 has been revised in the Final EIR accordingly. The data presented in this comment regarding wildlife viewers at Children's Pool do not change the analysis or conclusions of the EIR.

U-10 The Chapter 2 language referenced in this comment is not meant to imply that the City anticipates a significant trend toward increased seal use of Children's Pool in the future.

U-11 The referenced language discusses a possible outcome of project-related seal relocation, and is not meant as a definitive statement about the project's biological effects. The City disagrees with this comment's suggestion that the referenced language indicates "biological naïveté or underlying anti-seal bias."

U-12 (cont.) upon a particular ***unexamined and incomplete definition of "recreation"***. As such, this entire Section fails to consider the dominant existing use of the site, **rendering the DEIR inadequate and fatally flawed**.

U-13 3.8 Recreational Resources
By failing to consider recreational wildlife viewing, this section is inadequate.

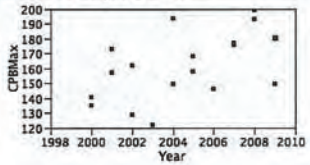
Chapter 4, Cumulative Impacts

U-14 4-4. Recreational Resources:
"As documented in Section 3.8, the project would not result in an significant impacts on recreational resources." This ignores the recreational interests of literally hundreds, if not sometimes thousands, of people who visit the site ***daily*** to watch the seals. It obviously is not easy to decide between competing recreational interests, but to attempt to do so by defining one set of interests out of existence is not acceptable.

APPENDICES

La Jolla Children's Pool Joint Use Feasibility Study (DEIR Appendix B).

U-15 1. Causality: The Study suggests that the closure of the beach in September 1997 was responsible for a major increase in use of the beach by seals (e.g., "Most of the public recreated side by side with the small population of seals for many years. However, when the beach closure of Children's Pool to bathers occurred, the seal population began to increase, births occurred, …"). This ***perpetuates a myth*** which has implications for the proposed project, that the seals only really moved in once people moved out (implying that moving people back in will limit use by seals). In fact, Yochem & Stewart (1998) reported a count of 142 on Casa Beach in June 1996, and two students from Palomar College studied the seals during summer 1997 and (i) recorded a maximum count of 121, and (ii) photo-identified 192 individual seals using the Beach. Even if the photo-ID number is overestimated, maximum counts of 120 – 140 are hardly a "small" number.
RIGHT: LJFOS data for monthly maximum counts (Feb/Mar, daytime only) show at most only a slight increasing trend for the period since 1999; maximum numbers were reached early in the haulout's history.



U-16 2. Population size: The Study finds that "[t]he current count varies with the time of year. Studies done by local experts say there are at least 150 seals using Children's Pool. The count has been over 200 at times." There is an understandable but problematic tendency to confuse "population" and "count", with estimates of the number of seals using the Beach being based on maximum counts. The rapid colonization of Casa Beach (above) demonstrates that Casa Beach is not an isolated population, but part of a larger one of unknown size. An ongoing computer-assisted photo-identification study of the seals by my group at UCSD has tentatively identified over 700 individual seals photographed at Casa Beach. Because there may be some as yet undetected duplicate entries and the work (including visual cross-checking) is ongoing, it is premature to use that number. However we are confident there are at least 400 and there may be twice that. The final EIR should address the implications of shifting the haulout patterns of 400+ habituated seals, as well as the fact that the seals at Casa Beach are not a discrete local group that might shift or disperse, but part of a larger regional population. Basically, the demography of the seals is not known, and the City should not act in ignorance in this matter.

U-12 This comment's opinion regarding the land-use impact analysis in the Draft EIR is noted. Children's Pool is a recreational resource of the City of San Diego that is intended to be a safe swimming area for children, as indicated by the State statute deeding the land to the City. Though the City acknowledges that wildlife viewing at Children's Pool is a popular activity for residents and visitors, it is not in keeping with the intended uses of this public park.

U-13 Please see the responses to comments A-6 and U-8 above. Section 3.8 of the Draft EIR presents a proper and valid examination of the project's impacts on recreational resources.

U-14 Please see the response to comment U-8 above for discussion of the project-level recreational impacts. The section referenced in this comment is an examination of the project's contribution to cumulative recreational impacts. This section properly concludes that because no cumulative projects would have recreational impacts, there are no cumulative recreational impacts and, accordingly, the project would not contribute to any such impacts.

U-15 The purpose of the information in the EIR is to give the reader context for conditions at the project site, not to "perpetuate a myth" or otherwise argue statistical trends of the seal population in and around Children's Pool. What is factually documented is that harbor seal populations are increasing and the species are not threatened or endangered. The analysis in the EIR focuses on identifying impacts on existing seals based on the proposed actions to be taken. To that end, the Draft EIR concludes the project "…is unlikely to displace any seal populations geographically, and the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces along the adjacent areas of coastline" (see page 3.2-25). Furthermore, the seal experts are cited as supporting the conclusion that the project would not result in significant impacts on seals.

U-16 See response U-15 above.

U-17

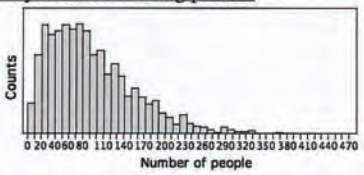
3. "Project Objectives": The Study betrays either a deep bias or a fundamental misunderstanding when it introduces the Objectives of the Study: "In order to return the Children's Pool for human use…". ***Children's Pool has never been removed from human use***; the primary use has shifted from swimming/SCUBA diving to recreational wildlife viewing. The framing of "objective" research in such biased terms calls into question the underlying City process for evaluating this Land Use decision.

Biological Letter Report and Recommendations for Construction Regarding Pinniped Surveys at Children's Pool, La Jolla, California (DEIR Appendix C).

U-18

1. Census of people at Children's Pool. This report is methodologically sophisticated and thorough, but must be interpreted with caution. In particular, ***the statistics concerning people are misleading***. Ironically, this follows from the statistical rigor of the sampling methods. Table 7, "Hanan counts of people at Children's Pool", presents statistics derived from 40 one-hour observation periods randomly selected "from all hours of the day and night". Though the raw data are not given, one expects that this procedure would yield about 33% of the 40 samples from between the hours of 10pm and 6am; since the study was done during the winter, more than 50% of observations would have been between sunset and sunrise. Needless to say, recreational wildlife viewing drops off after dark on winter nights, so the statistics on human presence (presumably reflective of human recreational use) are hopelessly irrelevant to any City decision-making process.

RIGHT: LJFOS counts of people at Children's Pool/Casa Beach, 1999 – 2009, between 8am and 6pm (N=2,059; all months). Average = 92± 63, median = 80, maximum = 465. 50% of counts fall between 44 – 125 people. Compare with Appendix C, Table 7 average of 43; if about half of Hanan's counts were between sunset and sunrise, and so very low, it is plausible that his daytime average would have been close to twice his overall average – in accord with the LJFOS figures.



U-19

IN SUMMARY:
The DEIR is based on flawed or incomplete information concerning the demography of the seals that use Casa Beach, and on a false, misleading and prejudicial characterization of the issue as a choice between human recreational use and seals. By failing to consider the primary recreational use of Children's Pool as such, the DEIR is fundamentally inadequate.

Thank you for the opportunity to comment on this DEIR.

Respectfully yours,

Jim Moore
Assoc. Prof.
jimoore@ucsd.edu
858 534-5572

U-17 Stating the project objectives in this manner does not indicate a bias or display a misunderstanding on the City's part, as suggested in this comment, but refers to the intended use of Children's Pool when it was built in 1931 and deeded to the City. The intent of the project, as dictated by court order, is to return Children's Pool to its prior configuration, leading to the expression of the project objectives as they appear in the EIR and the referenced appendix.

U-18 As discussed earlier in response to comment U-15, the purpose of the information in the EIR is to give the reader context for conditions at the project site, not to argue statistical trends. The commentor's argument that the daytime average could be twice that of the findings presented in the Hanan counts in Appendix C is not relevant to the analysis or conclusions presented in the EIR.

U-19 This comment's opinion regarding the adequacy of the Draft EIR is noted. The issues summarized in this comment have been addressed in the responses above.

From: Perrys [thedjperrys@gmail.com]
Sent: Monday, May 04, 2009 8:43 PM
To: DSD EAS
Cc: Lightner, Councilmember Sherri
Subject: Public Input to Project 71362, SCH No. 1999011060

Community Plan Area: La Jolla Community Plan
Council District 1

To All

V-1 I want to comment on the great lengths, extra expense and difficulty that has been experienced in tracking down and attaining the addendum that was to accompany the actual EIR document as per public purveyance. It was not made reasonably available either in the La Jolla Public Library,or the La Jolla Historical Society. Therefore this is not a complete document as presented to the public and the average "interested party reader" would not have been fully informed. I protest this document as presented to not being in full public disclosure.

V-2 I question whether the EIR was actually prepared by the most qualified firm. After reading it and all the filler documentation from numerous sources and studies cited, some appears to have dubious relevancy . It appears we as taxpayers have paid for a great deal of the body of this document many times before in the way of the attached reports and documents(*CP Appendages*) from previous City EIRs and "studies"

V-3 This EIR contains no real alternatives or solutions to the continuing pollution, public access and health and safety problem of the Childrens Pool because it appears the writers were constrained or mis-informed by the City as to the stated **project** (Attachment A) and the **action** to be taken.

Case in point; the scoping directive to Samir Mahmalji was signed by Allison Sherwood for Robert J. Manis dated Oct 19th 2007. This directive had 6 models to be pursued - **none** of them were in compliance with the CA Superior Court mandate !
I note that at the time the **City had knowledge and possession of numerous models** that were well represented by the March 2,2007 EIR prepared by April Penera, then of San Diego Parks and Rec. It is to be noted that this Penera document was stated to be in response to and of compliance with the Ca. Superior Court order.

V-4 This was predating the **only** scoping meeting (there were supposed to be 3) held at the La Jolla Rec Center on November 15th. 2007. I attended this meeting (My name was transcribed as "Jean Carrie") . It was a lively meeting with much public input including suggestions of multiple alternatives and statements as to the purpose of the scoping meeting - to **comply** with the **Superior Court** directive, **not a "shared use"** concept.
Nothing was updated or revised in the Sherwood/Mamalji scoping directive as a result of "public input" from that one November 15th scoping meeting and the predated Oct 19th directive was the only one used for the Jones and Stokes "Project 71362"

V-5 In 5-2 of the actual report there are no alternatives except ones the City had considered to "not have merit", even though the City had all the plans in place beginning from 1999 (with a negative impact declaration) to as recently as March 2, 2007 in a document prepared by April Penera formerly of SD Parks and Rec (again, a negative impact declaration) , and then summarily abandoned them. That is the most troubling reason this report is grossly inadequate. This scoping report states the consultants Jones and Stokes apparently were not informed those documents existed, and were led to believe that the 6 models presented, were the **only** alternatives.

1

V-1 Appendices were made available at the City Development Services Department offices for review and for purchase in CD format. Please note that the City met its statutory obligation to make the EIR, including the technical appendices, available to the public.

V-2 The Draft EIR was prepared by qualified environmental consultants with extensive experience conducting CEQA review for projects in the City of San Diego. The report incorporates several documents prepared in the past to determine the impacts of similar versions of the project. The City determined that where there had been no significant changes to the physical conditions or regulatory environment under which the old reports were prepared, these reports were still adequate to enable consideration of the project's environmental impacts, and decided to incorporate them into the EIR.

V-3 In accordance with CEQA requirements, Chapter 5 of the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. The EIR examines the environmental effects of the proposed project, which is thoroughly described in Chapter 2. The City's consultants were not constrained or misinformed in any way about the components of the City's proposal that is discussed and analyzed in the EIR.

V-4 The City reviewed all comments received during the scoping process, including those raised in the referenced meeting, and prepared the Draft EIR in consideration of those comments, in accordance with Section 15084(c) of the State CEQA Guidelines. CEQA does not require an EIR to specifically address all comments raised during the project scoping process, but rather to consider all comments in its preparation. Additionally, CEQA does not require that three scoping meetings be held, but recommends the lead agency host one scoping meeting.

V-5 In accordance with CEQA requirements, Chapter 5 of the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed on page 5-2 of the Draft EIR, the City has considered potential alternatives to the project over the years and has concluded that the iteration of the project examined in the EIR is the only viable solution. The City disagrees with this comment's suggestion that its consultants were misled or misinformed as to the proposed project or potential alternatives.

Letter of Comment

V-6 This EIR was supposedly commissioned to meet the Court order, but is a blatant waste of taxpayer dollars in an attempt to draw out this "process" of Court compliance and should be considered in itself a deceptive act in contempt of Court.

respectfully,
Jean Perry
7415 Fay Ave.
La Jolla, CA 92037
858-459-0901

I
>*)))))))<

2

Response to Comment

V-6 This comment's opinion regarding the Draft EIR is noted.

Letter of Comment

From: James Peterson [petejustice33@yahoo.com]
Sent: Wednesday, May 06, 2009 4:55 PM
To: DSD EAS
Subject: Public Input to Project: 71362; SCH No. 1999011060

W-1

Please review all positions re: the Children's Pool (CP) in La Jolla, CA, especially the many citizens who do not want the CP Trust altered and the San Diego City Council to avoid their legal obligations to maintain the CP for the use of the citizens..... not seals.

I am a Lawyer that is appalled by the process the City Council is attempting to use to divert attention and to avoid their legal obligations to maintain the Children's Pool Trust. Deceit and fraud should not be actions conducted by our government officials. Several times, San Diego Judges have ruled against the City of San Diego City Council and ordered them to fulfill their obligations to maintain the subject CP Trust.

Community Plan Area: La Jolla Community Plan
Council District 1

W-2

This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.
This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

Thank you for objectively and completely reviewing this issue.

James Peterson, Esq.
9621 Stonecrest Blvd.
San Diego, CA 92123

Response to Comment

W-1 This comment's opinion regarding the City's process for implementing the court order is noted. The City has been conducting environmental review of the project pursuant to State law, and disagrees with the accusation that the City is stalling or diverting attention from the matter.

W-2 Please see the response to comment V-5.

From: diverdavid@cox.net
Sent: Friday, May 08, 2009 2:20 PM
To: DSD EAS
Cc: Lightner, Councilmember Sherri
Subject: Impact Report La Jolla Children's Pool

David W. Pierce
Director,
San Diego Council of Divers
9344 Leticia Drive
Santee Ca. 92071
(619) 448-1578
diverdavid@cox.net

8 May 2009

Allison Sherwood
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101
Via email - DSDEAS@sandiego.gov
Subject: Comments on Draft Environmental Impact Report La Jolla Children's Pool Project (Project 71362) - 23 March 2009

Dear Ms. Sherwood:

X-1 The only impact that I see is, depositing contaminated sand on another beach, (South Casa Beach) that is the IMPACT. Where in the 1998 report the sand was to be removed and hauled by trucks that the city owns to the Miramar landfill that the city owns.

The court order does not say where to deposit the contaminated sand. There should be a completely separate EIR from the court ordered EIR if the city plans to deposit sand on any other beach.

The city can haul the contaminated sand to fiesta Island next to the sludge pits, their the city can rake and turn the sand and the sun can sanitize it before the sand can be safely used for beach replenishment.

X-2 The sluice ways can be opened and the natural wave motion can remove the sand and a front end loader can move the sand in front of the sluice ways every day so the tide can remove the sand.

X-3 In the City Councils resolution number R-301368 of April 19, 2006 they note that there is no need for a CEQA, or a impact to install a rope for seal pupping season because Children's Pool is smaller than 5 acres! CEQA guidelines section 15333 Because it is a project " Not to exceed five acers in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife"
Well, is it not the same for the EIR Being under 5 acres?

Yours truly,
David Pierce
Director,
San Diego Council of Divers

3

X-1 The project entails decontaminating the sand prior to depositing it on South Casa Beach by exposing it to the sun's UV rays; therefore, the project would not entail depositing contaminated sand on another beach. Please note that the 1998 plan to haul sand to Miramar Landfill was determined to be unnecessary, because the sand can be cleaned prior to depositing it on the nearby beach, and to be undesirable, since this would not achieve the beach replenishment that would occur under the proposed project. As for this comment's suggestion to place sand on Fiesta Island, this is also unnecessary and undesirable for the same reasons stated above.

X-2 The alternative discussed in this comment was examined in the Draft EIR as Alternative 4 (see pages 5-10 through 5-13).

X-3 Please see the response to comment R-17.

From: JPoirier9@aol.com
Sent: Monday, May 04, 2009 9:01 AM
To: DSD EAS
Subject: Childrens Pool restoration

Y-1 Please realize that the clean up of the C.P. in La Jolla is not nearly as hard as you are indicating. It is a simple matter. Please do not over-inflate the job! Do you job and follow what the court has ordered!

James Poirier

James W. Poirier
Tax Professional, PFP
Tel: 858-456-1082
Fax: 858-454-4079
E-mail: jpoirier9@aol.com
www.windnseatax.com

2009 3 Free CREDIT SCORES: See Your 3 Credit Scores from All 3 Bureaus FREE!

Y-1 This comment's opinion regarding the complexity of the project is noted.

From: rhodes@laplayaheritage.com
Sent: Tuesday, May 05, 2009 8:48 AM
To: dlee@coastal.ca.gov; dlilly@coastal.ca.gov; ssarb@sandiego.gov; STERRETT@DBW.CA.GOV; kari.i.coler@usace.army.mil
Cc: DSD EAS; Sherwood, Allison; Demorest, Erin; SDAT City Attorney; Schaefer, George; Sandoval, Carmen; Faulconer, Council Member Kevin; Awbrey, Matt; Mayor, Office of the; Hueso, Council President Ben; Hueso, Ben; Lightner, Councilmember Sherri; Councilmember Todd Gloria; Young, Anthony; DeMaio, Carl; Frye, Donna; Emerald, Councilmember Marti; DeMaio, Councilmember Carl; Tevlin, Andrea; Maland, Elizabeth; Braun, Gerry; Fox-Rice, Jamie; Lawson, James; Anderson, William; Landry, Werner; Broughton, Kelly; Ahmadi, Afsaneh; andrew.jones@sandiego.gov
Subject: Draft EIR for La Jolla Children's Pool and Rate of Erosion North to Point La Jolla
Attachments: untitled-[1.2]; 20090504Response_To_Request_For_Extension.pdf; 20090423_Extension_of_Public_Comment_Period_for_Childrens_Pool_EIR.pd f; 1999_Inman_Childrens_Pool.pdf; Appendix_K_Geology_Erosion_Rate.pdf

Hi City of San Diego, US Army Corp of Engineers, California Departments of Boating and Waterway, and the California Coastal Commission.

Volume II - Appendices for the proposed dredging project at Children's Pool in La Jolla is now online for public review.

http://google.sannet.gov/search?partialfields=&sort=date%3AD%3AS%3Ad1&proxyreload=1&num=100&requiredfields=STARTED:TRUE.ENDED:FALSE.PATH:CEQA&layout_type=datetitlelink&getfields=DOCUMENT_URL.TITLE.DOC_DATE&output=xml_no_dtd&ie=UTF-8&client=scs_ocd&filter=0&site=documents&config=ceqa.js&proxystylesheet=scs_ocd&q

Volume I of the Draft EIR is linked below.

http://docs.sandiego.gov/citybulletin_publicnotices/CEQA/PN1300%252371362%2520E%2520I%2520R.pdf

and the revised Notice of the Draft EIR is linked below.

http://docs.sandiego.gov/citybulletin_publicnotices/CEQA/ChildrenspoolEIRpubnoticeamended.pdf

Attached Please find Appendix K Geology and Erosion study for the Children's Pool.

Our main concern is the rate of erosion in north of the Children's Pool to Point La Jolla (La Jolla Cove) including Shell Beach and Boomers Beach. We are not concerned with the area South of Children's Pool including South Casa Beach because of the Southernly longshore drift/transport of sand in Southern California.

Z-1

Appendix K - Geology Page 14 of 32 states the following:

"In either case, the removal of the sand from Children's Pool beach and the ultimate disposal at South Casa Beach will have no geologic impacts or in any way contribute to additional erosion."

Dr. Inman 1999 comments regarding the proposed dredging of 3,000 cubic yards is also attached.

Z-2

To the US Army Corp of Engineers, California Departments of Boating and Waterway, and the California Coastal Commission: Although Volume II - Appendices was not available for your

1

Z-1 Under current conditions, sand erodes from areas north of Children's Pool as a result of natural coastal processes and mostly moves south, to be deposited on beaches and off-shore areas. Over the years, sand has been deposited on Casa Beach as a result of this process, obstructed by the breakwater from continuing further south. The proposed project would not change this coastal dynamic. Removing sand from Casa Beach as part of the project would not accelerate the southward movement of sand from its existing rate and, as a result, would not affect the erosion rates of beaches or cliffs north of the site. Please also note that this comment references a letter from Dr. Inman submitted in relation to the CEQA process undertaken in 1999 for a different iteration of this project that proposed removing sand from Children's Pool and placing it on more distant beaches such as La Jolla Shores, rather than on an adjacent pocket beach, as would occur under the proposed project.

Z-2 (cont.)

review and only Volume I was mailed to your offices, there are only 3 days left until the end of Public Comment on May 7, 2009 for the whole of the draft EIR Volumes I and II.

We are requesting that the US Army Corp of Engineers, California Departments of Boating and Waterway, and the California Coastal Commission review Appendix K Geology and the attached 1999 Inman letters as they relate to an increase in the rate of erosion North of Children's Pool to Point La Jolla including Shell Beach and Boomers Beach along Scripps Park.

To the City of San Diego: We are also requesting that the Government reviewing agencies are allowed a reasonable time to respond to the full Draft EIR, as is will be the first date that Volume II (including Appendix K - Geology) was available for their review and comment.

Regards,

Katheryn Rhodes and Conrad Hartsell, MD
371 San Fernando Street
San Diego, California 92106
619-523-4350
rhodes@laplayaheritage.com

---------- Original Message ----------
Subject: FW: Response to Request for Extension of Public Comment period for La Jolla Children's Pool Draft EIR
From: "Demorest, Erin" <EDemorest@sandiego.gov>
Date: Mon, May 4, 2009 2:32 pm
To: "darcys01@hotmail.com" <darcys01@hotmail.com>
"jlacava@san.rr.com" <jlacava@san.rr.com>
"rhodes@laplayaheritage.com" <rhodes@laplayaheritage.com>

Hi all,

Councilmember Lightner's request for an extension of the public comment period for the Children's Pool Draft EIR was denied (see attached memo).

However, her request that the technical appendices be posted online was granted. Those appendices are now available by visiting this link:

http://google.sannet.gov/search?partialfields=&sort=date%3AD%3AS%3Ad1&proxyreload=1&num=100&requiredfields=STARTED:TRUE.ENDED:FALSE.PATH:CEQA&layout_type=datetitlelink&getfields=DOCUMENT_URL.TITLE.DOC_DATE&output=xml_no_dtd&ie=UTF-8&client=scs_ocd&filter=0&site=documents&config=ceqa.js&proxystylesheet=scs_ocd&q

Thanks,

Erin Demorest
Council Representative
Office of Councilmember Sherri S. Lightner First District, City of San Diego
202 C Street, MS 10A
San Diego, CA 92101
edemorest@sandiego.gov<mailto:edemorest@sandiego.gov>
P: (619) 236-6611
F: (619) 236-6999

Z-2 The City gave a copy of Volume II of the Draft EIR to the Corps after a Corps representative requested a copy from the City. The California Department of Boating and Waterways and California Coastal Commission likely received copies of Volume II via the State Clearinghouse, who receives and distributes copies of CEQA documents to interested State agencies.

Subject: Request for extension of public comment period for Children's Pool EIR
From: "Demorest, Erin" <EDemorest@sandiego.gov>
Date: Fri, April 24, 2009 10:43 am
To: "'Darcy Ashley'" <darcys01@hotmail.com>, "Joe LaCava" <jlacava@san.rr.com>, "rhodes@laplayaheritage.com" <rhodes@laplayaheritage.com>

Hi all,

I wanted to let you know that Sherri has asked Development Services to extend the public comment period until May 22 for the Children's Pool Draft EIR to allow more time for the community to review and comment on it because it was not widely distributed upon its initial release on March 23. (Currently, the public comment period is scheduled to end on May 7.)

She has also asked Development Services to post the technical appendices online so that those are also available for public review and comment.

Attached is a copy of her memo making this request. We wanted you all to be aware of this, as we know there are members of your groups reviewing the EIR.

Thanks!

Erin Demorest
Council Representative
Office of Councilmember Sherri S. Lightner First District, City of San Diego
202 C Street, MS 10A
San Diego, CA 92101
edemorest@sandiego.gov
P: (619) 236-6611
F: (619) 236-6999

May 21, 2001

City of San Diego
Development Services Department
Attention: Ms. Allison Sherwood
1222 First Avenue, MS 501
San Diego, CA 92101-4154
dsdeas@sandiego.gov, asherwood@sandiego.gov

Subject: Public Comments and Concerns
Project No. 71362, La Jolla Children's Pool Project
Draft Environmental Impact Report (EIR) dated March 2009

Dear City of San Diego and Seal Lovers:

The Draft Environmental Impact Report (EIR) is fatally flawed because it was written to exclude the fact that the City Council of San Diego and the California State Senate have legislated to allow marine mammal park for the enjoyment and educational benefits of children as an acceptable use through Senate Bill 428, which if passed by the California Assembly and signed by the Governor, will amend the 1931 Trust and make the judge's ruling to create a pool moot, and unnecessary under the law.
http://info.sen.ca.gov/cgi-bin/postquery?bill_number=sb_428&sess=CUR&house=B&site=sen

AA-1 There have been many significant legal changes since the Public Notice of Preparation of a Draft Environmental Impact Report and Public EIR Scoping Meeting (JO 298720), dated October 19, 2007 was first written. SB-428 is scheduled to go before the State Assembly in June 2009, and then to the governor's office for a signature before SB-428 becomes the law. The Draft EIR did not take the recent significant legal changes to the 1931 Trust between the City and the State into consideration when the report was released to the public on March 2009. The Draft EIR should have been written to be applicable to the situation at the time the report was issued on March 2009, not the date of the first notice of October 19, 2007. The Draft EIR should include a discussion regarding the current legal situation and how a potential change in the law will affect the proposed project, the goals of the project, and the need for a project to comply with the law.

See next page for response AA-1

AA-1 (cont.)

If the law is passed, then the ruling by the judge that requires the City of San Diego to prepare this Draft EIR to dredge 3,000 cubic yards of sand, decontaminate the area of seal feces, and reconfigure the current beach into a pool will not be legally required anymore. This discussion was left out of the Draft EIR.

A discussion of possible goals and alternatives after the 1931 Trust is amended should also be considered. The legal landscape regarding Children's Pool has changed between October 19, 2007 and March 2009. If the amendment to the 1931 Trust becomes law in June 2009, the stated goals of the Draft EIR would change creating a different set of goals and possible new alternatives not analyzed. The Draft EIR should discuss the changes in the goals of the proposed project and that the No Project Alternative may meet all the goals of the City Council when they decide on the best course of action for Children's Pool for the duel benefit of wildlife and the citizens of San Diego.

After the 1931 Trust is amended, the City Council will then have the opportunity to discuss possible solutions to the problems of protecting wildlife in an urban setting and water contamination. The City Council will first have to decide if the seal rookery beach should stay or be demolished. The existing beach configuration may meet all the needs of the City without dredging 3,000 cubic yards of sand to recreate a pool.

AA-2

The City Council will also have to decide what type of use they want, be it dual share use by seals and persons (seasonal or year round), persons only, or seals only. This decision is the City Council's to make, and they will have the opportunity to make their decision after the law is amended, hopefully in the next few weeks.

If the City Council chooses seals only for the area, then no further analysis is needed and the No Project Alternative would meet all the goals of the City Council at no cost to the taxpayers and still be in compliance with the amended trust.

If it is to be dual use by seals and persons then the City will still have to decide if they want to clean up the seal feces contamination, or put up a sign stating that the water and sand quality is degraded and unsafe for humans, and enter at your own risk. The project would not have to recreate a pool configuration, and the area could be left in its current configuration as a beach.

If it is to be for people only, then the City could still decontaminate the sand on site without the need for dredging the beach into a pool configuration. This can be accomplished in phases by the same process of sunlight UV mentioned in the Draft

AA-1 Please see the response to comment J-2.

AA-2 (cont.)

EIR. Or the sand decontamination could also be accomplished by the moving of decontaminated sand to South Casa Beach, and the additional of new clean fill sand in Children's Pool. Either way there should be no net loss of sand at Children's Pool otherwise there will be a change in the rate of erosion, especially to the north.

AA-3

Decontamination or not, the amount of sand in Children's Pool should not be changed, equilibrium should not be disturbed, and dredging the beach into a pool should not be a goal.

AA-4

Although the registered engineer and geologist have stated that there will be no erosion problems with the dredging operation based on current conditions, we disagree with the geotechnical findings.

Currently the areas between Point La Jolla (La Jolla Cove) and South Casa Beach is in a state of natural equilibrium. When the equilibrium of any coastline is changed by a dredging project or construction, the area and the rates of erosion will be in a state of flux before they come back to a state of equilibrium.

Instead of basing the rate of erosion after dredging on existing equilibrium conditions, the sand migration engineering study should be computer modeled using engineering software readily available to coastal engineers. Otherwise the conclusions are just a guess, which will not be confirmed until after the project is completed. You cannot use steady state conditions and equations for the rate of erosion based on a state of flux. This is contradictory by the nature of flux in regards to steady state.

We do agree that if nothing changes, the erosion rates stated by the engineer and geologist are valid. However, when the natural equilibrium is disturbed all current rates of erosion both north and south of Children's Pool are also changed. The rate of erosion north of Children's Pool will increase due to the needs of the sand trap, and the rate of erosion south of Children's Pool will decrease due to the added sand.

AA-5

Keeping the dredge sand in the same Littoral Cell is a great goal. But the goal of not changing the sand volume is not complete unless the dredge material is placed north of Children's Pool so that the southerly longshore drift can replenish the sand trap without additional erosion of beaches or bluffs. Placing the dredged and decontaminated soils north towards Boomer Beach and Shell Beach is far superior to placing the dredge sand at South Casa Beach.

AA-2 This comment's suggestions and recommendations regarding future considerations related to the prospective passage of SB 428 are noted. Consideration by the City of a different version of the project in light of SB 428 would require the appropriate CEQA analysis, documentation, and review at the time that project is proposed. This information is not appropriate for consideration in the EIR, which examines the impacts of the currently proposed project.

AA-3 This comment's stated opinion regarding the merits of the goals and components of the project is noted.

AA-4 Section 3.3 of the Draft EIR presents the findings of a geology study conducted for the project by a qualified geologist (see Appendix K), which incorporates the fundamental principles of coastal geomorphology and concludes that the sand redistribution proposed as part of the project would not have a negative effect on beach and bluff erosion in the area surrounding the project site. The analysis provided in the Draft EIR is based on the work of qualified professionals, and enables adequate analysis of the project's environmental impacts. The analysis of project impacts contained in the EIR relies on fundamental geomorphic principles and does not require computer modeling to come to proper conclusions. Furthermore, the concept that the coastline in the project area is in a state of "natural equilibrium," as suggested in this comment, is false. This coastline is dynamic and constantly experiences erosion, movement, and redistribution of sand. Though it is true that Children's Pool would likely fill up again with sand after it is removed, the source material would be sand that is transported by coastal processes under existing conditions, regardless of project implementation. Removing sand from Children's Pool would not create a vacuum or magnet that would pull sand from adjacent beaches at a greater rate than under existing conditions. Accordingly, the project-related removal of sand would not accelerate erosion of nearby beaches or coastline.

AA-5 This comment's stated opinion regarding the merits of placing sand north of the project site is noted. The project's proposal to place sand removed from Casa Beach on South Casa Beach was vetted by qualified engineers and deemed a viable solution. The project would not increase erosion rates that occur at northern beaches under existing conditions. Though the City anticipates continuing to place sand removed from Casa Beach on South Casa Beach under the project's regular maintenance aspect, the City may decide in the future that sand could also be placed on the northern pocket beaches, as recommended in this comment, and would undertake all necessary environmental review pursuant to CEQA at that time.

AA-6 The Draft EIR states two separate scenarios, when it states that the rate of erosion will stay the same, and then later in the document it states that rate of erosion will change to the South due to the sand nourishment created by the dredge material. If sand was taken from Children's Pool and placed at South Casa Beach, the rate of erosion at South Casa Beach and the coastline south of Children's Pool will decrease due to the added sand.

AA-7 The Draft EIR implies that erosion rates north of Children's Pool to Point La Jolla will still be the same after sand is removed from the sand trap created by the breakwater. This is not correct. However, it would be hard to scientifically prove until it too late when the lack on sand in the sand trap creates erosion of Boomers Beach and Shell Beach, undermining the cliffs of Scripps Parks and Coast Boulevard.

If sand is taken from Children's Beach and put south of the breakwater, the sand trap will try to get back to a state of equilibrium. As stated in the Draft EIR, the sand deposited at South Casa Beach will head in a southerly direction and this beach nourishment will decrease the rate of erosion south of the project. Also the strong rip tide at the north side of the breakwater will make it difficult for any sand south of the breakwater to move north and replenished the sand trap created by the dredging operation.

AA-8 The Draft EIR states both that Children's Pool is in the south end of the Oceanside Littoral Cell and the northern start of the Mission Bay Littoral Cell. The reference to the project being in the southern end of the Oceanside Littoral Cell should be changed to the northern start of the Mission Bay Littoral Cell.

The California Department of Boating and Waterways (DBW), California Coastal Sediment Management Workgroup report dated October 2006 is entitled Littoral Cells, Sand budgets, and Beaches, Understanding California's Shoreline.
http://www.dbw.ca.gov/csmw/PDF/LittoralDrift.pdf
The DBW report dated March 2006 is entitled Beaches, Littoral Drift and Littoral Cells.

AA-9 The DBW reports states the following statistics for the average annual sand contribution in the Mission Bay Littoral Cell:

Bluff Erosion accounts for 60 percent (77,000 cubic yard/year),
Rivers account for 5 percent (7,000 cubic yards/year), and
Beach Nourishment by importing fill account for 35 percent (44,000 cubic yards).

AA-6 The City is not aware of any discrepancy in the Draft EIR regarding project-related erosion rates, and it is not clear from this comment where the discrepancy identified in this comment appears in the Draft EIR; therefore, a detailed explanation cannot be provided.

AA-7 The concept that the coastline in the project area is in a state of "equilibrium" is false. Casa Beach itself is in a state of "quasi-equilibrium," as suggested by Dr. Inman in his 1999 letter (referenced elsewhere and attached to this comment letter), because it has filled to a physical point where it generally does not collect more sand from the natural southerly sand transport within the littoral cell. As a result, sand that is transported by naturally occurring coastal processes moves past Children's Pool and is deposited in other locations. That does not mean the coastal area surrounding Children's Pool is in a state of equilibrium. Removing sand from Casa Beach as part of the project would not "create erosion of Boomers Beach and Shell Beach," as suggested in this comment, as this process occurs naturally under existing conditions, and the project is not expected to accelerate southward movement of sand within the littoral cell from existing rates.

AA-8 Page 2-29 of the Draft EIR improperly identified the project site as existing within the Oceanside littoral cell. This error has been corrected in the Final EIR.

AA-9 (cont.)

According to the Draft EIR, the Mission Bay Littoral Cell is approximately 13.5 miles (71,280 feet) long from the northern boundary at Point La Jolla to the southern boundary at the end of Point Loma.

http://docs.sandiego.gov/citybulletin_publicnotices/CEQA/Appendix_K1%255B1%255D.pdf

The only source of sand to replenish the sand trap of Children's Pool is the 1,600 feet of coastline north to La Jolla Cove and along Scripps Park that includes Shell Beach and Boomers Beach. The southerly longshore drift of the sand in these two pocket beaches adjacent Scripps Parks and the Bluff Erosion in this 1,600 foot length are the only potential sources of sand within the Mission Bay Littoral Cell that has the opportunity to replenish the sand trap which is the Children's Pool. Therefore, the distance from the start of the Mission Bay Littoral Cell at Point La Jolla south to the sand trap at Children's Pool is 1,600 feet which is 2 percent (1,600 feet/71,280 feet) of the length of the Mission Bay Littoral Cell.

Dredging operation near the beginning of any Littoral Cell is not a good idea, but can cause catastrophic failure of the coastal bluffs and increase the rate of erosion dramatically, on the order of 10 times greater than at a state of equilibrium.

AA-10

The Draft EIR should examine the facts that the only beach replenishment for the sand trap that is Children's Pool is located north to Point La Jolla, and negligible amount of sand will come from the south due to the breakwater and the strong rip currents at the mouth of Children's Pool as discussed in the Draft EIR.

Attached is correspondence from Dr. Douglas Inman when he studied the dredging plan in the late 1990s. Although the existing plan keeps the dredge material within the Mission Bay Littoral Cell which is admirable, placing the sand south of Children's Pool will not stop the increase in the rate of erosion north from Point La Jolla to Children's Pool, the undermining of the bluffs, loss of sand at the northern pocket beaches, and the potential for catastrophic failure of Coast Boulevard.

If you have any questions, please do not hesitate to contact us.

Regards,

Katheryn Rhodes and Conrad Hartsell MD
371 San Fernando Street, San Diego, California 92106
619-523-4350, rhodes@laplayaheritage.com

AA-9 The statistics presented in this comment are noted, but do not affect the analysis or conclusions incorporated into the EIR. As stated in the responses to comments AA-4 and AA-7, removing sand from Casa Beach as part of the project is not expected to accelerate the southward movement of sand within the littoral cell from its existing rate. This southern movement of sand occurs under existing conditions, and the project will not change these conditions. The gradual filling of Children's Pool with sand from the north, as occurs under existing conditions, is the reason this project includes an "ongoing maintenance" component, as described beginning on page 2-7 of the Draft EIR. As to the portion of this comment suggesting that "dredging…near the beginning of any littoral cell is not a good idea," the project site itself is not the beginning of a littoral cell and, furthermore, the project proposes removing sand that has built up in an artificially created pool, not from a naturally occurring beach.

AA-10 The project's impacts on erosion discussed in Appendix K and incorporated into Section 3.3 of the Draft EIR were assessed under the assumption that sand would continue to accumulate in Children's Pool and that this sand would be of local origin—mainly from pocket beaches in the vicinity of the site. The project is not expected to alter existing conditions with respect to sand transport within the littoral cell and erosion at nearby beaches. Please also note that the letter from Dr. Inman referenced in this comment was submitted in relation to a prior version of the project that proposed removing sand from Children's Pool and placing it in more distant locations such as La Jolla Shores, rather than on an adjacent pocket beach, as would occur under the proposed project.

From: tom sauer [tlsauer@hotmail.com]
Sent: Wednesday, May 06, 2009 7:52 AM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060 Children's Pool

Children's Pool Draft EIR comments:

Year-Round Joint Use Alternative:

AB-1 The first paragraph should include a discussion of the legal findings in the United States Humane Society v. City of San Diego that it is unlikely that the presence of humans at Children's Pool pose a threat to harbor seals or their pups.

AB-2 The city should strike the language "this alternative would not comply with the Court Order." The Court orders the the city to take all reasonable steps to address two issues: sand accretion and water quality. Seals were presumably present at Children's pool in 1941, but probably not in numbers that resulted in unsafe water quality.

AB-3 This paragraph should note that the federal government recommends against shared use because of the danger of a child being bitten and the public being cited for harassment .

Seasonal Joint Use Alternative

AB-4 For the reasons stated above the city should strike the language stating that this alternative would not comply with the court order.

AB-5 A modified Seasonal Joint Use approach could be a reasonable approach to simply and economically addressing the water quality issue at this beach. The report should discuss priority use to seals during the pupping season and priority use to non seal viewing uses during non pupping season.

The key to this approach would be to deter the animals to a small area of the beach during the summer, but not remove them from the beach altogether.The city should consider consulting with the Superior Court and NOAA about experimenting with this approach this summer.

Open Breakwater Sluiceways Alternative

AB-6 The report should strike the language concerning the possibility of a child drowning as a result of the sluiceways being open. There is no evidence of that in the public record, including newspaper archives to support this assertion.

AB-7 The report should discuss the documentary evidence from 1931, the Savage Report, which shows that the sluiceways were designed to have gates which would be periodically opened and closed in order to allow natural sand movement.

The Savage Report shows that the gates were closed in 1931 because a sand bar formed which was deemed desirable as a beach for parents and children using the pool. The architect, Hiram Savage, commented that if it was ever deemed desirable then the gates could be periodically reopened.

The report should state whether the record shows that the gates were ever opened, which seems unlikely, after 1931, and if so the circumstance of their being closed.

AB-8 The report should either document or delete the language that says opening the sluiceways would affect the integrity of the wall. The wall was designed to have integrity whether the sluiceways were open or closed. What was the flaw in the design? The report needs to discuss that.

1

AB-1 Please see the response to comment K-1.

AB-2 Please see the response to comment K-2.

AB-3 Please see the response to comment K-3.

AB-4 Please see the response to comment K-4.

AB-5 Please see the response to comment K-5

AB-6 Please see the response to comment K-6.

AB-7 Please see the response to comment K-7.

AB-8 Please see the response to comment K-8.

AB-9

The report should discuss the issue of whether the city could open the sluiceways as a "feasabiltiy study" without the necessity of CEQA or other govenmental agency approvals. It seems that no approvals would be required

Savage understood that the sea wall would interfere with the natural sand movement processes at Children's Pool; the sluiceways and gates are a practical, economical solution to this issue. The report should give consideration to suggesting that the city claim exemptions and engage in controled experiments to determine whether the sluiceway design is valid.

The paragraph should delete the language that opening the sluiceways would violate the court order. The court orders the city to take "all reasonable" steps to address the sand accretion issue. Opening one or more sluiceways and digging channels at least on an experimental basis after the summer swimming season would seem to be a reasonable approach to reducing the sand levels in the pool.

AB-10

I have studied the issues at Children's Pool since 2003 and believe that establishing a priority use policy as I have outlined above in conjunction with conducting a feasibility study after this summer concerning the sluiceways is the most reasonable and economical approach to addressing the water quality and sand accretion issues at this beach.

I helped the city implement a cost effective multimillion dollar renovation to the Florence Riford Branch Library. I would be happy to do the same if the city wants to implement a new management plan for Children's Pool beginning this summer

Good luck.

Thomas L. Sauer
Attorney at Law

Hotmail® has ever-growing storage! Don't worry about storage limits. Check it out.

AB-9 Please see the response to comment K-9.

AB-10 This comment's stated preference for adopting a modified joint use alternative is noted. The Draft EIR considers two alternatives that involve joint use of Children's Pool by humans and seals. The Draft EIR includes a reasonable range of alternatives and compares their environmental impacts to those of the proposed project, and the City is not required to incorporate additional alternatives into the EIR in response to this comment.

Comments for Draft EIR (DEIR) for Children's Pool Project No. 71362

AC-1

1.The DEIR failed to consider alternative definitions of "recreation".

Using the Children's Pool for swimming is frequently mentioned throughout the document. There is no discussion of alternate forms of recreation, such as wildlife watching For example, Volume II, Appendix E, p. 1 Introduction. States, "…these efforts will provide a safe swimming environment and are likely to improve the water quality for recreational purposes as well". Recreation is characterized as human sporting activity. Every month, 100,000 people visit the beach for viewing nature and the wildlife as a recreational activity.

AC-2

Hopefully, SB 428, now passing through the California legislature will cancel the court ordered dredging, and the mandate to dredge will be null and void.

AC-3

2.The DEIR fails to address the Public Trust Doctrine.

This accepted doctrine requires certain resources -air, rivers, lakes, timberland, seas, oceans, wildlife -be preserved and maintained for the public's use. In effect, we are trustees for our children. This EIR follows the judgment of the faulty O'Sullivan v. The City of San Diego court order of 2005, directing the city keep Casa Beach exclusively for human use. No allowance was made for current environmental awareness and laws which have been passed or the changed conditions since the state granted the land to the city.

AC-4

3.Eco-tourism is not mentioned as a Recreational Resource.

No reference is made to tourism in Vol. I, Chapter 3, Section 8, even though in Vol. II, p. 7, a recommendation is made to discuss ways in which the proposed project could foster economic growth. Why was this not considered in the Neighborhood Aesthetics section?

Ecotourism is a potentially important source of revenue will be lost if Casa Beach is a bathing pool only. There is no recognition that seal watching is an increasingly acceptable use of Casa Beach. Lifeguard statistics reveal that 100,000 visitors a month, more or less, visit the pool. Casa Beach seals are touted in numerous tourist attraction brochures. A 2007 poll indicated that La Jolla businesses see the attraction as an economic asset, children (and adults) are delighted to watch wild animals living in a natural place (not in a swimming pool as in Sea World), and a 1999 survey by an elementary student revealed that almost all of the students preferred watching seals rather than swimming in the pool.

AC-5

4. Why is this project referred to as "construction"?

What is being constructed? The more correct term would be "extraction."

AC-1 When the State deeded Children's Pool to the City in 1931, the operative statute indicated that the pool was to be used as a "bathing pool for children." Accordingly, though wildlife viewing has recently become a popular activity at Children's Pool, as acknowledged in the Draft EIR on page S-3, it is neither a designated nor unofficial "recreational resource" of the City. Further, the potential for the reduction or loss of seal viewing at the project site would not result in physical effects on the environment, and is not required to be analyzed as such in the EIR.

AC-2 This comment's stated opinion regarding Senate Bill 428 and the proposed project is noted.

AC-3 The purpose of the EIR, as mandated by the California Environmental Quality Act, is to analyze the project's potential to result in physical adverse effects on the environment. The asserted "violation of the public trust doctrine" falls outside of the scope of the EIR.

AC-4 This comment's stated opinion regarding the project's economic effects is noted. The EIR analyzes the project's effects on the physical environment, as required by CEQA. Economic considerations are factors that are not typically considered under CEQA (see Section 15131(a) of the State CEQA Guidelines), and the EIR is not required to identify economically related mitigation. For discussion of the Draft EIR's analysis of neighborhood character impacts, please see the response to comment I-22.

AC-5 Comment noted. As used in the EIR, "construction impacts" is a general term meaning the impermanent activity undertaken to modify the site, as opposed to "operational impacts" which would occur once construction has been completed and the project is in its eventual use.

5. Informal consultations are unacceptable in a DEIR.

AC-6

The narrative makes frequent reference to "informal consultation" with various agencies. (Vol. I, Executive Summary, p. 1; Project Description, p. 9; et al.) Informal consultation refers to conversation which will be held in the future, at a vague, indeterminate time, with no definite content, or prescribed response. The Draft EIR must address actions that are being done or have been done – not informal consultations on policy which will be done in the future.

AC-6 Please see the response to comment I-25.

6. Where is the definition between direct impacts and indirect impacts?

AC-7

Reference is made to "indirect impacts" in Vol. I, p. 2. What are examples ? Since the scope of the DEIR is limited to the actual project, how will long term, yet unforeseen indirect impacts be recognized?

AC-7 Please see the response to comment I-24.

7. What is the end goal for "increased access?

AC-8

The "No Project" alternative (Vol. I, p. 3), makes an inaccurate statement "…there would be a potentially significant impact to recreational resources since increased access to recreational resources would not occur". Access to the water is currently allowed. How would increased access occur? The only temporary impediment is the rope placed for the safety of people viewing seals during pupping season.

AC-8 Please see the response to comment I-26.

8. Vol. I, p. 4 Points (a.) and (b.) are misleading.

The "Year- Round Joint Use" alternative states that (a.) the problems associated with sand and water contamination from fecal coliform may or may not occur. And (b.) seals may be harassed and/or harmed by human activity which could disturb them during breeding/pupping season from December to June.

AC-9

Point (a.) One would assume that the E. coli bacteria found in the waters on or near the pool area are contributed by the seals. However, the summary in Appendix D, Volume II, Biological Appendix, prepared in 1997, does not confirm that conclusion. Dr. Simmons states, "Also, because of the newness of this technology, for ecological analysis, the understanding of strain fidelity with respect to specific animal groups across wide geographic areas is also limited". In table 5, page 14., the graph implies that the fecal samples could be canine. It is important to note here that dogs on leash are allowed on Casa Beach after 4 pm until morning hours (8 am).In his final conclusion, Dr. Simmons states that the fecal samples "suggest" a seal origin.

Further, in Volume II, Appendix D, p. 1 of the Executive Summary, Dr. Simmons states that his library and laboratories are in Blacksburg, Virginia, "At this stage of the research, I do not know how useful or valid the DNA fingerprints are in my library in trying to identify E. coli strains from the west coast."

Letter of Comment	Response to Comment
AC-9 (cont.) On p. 2 - "compared to the total number of strains in nature, his library is quite small. For example, strains from domestic animals have not been added…that is, other sources cannot be excluded ". On p. 15 - "One of the serious limitations of our library at the present time, particularly in reference to this particular study, is the inability to distinguish between human vs. canine (dog) and seal vs. canine E. coli strains. This may be due to the fact that the E. coli from canines is quite similar to the E. coli from humans and seals". The researcher admits he does not have control samples from the west coast which could prove the origin of the samples. Despite the note in Volume II, p. 7 the DEIR should describe the <u>current</u> water quality at Children's Pool in regard to fecal coliform bacteria from the <u>seals</u>, the data presented is from 1998. Have no analyses of the water quality been done since that time? Has the analysis technology changed so that more conclusive results could be obtained? It is incomprehensible that this 1997 inconclusive study was re-submitted as a part of this 2009 DEIR! Why did the city sub-contract with an east coast laboratory unfamiliar with west coast ecology? When was the last fecal sampling taken at Casa Beach? Can the contamination now be positively attributed to seals?	AC-9 Please see the response to comment I-27.
AC-10 Point (b.) The court order on which this DEIR is based states that no laws shall be violated in carrying out this decision. This Superior court order violates Federal, State and the San Diego Municipal Code, all of which restrict the harassment of wild animals. San Diego's Municipal Code (Section 63.0102(b)(10) states: "It is unlawful to take, kill, wound, disturb or maltreat any bird ort animal, either wild or domesticated, unless the same shall have been declared noxious….. What would constitute "noxious"? This has been discussed at length between the NMFS and the Marine Mammal Commission (letter to NMFS dated 25 May, 1990), without resolution? Why is there no admission of this in the DEIR?	AC-10 Please see the response to comment I-28.
AC-11 <u>9. Have the conclusions made by Dr. Inman been refuted?:</u> The statement is made in Vol. I, Executive Summary, p. 4 Environmental Effects : Impact Determination: that "impacts on Children's Pool and the adjacent pocket beaches would be limited to the project's "construction" period". Doug Inman, PhD., from Scripps Institution of Oceanography, states in a letter to the San Diego Development Services, dated 26 January, 1999 that, "There are several basic beach principles that indicate the present plan to take sand from Children's pool and place it elsewhere is not a wise procedure." The breakwater will continue to impede the dispersal of incoming sand. It would seem the northern beaches would lose some of their sand almost immediately to fill in the recently excavated pit at Casa Beach – not two to three years in the future	AC-11 Please see the response to comment I-29.

Letter of Comment	Response to Comment
10. Faulty Conclusion made for No Mitigation is Required? **The question in Vol. I, p. 5 states, "Would the proposed project result in the loss, covering or modification of any unique geologic or physical features such as a sand stone bluff or rock outcrop? The determination given is no .On what evidence is the claim made that the removal of three feet of sand at the foot of a bluff not alter the stability of the bluff? How much more force of wave action will be impacting the base with each incoming swell? How will the highway and walkways built on top of the cliffs withstand the reduced base? In particular, what about that free-standing and iconic pedestal of rock at the shore line, heavily used by pelicans and other migrating birds. Its base is narrow and removing more of the sandy fortification seems likely to accelerate erosion leading to collapse. Have the impacts on this pedestal been evaluated?** AC-12	AC-12 Please see the response to comment I-30.
11. Fate of harbor seals displacement is speculative. **It is speculated in Vol. I on Page S-7, that "although the available haul out area surrounding the pool will be reduced, the harbor seals will search out alternative areas for hauling out ." The Botsford maps from 1887 labeled "Seal Rock"as the rocky formation under the seawall. If seals have "site fidelity" to their place of birth, won't the elimination of their hereditary home be considered harassment? How will mitigation measures be taken if La Jolla Shores becomes colonized by the displaced seals?** AC-13	AC-13 For a discussion of the Draft EIR's coverage of seal displacement and associated impacts on seals, please see the responses to comments A-5 and B-3.
12. Inadequate Mitigation for avoiding damage to habitats. **The proposed mitigation in Vol. I, p. S-7, for spiny lobsters is to avoids surfgrass turfs to the maximum extent practicable." What is the "allowable" damage limit to invertebrates and fish habitat and other small creatures living in the area if their habitats are affected for this short period of time during "construction"?** AC-14	AC-14 Please see the response to comment I-32.
13. Damage to grunion spawning ground is unacceptable. **In Vol. I, p. S-7, reference is made to grunion on the same page, with consideration given only during the time period of the actual "construction". When the "construction" is done, the grunion will not return to spawn at Casa Beach due to human presence day and night. Has the proper agency authorized the city to obliterate a once viable "spawning ground"?** AC-15	AC-15 Please see the response to comment I-33.
14. DEIR ignores potential impacts of removal of top predator. **The question in Vol. I, p. S-8 is "Would the proposed project result in substantial change in the diversity of any species of animals or plants?" The response is to place a silt curtain to minimize turbidity and nutrient changes to minimize changes in species composition.** AC-16	

AC-16 (cont.)

The response is short-sighted. The UNKNOWN ecological effects of predator removal, such as the seals, is important. Studies of nutrient disposition indicate that the harbor seal waste material significantly enriches the nutrient web. Perhaps effects won't be felt in a week or two, but elimination of the top predator will cause serious impacts of this healthy habitat.

AC-16 Please see the response to comment I-34.

15. Conclusions dismiss the "effects of the project".

AC-17

The statement in Vol. I, p. S-9 refers to the impact of periodic maintenance activities: "Nonetheless, repeated disturbance to established benthic communities, in the absence of mitigation measures, could result in overall degradation of species diversity and resultant deterioration of the habitats that support these species." There are many conclusions dismissing the "effects of the project" throughout the entire DEIR. Why is the concern only with the impacts during the actual four to eight weeks of excavation? Have the continuing impacts from the project long after the "construction" equipment is removed been taken into account?

AC-17 Please see the response to comment I-35.

16. Casa Beach seals may be remnant population:

AC-18

The DEIR concludes in Vol. I, p. S-9, that "the overall migration of seals along this stretch of coastline will not be significantly impacted by the project", yet the goal is to eliminate the seal presence on Casa Beach. This is the only mainland rookery south of Carpenteria. Have the biologists considered the importance of this remnant colony if disaster in either the Channel Islands and the Coronado Islands in Mexico were to occur ?

AC-18 For a discussion of the Draft EIR's coverage of seal displacement and associated long-term impacts on seals, please see the responses to comments A-5 and B-3.

17. Nuisance Clause of 109(h) of MMPA remains controversial.

AC-19

The Project Description in Vol. I, Chapter 2, p. 11, mentions that removing a large number of seals remains controversial. Mr. Kennerson, Esq. claims that the city does not require a permit to "take" this colony. The clause 109(h) of the MMPA, was never meant to be used for other than one or a small number of animals. Examples of noxious behavior is identified in the MMPA. The Children's Pool colony does not fit any of these criteria. This decision will be referenced when other communities are faced with a similar situation. Is this a legacy the city wants to leave? On September 16, 2005, Mr Lecky of NOAA testified that no permit is required under 109(h). Yet, the advisory board to NOAA, the Marine Mammal Commission had written to the city on 25 May, 1990 that "Congress meant only to allow the take of marine mammals without a permit if an emergency existed." In fact, section 109(a)(4) refers to the taking on "a marine mammal". How did a whole colony become the focus of this section? Has this difference of interpretation ever been decided definitively by an arbitration court?

AC-19 Please see the response to comment I-37.

AC-20

18. Possible violation of California Coastal Act:

Letter of Comment	Response to Comment
AC-20 (cont.) **The California Coastal Act,(CCA) Section 30251 is described in Vol. I, Chapter 2, p. 15, and specifically recognizes that the scenic and visual qualities of our coastline are significant resources which must be protected. The spirit of this entire DEIR ignores this important public policy. Vol. II. p. 11 reports that the evaluation of the project from December, 2004 by Coastal Environments led to the conclusion that are that there will be no significant impacts on the coastal resources to complete this project. Then, in Appendix E, under Project Team, p. 4, it is stated that Coastal Environments will be responsible for planning and overseeing (with san Diego City staff) the excavation operation for the La Jolla Children's Pool.**	AC-20 Please see the response to comment I-7.
AC-21 **One must question the impropriety of Coastal Environments making so many of the assessments for the DEIR, when this same company will be directing the oversight of the project. Is this not a flagrant Conflict of Interest for the same company to do the project feasibility, conclude that the project will have no significant impacts, and then receive the contract for the project?**	AC-21 Please see the response to comment I-8.
19. Relevant Agency guidelines not included:	
AC-22 **Vol. I, Chapter 2, p.15, states that the California Department of Fish and Game is the lead agency charged with implementing, safeguarding and regulating the uses of wildlife, and oversee the management of marine species through several programs. Why were no comments on this project included in the formation of guidelines for this proposal?**	AC-22 Please see the response to comment I-38.
20. No Follow-up answers to questions brought up at on Scoping Meeting.	
AC-23 **Comments during the Scoping Meeting November 15, 2007 are found in Vol. II, Appendix A. Bill Valentine asked why the EIR is being done after the MND was approved in 1999. Greg Salas asked about Neighborhood Character. Is Eco- tourism not a significant aspect of this? Bobbi Weaver talked about the educational benefits of the beach as a place to learn about nature. Jim Moore asked this questions. Todd Cardiff asked that the possibility of returning the beach to the state. Why were these questions not addressed in the DEIR?**	AC-23 Please see the response to comment I-39.
21. Outdated cost estimates included.	
AC-24 **Have the cost estimates been updated as shown in Vol. II, p. 16? How will the city Development Services justify to the City Council and the taxpayers this expenditure in this financially depressed period of library closures, public school teacher lay-offs, reduction in force of our firefighters and police, et cetera?**	AC-24 Please see the response to comment I-40.
AC-25 **22. Outdated Visitor/Seal Counts Included.**	

Letter of Comment

AC-25 (cont.)

a. Statistics are presented from October 03 to April 04 and before in Vol. II, Appendix C.
Why were these statistics not updated? Lifeguards keep daily visitor counts as does La Jolla Friends of the Seals. Were these groups consulted and proper requests made to update the statistics as to number of visitors, number of seals, number of pups born, number of lifeguard rescues at Casa Beach, etc?

AC-26

23. Unexplained goal for eliminating seals.

Recommendations for Construction in Vol. II, p. 10 states, …"if more than the recommended number of seals (perhaps 50 to 70%) are flushed by construction…construction should be halted until a certain number or percentage return". Apparently, the original plan was to share the use of the beach with seals. When was this goal changed to complete elimination?

AC-27

24. Inadequate biological survey data submitted.

Summary of Marine Habitat Assessment for Children's Pool area in Volume 2, Appendix H,

a. Brant Primrose, a biologist, admits that the observations on the general habit and botanical survey was done mid-summer (August) and may have not observed some plants which may have gone dormant. With a year allotted to prepare the DEIR, the small window of time reported in the survey seems inadequate. Why wasn't an observation made at least every three months to get a complete representative sample of the plants at the Children's Pool?

b Kylie Fischer, also working for ICF Jones and Stokes, prepared a wildlife assessment on only one day, August 5th. Is one day observation sufficient, especially for consideration of migratory species?

Thank You.

Ellen Shively
Seals Coalition
Sierra Club, San Diego Chapter
619-479-3412

Response to Comment

AC-25 The Draft EIR incorporates relevant statistics and analyses that are adequate to assess the project's impacts on the physical environment. Addition of more current statistics on visitors and seals at Children's Pool would not substantially change the existing conditions discussions that are incorporated into the Draft EIR, nor would they change the EIR's conclusions.

AC-26 Please see the response to comment I-41.

AC-27 Please see the response to comment I-42.

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 442-6036
dave_valentine_92037@yahoo.com

4 May 2009

Allison Sherwood
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101
Via email - DSDEAS@sandiego.gov

Subject: Comments on Draft Environmental Impact Report
La Jolla Children's Pool
Project (Project 71362) – 23 March 2009
ALTERNATIES ASSESSMENT

Dear Ms. Sherwood:

I read the subject document immediately after I received it in early April. Frankly, I was stunned that the first page cover letter from Ms Cecilia Gallardo, of the Development Services Department's **Recommended Finding** was

"The draft Environmental Impact Report concludes that the project would result in significant environmental impacts in the following areas; Land Use, Aesthetics/Neighborhood Character, Biological resources, Geology/Soils, Historical resources, Hydrology/Water Quality, Human Health/Public Safety/Hazardous Materials, Recreational resources and Traffic/Circulation"

I knew this could not possibly be true. But I also know public officials and their attention spans. A one-page summary is all they will read, and all too frequently this minimal communication will not be read carefully. An assessment such as the above would be the kiss of death to most projects.

AD-1

A month later (April 22) you provided a revised recommendation, again from Ms. Gallardo

"The draft Environmental Impact Report (EIR) concludes that the project would result in significant but litigable environmental impacts in the following areas Biological resources and Historical resources."

Changes of this magnitude bring into question the validity of the entire EIR.

Ms. Galliard also provided next five-page summary of the EIR, which included the following heading and statement:

See next page for response AD-1.

AD-1 (cont.)

NO MITIGATION REQUIRED
"After analysis, impacts in the following issue areas were found to be not significant under CEQA for the proposed project;; Land Use, Aesthetics/Neighborhood Character, Geology and Soils, , Human Health/Public Safety/Hazardous Materials, Hydrology/Water Quality, Historical resources, Recreational resources and Transportation and circulation (which, presumptively, is the same as Traffic/Circulation)"

AD-2

ICF Jones & Stokes
Your consultant, ICF Jones & Stokes has a decent reputation for its environmental reports. Given that, I would like to respectfully suggest that they were given erroneous or incomplete information in the structure of this environmental document. Specifically, the first information provided should have introduced the decision of Judge William C. Pate in *O'Sullivan v City of San Diego* to restore the Children's Pool to it's 1941 configuration. The central directive of the judge's ruling was

The City, as trustee of the Children's Pool, is hereby ordered to employ all reasonable means to restore the Pool to its 1941 condition by removing the sand build-up and further to reduce the level of water contamination in the Pool to levels certified by the County of San Diego as being safe for humans"

Please note that the decision does not mention seals, dredging, or quantities of sand to be removed nor require both actions to proceed concurrently. This decision requires that" *the Pool water quality be restored to levels certified by the County of San Diego as being safe for humans.*". It does nothing more than require the City to follow its own 1998 recommendations.

AD-3

Alternatives which address Judge Pate's decisions
The Draft EIR proposed six alternative courses of action, including the No Action alternative. However, **NONE** of these would "*meet the overall goal of the City, which is to achieve compliance with the court order*" (Page 5-20). Frankly, I am incredulous that these results were not obvious before putting pen to paper.

There are but two alternatives, No Action and Sand Removal. The No Action Alternative will NOT meet the courts directive, the Sand Removal option will.

The Sand Removal option encompasses many combinations of sand removal, sand transport, and sand disposal options. The alternatives examined should be which combination of alternatives would provide the most cost effective, least environmentally disruptive, solution

AD-4

Sand Removal Alternatives
There are multiple ways in which sand could be removed from the Children's pool. These include, but are not necessarily limited to: hydraulic cutter head or suction head dredge. bucket, clamshell, backhoe, front-end loader, dragline, or a

AD-1 The first public notice contained an error and was subsequently corrected and reissued, and an extension on the public comment period was granted. The EIR itself did not change between the first notice and the reissued notice.

AD-2 The Superior Court ruling referenced in this comment is discussed in the "Project Background" section of Chapter 2 (see page 2-4). The Draft EIR properly presents project objectives and a complete project description that explains the physical changes proposed in order to meet those objectives, in accordance with CEQA requirements. The project objectives do mention the intent to comply with the referenced court order.

AD-3 Chapter 5 of the Draft EIR contains a proper explanation of the limitations for feasible alternatives to the project, to which this comment alludes, as well as a discussion of a range of alternatives to the project and a comparison of their environmental effects to those of the proposed project. The City acknowledges that there are various technical methods for undertaking the project-related sand removal, transport, and disposal, as suggested in this comment, with the precise methods to be determined as part of the permitting process. These methods would not vary significantly in their effects on the environment, and are not appropriate for detailed discussion as project alternatives pursuant to CEQA. Please also note that the City did consider two alternative sites for sand placement during preparation of the EIR, as described on page 2-6, and selected one of these sites because it was environmentally advantageous.

AD-4 (cont.) combination of equipment. Under the circumstances, removal via shovel and wheelbarrow might even be an environmentally 'friendly' alternative.

AD-5 Another alternative is opening the sluice gates and clearing a path for water to reach the sluices. This has visceral appeal since most sand movement would be driven by natural forces and should require little, if any, environmental documentation other than a mitigated negative declaration.

AD-6 **San Disposal Alternatives**
Disposal options include near shore or offshore disposal. Near shore sites previously examined include south Casa Beach, Marine Street Beach, and La Jolla Shores. Good beach sand is an important commodity for maintaining tourist friendly pocket beaches and should, if cost effective, be used for beach nourishment. One of the original disposal alternatives proposed in 1998 was disposal at the Miramar Sanitary Landfill. There should be no 'tipping' fees associated with land disposal since the City owns the landfill. Landfill disposal would negate concerns surrounding bacterial contamination. Offshore disposal is not viewed as an attractive option since the excavated material would have to be loaded on a barge for offshore disposal. This would be a prohibitively expensive alternative.

AD-7 **Sand Transport Alternatives**
Alternatives for moving the excavated sand from the beach to the to the top parking lot would be with front end loaders, continuous feed conveyor belts or, in the trivial case, with wheel barrows. The EIR suggested front-end loaders but this would likely result in traffic jams or multiple handling of the same sand. Consider that front end loaders would be excavating sand, spreading it out to aerate, and moving up and down the dirt access way which is really only suitable for one way traffic. A continuous feed conveyor belt would solve this potential traffic control problem. The sand could be directly discharged into dump trucks for transport to another beach or the landfill or for beach nourishment at south Casa.

If the local pocket beaches were selected for beach nourishment then a completely different alternative might be considered. There are concrete 'snorkel' trucks capable of moving concrete slurry half a dozen stories. These could be used to transport excavated sand directly to the local pocket beaches. The primary problem envisioned with this method of transport is that the sand has to be slurry and the resulting discharge would have to have an NPDES permit from the local water board.

AD-8 **Alternative Summary**
A combination of practical sand removal, transport, and disposal options should have been examined which would have satisfied the Pate Courts decision. That this was not done suggests a certain level of defiance on the City's part. Defiance, which has caused the City to spend an exhorbant amount of money

AD-4 As noted above in the response to comment AD-3, there are various technical methods for undertaking the project-related sand removal, transport, and disposal, which will be determined as part of the permitting process. These constitute alternative construction methods, rather than alternative projects pursuant to CEQA.

AD-5 The alternative discussed in this comment was examined in the Draft EIR as Alternative 4.

AD-6 As noted on page 5-2 of the Draft EIR, the City and its consultants have contemplated numerous potential alternatives to the project over the years, and this includes examination of depositing sand in some of the sites referenced in this comment. The years-long process of investigating this project has led the City to determine that the project examined in the Draft EIR is the only feasible alternative that would conform to the court order. The City agrees with this comment's statements that offshore sand disposal is not attractive from an environmental perspective, as well as the notion that landfill disposal is not cost-effective.

AD-7 The City appreciates this comment's input on technical methods of achieving sand removal and transport. As noted above in the response to comment AD-3, there are various technical methods for undertaking the project-related sand removal, transport, and disposal, which will be determined as part of the permitting process. These methods and are not appropriate for detailed discussion as project alternatives pursuant to CEQA.

AD-8 (cont.) and yet not directly address the central problem of maintaining the Tidelands Trust. The central cause of degraded water quality at the Children's Pool was identified long ago as seal feces. It should have been obvious that any solution, which allowed the seals ready access to the beach, would not solve the contamination problem. Suggesting such options was, thus, questionable. Also questionable was the failure to include options which would succeed. It is not unusual to propose 'straw-man alternatives' in EIRs to push a favored alternative. It is very unusual to have all proposed options be unworkable.

AD-9 There are a number of other minor technical concerns with the document but these pale in comparison to the City's perceived inability to direct a competent consultant to perform an environmental analysis which would provide a solution complying with Judge Pate's decision.

AD-10 The purpose and need for this project should have been introduced in the introduction. The City did not elect to undertake this work out of the goodness of their heart or for the children of San Diego. The City was forced into this position by a court order. Language similar to that used by Judge William C. Pate in his *O'Sullivan v City of San Diego* decision should be used for the Project Description. This is the driving force behind this action and, as such, must be mentioned. The following was suggested in the scoping meeting (Valentine, 2007),

The City of San Diego proposes to restore the Children's Pool to its 1941 condition by removing the sand build-up and reducing the level of water contamination in the Pool to levels certified by the County of San Diego as being safe for humans.

The City has one legal action, restore the beach. There can be no "No Action" alternative since the City would be in violation of a court order.

AD-11 As a departing point of interest, I should like to mention that the original cost estimate for sand removal was provided by Coastal Environments (1998). Their suggested cost for removing and disposing of 3,000 cubic yards of sand at the Miramar landfill was $40,000. This is a far cry from the cost now touted by City representatives.

Yours truly,

<<<< via email>>>

David W. Valentine

Citations:

Coastal Environments, 1998

AD-8 Please see the response to comment AD-3. The City has met its obligation under CEQA to discuss project alternatives and examine their environmental impacts as compared to those of the proposed project. The City disagrees with this comment's accusation that their approach to the project's CEQA environmental review is defiant of the court order.

AD-9 This comment's opinion regarding the City's process of conducting environmental review is noted.

AD-10 The Superior Court ruling is discussed in the "Project Background" section on page 2-4 of the Draft EIR. The project objectives presented on page 2-1 of the Draft EIR also mention the intent to comply with the referenced court order. The project description presented in Chapter 2 includes all relevant project description information required under State CEQA Guidelines Section 15124, including the precise location and boundaries, a statement of the project objectives, a description of the project characteristics, and a statement of the EIR's intended uses. The project description was written for the purposes of conducting the environmental analysis, and needs not incorporate specific language from the court order to be valid. As to the portion of this comment addressing the No Action Alternative, this is a component of an EIR that is mandated by Section 15126.6(e) of the State CEQA Guidelines.

AD-11 This comment on project cost is noted.

La Jolla Children's Pool, Beach Management and Water Quality Improvement Project. 27 August 1998

Valentine, David. 2007.
EIR Comments for Scoping Meeting, Draft Environmental Impact Report for the La Jolla Children's Pool Project (Project 71362). Letter to Allison Sherwood, 5 November 2007

From: dave_valentine_92037@yahoo.com
Sent: Thursday, May 07, 2009 9:25 AM
To: DSD EAS
Subject: Children's Pool Impact Assessment

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 442-6036
dave_valentine_92037@yahoo.com

6 May 2009

Allison Sherwood
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101
Via email - DSDEAS@sandiego.gov

Subject: Comments on Draft Environmental Impact Report

La Jolla Children's Pool
Project (Project 71362) – 23 March 2009
IMPACT ASSESSMENT

Dear Ms. Sherwood:

I received the revised one page **Recommended Finding** from Ms Cecilia Gallardo dated April 22, 2009 which contained the following statement:

AE-1

"The draft Environmental Impact Report (EIR) concludes that the project would result in significant but mitigable environmental impacts in the following areas Biological resources and Historical resources."

Ms. Galliardo's five-page forward EIR summary dated March 23, 2009, included the following heading and statement:

See next page for response AE-1.

NO MITIGATION REQUIRED

"After analysis, impacts in the following issue areas were found to be not significant under CEQA for the proposed project;; Land Use, Aesthetics/Neighborhood Character, Geology and Soils, , Human Health/Public Safety/Hazardous Materials, Hydrology/Water Quality, Historical resources, Recreational resources and Transportation and circulation (which, presumptively, is the same as Traffic/Circulation)"

AE-1 (cont.)

I should like to point out that the first statement includes '**Historical resources**" as having mitigable environmental impacts while the second states that there are **no significant** impacts to Historical resources. One would assume that such a mistake would not have been perpetuated since it was a month between the issuance of the draft EIR and the modified cover letter. It looks, again, as if scant attention was paid to this report by City personnel.

AE-2

I take issue with the listed potential impact of sand removal on historic resources at the Children's Pool. Importance was attached to sea level fluctuation over the past 10,000 years. Actually, 10,000 years ago the sea level was about 100 meters lower then it is today. Any resources from that era would be under several hundred feet of water. Subsequent fluctuations were on the order of millimeters per decade.

A review of photographs of the Casa beach area taken before the installation of the breakwater will demonstrate that this was a rugged open coastal site directly exposed to the prevailing North Pacific Ocean swells. Any intertidal shell middens would have beaten to oblivion. An inspection of original construction drawings clearly demonstrates that the area behind the sea wall was 'scraped' to below original grade: basement sand stone was removed such that the new grade sloped gently towards the breakwater, making a 'safe' wading pool for children. In other words, if there were any native Indian artifacts at this site in 1930 they would have been destroyed at the time the breakwater was built. Anything found buried at this site would be contemporary. Note that fully eight of the 10 and one-half pages of the *Mitigation and Monitoring and Reporting Program* are devoted to historical resources. I question the need for a monitor to oversee sand removal to protect historical resources

AE-3

Let me suggest that the potential biological impacts ascribed to local biota resulting from sand removal and beach restoration are tenuous at best. Removing the sand from the pool area cannot harm sea grasses because there is nothing under the sand but bedrock!

Discussing damage to eelgrass beds is spurious, at best, as is damage from sand movement. Take a walk along the shoreline, from the Children's Pool to Wind n' Sea Beach. It is not unusual for a summer beach to lose 3-4 feet of sand in one winter storm. The sand is carried offshore, exposing beach rocks previously covered, and covering submerged rocks (and eel grass beds) previously exposed. The summer surf returns the sand to the beach. So, the normal cyclic movement of sand covers and uncovers rocks and requires that they be regularly colonized. Depending on the season and length of exposure, emergent rocks may be colonized predominantly by mussels, or barnacles.

AE-1 Please see the response to comment AD-1.

AE-2 This comment's stated opinion regarding the project's archeological resources impacts is noted. Qualified professional archeologists reviewed available archeological documentation for the site and a surrounding ¼-mile radius. This records search identified four previously recorded resources in the search radius and, as a result, the archeologists concluded that there was a potential for cultural resources to exist on the project site, and identified a significant cultural resources impact, as stated in Section 3.4 of the Draft EIR.

Letter of Comment

AE-3 (cont.) Settlement of one tends to prevent the colonization by the other. This process can be seen clearly, over the period of years, at "Little Point", between Marine Street and Wind n' Sea Beach. Now, if one is truly worried about the impact of sand movement on the survival of intertidal and shallow subtidal fauna and flora then one might dispose of the sand at Miramar Landfill. But sand is too valuable a resource to be so disposed. It belongs on beaches.

AE-4 I'm not too sure why such a fuss is being made over lobsters and grunion. Frankly, I don't know of one person who has claimed to have seen a grunion spawning at the Children's Pool. And I don't know a competent ichthyologist who could claim to be able to differentiate between top smelt and grunion in the water. Both are from the family Atherinopsidae. Top smelt have a slightly larger anal fin and minute teeth, an attribute lacking in grunion. Besides, both lobster and grunion are game species under season and, in the case of lobster, bag and size limits.

AE-5 Regarding silt curtains, they sound good in theory but are pretty useless in practice. Consider this. To stop silt requires a very fine mesh cloth. Anchoring something akin to 'sail cloth' in a tidal environment is inviting disaster. I speak from experience here. No silt curtains in tidal environments.

AE-6 Interruption of migratory patterns of wildlife is a dubious concept. What types of animals would be interfered with? Remember, you are removing SAND. It is being placed on a BEACH. If done properly, it would mimic sand transport. There are few animals which use bare sand for much of anything besides resting. Least terns do nest on sand, but have never been recorded doing so at the Children's Pool. This little sand spot is not a crucial resting nor mating nor foraging place for any animal, including marine mammals.

AE-7 I am sorely disappointed in the treatment of environmental impacts associated with the removal and disposal of sand at the Children's Pool. There was a general lack of care taken in the preparation and editing of this document. One cannot claim potential impacts to historical resources when the current surface of the Children's Pool was excavated below grade during construction. Claiming potential significant impacts to intertidal communities, which are naturally inundated by sand and exposed on a yearly basis, is difficult to substantiate. Claiming impacts on species, which have never been documented to occur at the Children's Pool, is stretching credibility to its limits. Employing biological and historic specialists to oversea sand removal and beach nourishment is a waste of resources.

Yours truly,

David W. Valentine, Ph.D.

Response to Comment

AE-3 This comment's stated opinion regarding the project's biological resources impacts is noted. Section 3.2 of the Draft EIR identifies a significant impact on surfgrass (not necessarily eelgrass, as suggested by this comment), which is an important habitat for groundfish and spiny lobster. The project's primary impact on this habitat would potentially occur during the deposition of excavated sand on South Casa Beach. While the City recognizes that this habitat and the surrounding marine environment is routinely affected by seasonal storms, as noted in this comment, this is a natural process, in contrast to the project's potential human-related impacts that are not a natural byproduct of the usual coastal processes. Accordingly, this is identified as a significant impact of project construction, and must be mitigated to a less-than-significant level.

AE-4 This comment's stated opinion regarding the EIR's conclusions on grunion and lobster impacts is noted. The Draft EIR correctly states that these species are not threatened or endangered but, because the project would result in major modifications of these species' habitat, a significant impact and associated mitigation were identified to reduce impacts on these species to less-than-significant levels. Surveys of the project area done for the "Intertidal and Subtidal Biological Survey," which is included as Appendix H of the Draft EIR, did not specifically identify grunion and top smelt. Rather, the survey report identified these as "expected species" in the subtidal zone in the vicinity of the site. Page 3.2-14 of the Draft EIR includes an error that listed grunion as observed on the site. This has been corrected in the Final EIR.

AE-5 Mitigation Measure BIO-2.1 includes maintaining a silt curtain on the seaward side of the sand berm during project-related excavation. This curtain will be adjusted as necessary to maintain its position and effectiveness.

AE-6 This comment's stated opinion regarding the EIR's conclusions on biological resources impacts is noted. As explained in pages 3.2-30 and 3.2-31 of the Draft EIR, the project would result in a significant impact on the movement of spiny lobster, which moves from the shallows into deeper waters during various developmental phases of its life cycle, and mitigation is identified that would reduce this impact to a less-than-significant level. Project-related impacts with respect to movement and/or migration of other species would be less than significant, as explained in pages 3.2-30 through 3.2-32 of the Draft EIR.

AE-7 This comment's stated opinion on the impact analysis and preparation of the Draft EIR is noted. The City believes that the environmental analysis, impact assessment, and mitigation measures presented in the Draft EIR are valid and adequately meet the requirements for environmental review of the project under CEQA.

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
La Jolla, CA 92037
(858) 442-6036
dave_valentine_92037@yahoo.com

8 May 2009

Allison Sherwood
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101
Via email - DSDEAS@sandiego.gov

Subject: Draft Environmental Impact Report
La Jolla Children's Pool
Project (Project 71362) – 23 March 2009
A FRESH START

Dear Ms. Sherwood:

AF-1 I will not belabor the failings of the subject report. I have sent you three previous letters on this subject. The City has freely admitted this EIR is a dismal failure in addressing the decisions of Judge William C. Pate in his *O'Sullivan v City of San Diego* decision. Having your consultant reframe this report to address the concerns of the court would be a waste of funds and would only further delay compliance. One cannot reasonably expect the Court to remain compliant to this behavior. Given that, I suggest that the ONE important conclusion of this report is that there are NO significant environmental impacts of sand removal and nourishment of adjoining pocket beaches. The alternatives detailed in this report are useless, the basic findings are not.

I suggest you revisit previously prepared City reports on this subject, specifically the Mitigated Negative Declaration dated January 20, 1999. This report found no significant environmental challenges associated with this project (LDR No. 98-0671). The specific aspects of Federal permit requirements needed to "take" harbor seals at the Children's Pool was effectively addressed in the Federal Register [FR 69:161, 51632-51636] …"the potential impacts from the project are expected to be minimal to none"

AF-2 This point was further addressed in a letter from Rodney McInnis, Regional Administrator of the U.S. Department of Commerce to April Penera of the City of San Diego. The central portion of this letter states, "no formal approval or permit is needed in order for the City to take action under section 109(h) [sic, of the

Dave

AF-1 This comment's stated opinion on the impact analysis and preparation of the Draft EIR is noted. The City believes that the environmental analysis, impact assessment, and mitigation measures presented in the Draft EIR are valid and adequately meet the requirements for environmental review of the project under CEQA. The 1999 MND mentioned in this comment was deemed inadequate to bring the current iteration of the project into CEQA compliance, leading the City to prepare the EIR now under consideration. CEQA does not require that an EIR or other CEQA document incorporate past CEQA documents into present proposals.

AF-2 (cont.)

Marine Mammal Protection Act] to remove harbor seals from the Children's Pool." The most recent decision by Federal Court Judge William Q. Hayes {Case No. 08cv1847 WQH [POR], April 28, 2009) only highlights the City's continued intransigence in effectively dealing with it's Tidelands Trust responsibility over the past decade.

AF-3

Updating the 1999 Mitigated Negative Declaration by reference with basic information from the EIR should not be onerous. It would allow the EIR to be used as a "*programmatic*" document and to '*hang*' the Mitigated Negative Declaration "*on*".

Yours truly,

<<<< via email>>>>



David W. Valentine

Citations:

Federal Register. 2004
Incidental Take of Marine Mammals Incidental to Specified Activities: taking of Harbor Seals Incidental to Improvement Projects at La Jolla, San Diego County, CA. August 20, 2004. [FR 69:161, 51632-51636]

La Jolla Friends of the Seals v NOAA et al. 2009.
Case No. 08cv1847 WQH (POR). Dated April 28, 2009. William Q. Hayes, United States District Court

McInnis, Rodney. 2005.
Letter to April Penera regarding removal of harbor seals from the Children's Pool. October 17, 2005

Natural Resources and Culture Committee, 1998.
Agenda of May 6, 1998 recommending acceptance of Testing Engineers proposal and recommending to the City Council and City Manager that they "apply for a Coastal development Permit to remove sand from the Children's Pool Beach on a trial basis"

O'Sullivan v City of San Diego. 2005.
Superior Court of California Case No. GIC 826918, Statement of Decision dated August 25, 2005

AF-2 This comment refers to a permit for incidental take issued to the City by NOAA in relation to the La Jolla Cove Wall Replacement project (SCH #97101071), which includes work on the bluffs in proximity to Children's Pool. That permit does not apply to this project. The City also acknowledges the NOAA correspondence referenced in this comment, but must clarify that take permission from NOAA for this project has yet to be confirmed. The City will work with NOAA to obtain all necessary permits and clearances, and, if the project is approved, will continue taking the necessary steps toward implementing the project. The City disagrees with this comment's suggestion that they are being intransigent in following the environmental review and permitting avenues required for the project.

AF-3 According to Section 15168 of the State CEQA Guidelines, a programmatic EIR is "an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either (1) geographically, (2) as logical parts in the chain of contemplated actions, (3) in connection with issuance of rules, regulations, plans, or other general criteria…, or (4) as individual activities carried out under the same authorizing statutory or regulatory authority…." CEQA does not allow programmatic use of a prior environmental document unless that document was specifically prepared as a programmatic document. Furthermore, as mentioned above in the response to comment AF-1, the 1999 MND mentioned in this comment was deemed inadequate to bring the current iteration of the project into CEQA compliance. Therefore, there is no opportunity to use the MND as a programmatic document covering the present EIR, or vice versa.

1

From: Dorota [dlvalli@hotmail.com]
Sent: Wednesday, May 06, 2009 12:01 PM
To: DSD EAS
Subject: Comments regarding draft EIR Project No. 71362, SCH No.1999011060, La Jolla Children's Pool.

Dear Allison Sherwood,

Thank you so much for sending me a copy of a draft Environmental Report.

I am submitting my comments regarding the adequacy of a draft Environmental Report, Project No. 71362, SCH No.1999011060, La Jolla Children's Pool.

AG-1 It is stated in the report, chapter 3.3-6, that the proposed project will have **less than significant impact on geology and soils**. A geologic study conducted by TerraCosta Consulting Group for the project found that the removal of sand from Children's Pool and its subsequent size reduction **would not result in additional coastal erosion.**(3.3-8). The authors of the report do not provide any explanation as to how they came to this conclusion: one does not need to be a geologist to realize that there has to be a significant impact to the bluffs by excavating a huge amount of sand from such a small area. Why are their findings so different from what dr. Inman, a geologist from Scripps Institute of Oceanography concluded back in 1999 when initial dredging of Casa Beach was denied by the San Diego City Council? We observe progressive cliff erosion of the area already and it seems impossible that removing sand adjacent to the cliffs that are frequented by pedestrians would not affect them in a negative way. **I wonder if any of the specialists involved have any experience in removing vast amount of sand and I would like to see their credentials, because their determination seems very unconvincing and has no support in any quoted geological studies.**

AG-2 The proposed project aims to excavate and transfer 3, 000 cubic yards of sand from Casa Beach to South Casa Beach. It is stated in the report **that the sand buildup will likely occur after project construction** and smaller sand excavations will be necessary every two to five years (S-1): **the report fails to explain where the sand constantly filling Casa Beach will be coming from**. I suspect that the adjacent beaches in the area, like Shell Beach, Boomer Beach, or even potentially La Jolla Shores, will start losing sand that will be taken away and transferred to Casa Beach, causing cliff erosion and potential landslides along Coast Boulevard. Again, there is **no explanation of the sand buildup formation source** in the report. I would like to see the **analysis of where the sand buildup accumulating at Casa Beach will come from as well as the impact on adjacent beaches/their size/cliff erosion.**

AG-3 According to the report, the impact on **biological resources** such as terrestrial habitats, water birds and terrestrial wildlife, marine habitats including flora and fauna, spiny lobster, abalone and seals will be significant, but can be mitigated if the dredging was scheduled outside the seal pupping season December-May (S-6, 3-2). **The report fails to acknowledge that the seals live at Casa Beach year round** and the proposed project, including the construction of a 8 feet high and 10 feet wide berm to prevent seals from hauling out on sand **will have a significant impact on wellbeing of the federally protected seal colony.**

AG-4 According to the report, construction of the proposed project have less than significant impact on **recreational resources** (S-18, 3-8) - **The report fails to acknowledge that getting rid of the seals which are a main tourist attraction will have a very significant impact on the quality of recreational use of Casa Beach, which is primarily seal watching.** The project does not address the **financial aspect of losing the biggest tourist draw in La Jolla** as well as the cost of the project which is not supported by general public and viewed as a huge burden to the City's budget.

1

AG-1 Children's Pool is protected from strong storm surf by the breakwater, and would remain as such after project implementation. The TerraCosta report referenced in this comment and included as Appendix K of the Draft EIR was prepared by qualified and experienced professionals and properly reflects the fundamentals of coastal geomorphology. The report does identify that the sea cliffs and the sloping terrace deposits in this area experience a small amount of marine erosion (see page 11 of Appendix K). This occurs under existing conditions and is not anticipated to alter or accelerate with project implementation. Furthermore, the project is not anticipated to increase the rate of erosion that occurs on northern beaches under existing conditions. The 1999 findings of Dr. Inman referenced in this comment were submitted in relation to the CEQA process undertaken for a different iteration of this project that proposed removing sand from Children's Pool and placing it in more distant locations such as La Jolla Shores, rather than on an adjacent pocket beach, as would occur under the proposed project.

AG-2 Page 9 of the TerraCosta report (Appendix K of the Draft EIR) states, "There is no recognized seasonal longshore sediment transport within the La Jolla subcell, as all littoral sediments are confined within the more popular pocket beaches…" These conditions would continue with implementation of the project, and sand that becomes trapped by the Children's Pool breakwater will continue to come from nearby pocket beaches. The project is not expected to alter existing conditions with respect to sand drift within the littoral cell and erosion at nearby beaches.

AG-3 For a discussion of the Draft EIR's coverage of seal displacement and associated long-term impacts on seals, please see the responses to comments A-5 and B-3.

AG-4 For a response regarding the project's recreational impacts on wildlife viewing, please see the response to comment A-6. This comment also suggests that the seals' presence at Children's Pool is an asset to the local tourism industry and important to the education of local children. The EIR analyzes the project's effects on the physical environment, as required by CEQA. Tourism and education are economic and social considerations, respectively—factors that are not physical effects on the environment and not typically considered under CEQA (see Section 15131(a) of the State CEQA Guidelines).

AG-5

In conclusion, the report seems to cater to the State Court requirements to return Casa Beach to its 1941 configuration by misleadingly treating the proposed project as temporary and insignificant while failing to perform a thorough analysis of the negative impacts of unnecessarily removing a huge amount of sand from a small pocket beach area inhabited by federally protected marine mammals.

Sincerely,

Dorota Valli
La Jolla Resident
P.O. Box 32
La Jolla, CA 92038

Insert movie times and more without leaving Hotmail®. See how.

AG-5 The EIR does not cater to the State Court's orders, but analyzes the impacts of the project being considered by the city in response to those orders. The EIR properly analyzes the project's impacts in accordance with CEQA, which includes consideration of the project's temporary construction impacts as well as more permanent, long-term impacts.

From: Roger Boyce [rlb8712@yahoo.com]
Sent: Monday, May 04, 2009 9:46 AM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

Community
Plan Area: La Jolla Community Plan
Council District 1

AH-1 This EIR
contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.

AH-2 This EIR
was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

Roger Boyce
715 1/2 Arenas Street
La Jolla, CA 92037

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

From: ddburleigh@aol.com
Sent: Monday, May 04, 2009 11:54 AM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

Community Plan Area: La Jolla Community Plan; Council District 1

AH-1 This EIR contains no real alternatives because the writers were constrained by the City. Look at 5-2 of the actual report and see that the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and it elaborates only on why the alternatives of simply moving the seals, then the sand, will not meet the court order.

AH-2 This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

D. Burleigh
Box 178232
San Diego CA 92117

A Great Credit Score is 750 or Higher. See Your 3 CREDIT SCORES FREE - Online!

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

From: Bob Dean [r.dean4@cox.net]
Sent: Wednesday, May 06, 2009 6:33 AM
To: DSD EAS
Subject: MY COMMENT: COMMUNITY PLAN AREA: LA JOLLA COMMUNITY PLAN

Community Plan Area: La Jolla Community Plan
Council District 1

SUBJECT: PUBLIC COMMENT RE: CHILDREN'S POOL
FROM: ROBERT E. DEAN

AH-1 **This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.**

AH-2 **This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.**

Robert E. Dean
4794 Arizona St., #304
San Diego CA 92116
619-297-5790
r.dean4@cox.net

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

From: Dante Galli [dgalli@exp-eng.com]
Sent: Monday, May 04, 2009 12:51 PM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

To Whom it may concern,

Please find the following comment on the "Draft Environmental Impact Report" for Children's pool, La Jolla California

Community Plan Area: La Jolla Community Plan
Council District 1

AH-1 This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This repo t says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.

AH-2 This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

Thank you for the opportunity to submit my comments.

Dante Galli
Electrical Engineer | Expertise Engineering
www.exp-eng.com
4186-J Sorrento Valley Blvd
San Diego, CA 92121
858.642.7639

1

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being "an act of contempt of court" is noted.

Letter of Comment

From: Tom Harman [mcd2000@marinecamera.com]
Sent: Monday, May 04, 2009 8:30 AM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

Community Plan Area: La Jolla Community Plan Council District 1

AH-1 This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.

AH-2 This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

--
Thanks, Tom Harman
Marine Camera Distributors
11717 Sorrento Valley Rd.
San Diego, CA 92121
M-F 7am-230pm
858-481-0604
858-369-5015 fax

1

Response to Comment

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

From: David Johnson [ddttjj@gmail.com]
Sent: Monday, May 04, 2009 9:17 AM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

Community Plan Area: La Jolla Community Plan
Council District 1

AH-1 This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.

AH-2 This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

David T Johnson
4222 Wightman Street
San Diego, CA 92105
619 516-3456

--
The fear of the Lord is the beginning of knowledge;
fools despise wisdom and instruction. Prov 1:7
NRSV

1

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

Letter of Comment

From: Don Perry [dperry@san.rr.com]
Sent: Monday, May 04, 2009 9:09 AM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

Community Plan Area: La Jolla Community Plan
Council District 1

AH-1 This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.

AH-2 This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

Donald F. Perry
7415 Fay Ave.
La Jolla, Ca. 92037

Response to Comment

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

Letter of Comment

From: Slow_Fish@att.net
Sent: Monday, May 04, 2009 8:43 AM
To: DSD EAS
Subject: Public Input to Project 71362, SCH No. 1999011060

Community Plan Area: La Jolla Community Plan
Council District 1

AH-1 This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.

AH-2 This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

Lee Peterson
11717 Sorrento Valley Rd.
San Diego, CA 92121 phone: 858-455-0873

1

Response to Comment

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

From: pegemail1@aol.com
Sent: Monday, May 04, 2009 8:11 PM
To: DSD EAS
Subject: RE:Public Input to Project 71362, SCH No. 1999011060

Community Plan Area: La Jolla Community Plan
Council District 1

AH-1 This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.

AH-2 This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

(Your name and address here, so they can't claim a computer generated your email)

Peggy Petschek
po box 225
Jamul, Ca 91935

Shopping for Mom? Save yourself a little time and money on AOL Shopping.

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

From: mike [mpets1@sbcglobal.net]
Sent: Monday, May 04, 2009 9:21 AM
To: DSD EAS
Subject: re: Public Input to Project 71362, SCH No. 1999011060

Community Plan Area: La Jolla Community Plan
Council District 1

AH-1 This EIR contains no real alternatives because the writers were constrained by the City. Jump to 5-2 of the actual report and find the report considered no alternatives except ones the City had considered to not have merit, even though the City had all the plans in place from 1999 to 2004, and walked away from them. That is the single biggest reason this report is inadequate. This report says the consultants were told those plans never existed, and none could work, and so it elaborates only on why alternatives to simply moving the seals, then the sand, will not meet the court order. Of course they won't.

AH-2 This EIR was supposedly commissioned to meet the court order, but is in itself an act of contempt of court.

Sincerely,

Mike Petschek
P.O. Box 225
Jamul, Ca 91935

1

AH-1 In accordance with CEQA requirements, the Draft EIR presented a reasonable range of alternatives and considered their environmental effects in comparison to those of the proposed project. As discussed in Chapter 5 of the Draft EIR (see page 5-2), the alternatives that may be considered feasible for project implementation are constrained by the court order requiring the City to return the pool to its 1941 configuration, which means the removal of roughly 3,000 cubic yards of sand estimated to make up the difference between the beach's configuration in 1941 and today's configuration.

AH-2 This comment's stated opinion regarding the EIR being “an act of contempt of court” is noted.

From: rhodes@laplayaheritage.com [mailto:rhodes@laplayaheritage.com]
Sent: Monday, June 01, 2009 11:36 AM
To: DSD EAS; Sherwood, Allison
Cc: Demorest, Erin; kari.j.coler@usace.army.mil; dlee@coastal.ca.gov; dlilly@coastal.ca.gov; ssarb@coastal.ca.gov; STERRETT@DBW.CA.GOV; therese.orourke@usace.army.mil; Faulconer, Council Member Kevin; Hueso, Council President Ben; Hueso, Ben; Lightner, Councilmember Sherri; Councilmember Todd Gloria; Young, Anthony; DeMaio, Carl; Frye, Donna; Emerald, Councilmember Marti; DeMaio, Councilmember Carl; Tevlin, Andrea; Maland, Elizabeth
Subject: Addendum to Public Comments and Concerns – Project 71362 La Jolla Children's Pool Project Draft EIR

Hello City of San Diego,

Although the comment period for the Draft EIR for the proposed Children's Pool dredging project in La Jolla, California has past, we are including additional information for consideration into the Final EIR.

Our concerns have to do with the potential for catestrophic, avoidable damage, and analysis regarding the effects of the dredging of 3,000 cubic yards of sand on the area north from Point La Jolla (La Jolla Cove) to the Children's Pool.

AI-1

The dredging operation will create a high potentital for landsliding and undermining of the coastal bluffs at Scripps Park and Coast Boulevard. In December 2008 the Federal judge allowed the City time to take care of the problem by asking for an admendment to the 1931 Trust to make the issue of an EIR and dredging project moot.

Linked below is Appendix K - Geology Section Review of the draft EIR.

http://docs.sandiego.gov/citybulletin_publicnotices/CEQA/Appendix_K1%255B1%255D.pdf

Please note the following statement on Page 11 of 32 the Geology section

"Although an evaluation of erosion rates is beyond the scope of this study... "

The consultants never evaluated the erosion rate for the proposed dredging project. They did evaluate and cite referenced studies for the erosion rate for existing conditions without the dredging project, and for the proposed new lifeguard station.

AI-2

Although the consultant never evaluated the erosion rate for the proposed dredging project, they did come to conclusions on the rate of erosion for the project without scientific evidence to back up their claim. The revised Terra Costa Consulting Group report, revised March 12, 2009 is entitled Geology and Hydrogeology (Erosion) Study. The report titled should be changed, and the word Erosion should be deleted, because erosion and erosion rates of the proposed dredging project was not part of the scope of the Geology and Hydrology Study.

AI-1 Please see the responses to comments AA-4 and AA-7 above. Removing sand from Casa Beach as part of the project is not expected to accelerate any southward movement of sand within the littoral cell from existing rates and, therefore, would not result in increased erosion on northern beaches or bluffs.

Letter of Comment

AI-2 (cont.)

We are asking that the consultants, ICF Jones & Stokes and Terra Costa Consulting Group, specifically evaluate the erosion rate for the proposed dredging project on the coastline North between Point Jolla (La Jolla Cove) and Children's Pool, as it is a public safety concern and should have been evaluated in the draft EIR. The erosion and sand migration analysis should be computer modeled using easily obtain software which every sand migration expert should possess. If the consultant is not able to provide scientific evidence of erosion rates for the dredging project, then the Army Corp of Engineers should be consulted for guideance.

AI-3

In addition, in the Draft EIR it mentioned that no whales were observed in the area of Children's Pool. This is not correct information. As seen on a video of the seal rookery at Children's Pool during a City Council meeting earlier this year, migrating whales and dolphins have been observed and photographs at the kelp beds adjacent the Children's Pool.
The Final EIR should discuss the presence of whales and the biodiversity in the area.

http://www.youtube.com/watch?v=6lieM6eVg-Y

AI-4

We are not biologists, but some people have stated that the kelp beds adjacent Children's Pool have benefited from the seal feces and their associated nitrogen supply since the seals moved back into La Jolla in the 1990s.

The Final EIR should have a discussion of the benefits of the seal feces on biodiversity of the area, especially the thriving kelp beds.

Regards,

Katheryn Rhodes and Conrad Hartsell, MD
371 San Fernando Street
San Diego, California 92106
619-523-4350
rhodes@laplayaheritage.com

Response to Comment

AI-2 The referenced study needs not include quantified evaluation of erosion rates, including computer modeling, to appropriately call itself an erosion study or to adequately inform analysis of the project's impacts. The study incorporates the general knowledge of qualified professionals, who, relying on the fundamental principles of coastal geomorphology, conclude that removing sand from Casa Beach would not alter local erosion patterns or rates from those that occur under existing conditions. Because the project would not increase bluff erosion, it would not result in a public safety concern. Also, please note that the project requires obtaining permits from the Corps, necessitating consultation with that agency moving forward.

AI-3 Page 3.2-16 of the Draft EIR states “Several species of both pinnipeds (seals and sea lions) and cetaceans (whales and dolphins) are known to occur in and around the Children's Pool and just offshore of the proposed sand receiver site.” The area affected by the project would be limited to near-shore areas where sand will be excavated and deposited, and no impacts on whales or other cetaceans are anticipated.

AI-4 The Draft EIR concludes that the project, “…is unlikely to displace any seal populations geographically...” (see page 3.2-25) The project would not entail any substantial changes to the ecosystem, and it is anticipated that seals will continue to excrete feces locally after project implementation, though these feces will not be concentrated in Children's Pool as they are under existing conditions.

Letter of Comment

From: Ellen Stanton [mailto:e_stanton99@yahoo.com]
Sent: Saturday, May 23, 2009 6:52 PM
To: DSD EAS
Subject: Fw: people use issues and impact

People Use Issues and Impact

AJ-1 The DEIR does not appear to adequately assess, and provide detailed and adequate mitigation measures, with regard to the millions of people who will be impacted negatively by the proposed measures of significantly reducing the number of seals "allowed" to use CB (Casa Beach) due to the plan to reduce the seal numbers and to continue to "shoo" them away. This includes San Diego residents, tourists, students (of all academic levels including university, graduate, and middle school), researchers, photographers, videographers, nature lovers, and all of those, adult and child, who use CB for recreational and educational "seal-watching". Specifically, how will this situation of loss of opportunity for a million or more people/year to view seals, to engage in recreational "seal-watching", be mitigated?

AJ-2 APRL, (see www.aprl.org) commissioned a Zogby poll that showed that 81% of San Diegans want better protection for the local seals. The result details and methodology of the study are available at their website . Specifically, how will the interests of these people be represented, and how will their interests and concerns be utilized, addressed and included in this review?

AJ-3 Per an in depth study by San Diego Baykeeper (2004), "La Jolla Children's Pool Issues and Facts Regarding the Proposal to Dredge the Children's Pool Beach to Allow for "Joint Use" , it is stated that, "According to Lifeguard figures, an average of 116,000 visitors come to Children's Pool every month. Passive recreation (such as seal-watching) is a protected and valuable coastal use, and nothing demonstrates joint-use better than an area that protects a harbor seal rookery that over 1 million San Diegans and tourists enjoy every year." With regard to the lifeguard statistics cited in this study, specific to CB, it shows, over the time period studied, many months with a people count in excess of 100,000. How will these specific details be addressed and mitigated?

AJ-4 Attached please find representative documents from this report:

a)Lifeguard people statistics 1/03-5/04

b)Letters of support from individuals, from Carpenteria Seal Watch

Response to Comment

AJ-1 For a response regarding the project's recreational impacts on wildlife viewing, please see the response to comment A-6. Because no significant impact on wildlife viewing was identified in the EIR, mitigation is not required.

AJ-2 This comment does not address the adequacy or content of the Draft EIR, and no response is necessary.

AJ-3 This comment does not address the adequacy or content of the Draft EIR, and no response is necessary.

Letter of Comment

AJ-4 (cont.)

Volunteers, and from a San Diego lifeguard

c)List of geographic areas of visitors to CB, 39 states, 46 countries, spoken to by LJFS docents

d)Letter from Wyland, renowned marine artist and marine environment supporter

e)List of schools and colleges whose students had visited CB during LJFS docent shifts for the timeframe

f)representative comment cards collected at CB by LJFS docents

In addition to this sampling of public opinion, official statistics, and expert opinion as presented in the 2004 San Diego Baykeeper report, 11,000 signatures were collected in c. 2004 during 3 weekends at CB in support of not disturbing the La Jolla seals, and these were presented at a San Diego City Council meeting. Also, a BBC documentary was done at CB, and a letter to this event is included here, and a documentary by French producer Katheryn Mont-St.Jeanne was done in c.2004..

AJ-5)

The issue of safety for swimming at CB, given the known rip current, rocks, eelgrass, and irregular floor of the "pool" area, as seen during low tide conditions, has not been adequately addressed, and needs further, detailed review. Per Aaron Quintanar, San Diego lifeguard, whose letter is included in the Baykeeper report, and is included here, "Dredging the beach will not result in a safe swimming area for San Diego's children. There are a number of reasons for reaching this conclusion, including current/rip current activity and near shore reef structures. Further, dredging will not resolve any of these issues and in fact may exacerbate these hazards." His further comments and analysis are included in the attachments here. How have the hazards associated with this rip current situation been addressed, and how will they be mitigated?

AJ-6

Additional photos will be attached to show extensive people use as seal-watching, and to show the irregular features of the floor of the pool, as well as representative seal site usage.

AJ-7

Please respond specifically, and in detail, to all of the objections to the dredging and seal reduction plan cited here, and please provide specific mitigation proposals, and basis for likelihood of these measures being successful.

Response to Comment

AJ-4 The information and opinions contained in the attachments to this letter are noted. This information does not raise issues that indicate additional environmental impacts for the project or otherwise suggest that the Draft EIR is inadequate, and no changes to the EIR are necessary to respond to this information. Please note that attachments to the comment letters have not been included in the distribution of the Final EIR due to the large volume of material. These attachments can be viewed at the City of San Diego Development Services Department offices.

AJ-5 The project would create a swimming area at Children's Pool that is safer compared to existing conditions by increasing the pool area protected by the sea wall, as was intended by the wall's initial construction. The tidal flow at Children's Pool will likely remain the same, and rip currents may occasionally occur in the project area after project implementation. Similar conditions exist throughout the region's beaches, and lifeguards are on duty to identify hazardous tidal conditions, warn swimmers of the hazards, and intervene in hazardous situations, if necessary. Lifeguards are stationed at Casa Beach under existing conditions and would continue to be stationed there after project completion. It should also be noted that the referenced letter was written by an individual who announces himself as a former lifeguard, and does not represent the official position of the City of San Diego Lifeguard Service.

AJ-6 The attached photos are noted. This comment does not address the adequacy of the EIR or the environmental impacts of the proposed project; therefore, additional response is not necessary.

AJ-7 The City has responded to all comments contained in this letter in responses AJ-1 through AJ-6. No new significant impacts have been identified as a result of these comments; therefore, no new mitigation measures are required.

Letter of Comment

From: Ellen Stanton [mailto:e_stanton99@yahoo.com]
Sent: Saturday, May 23, 2009 6:57 PM
To: DSD EAS
Subject: Fw: ecological issues

Seal Site Use and Related Issues

AK-1 With regard to the representations in the DEIR as to seal counts/site usage at CB, there does not appear to be adequate, and recent enough data with regard to site usage, and with regard to the details of the impact on the seals that might occur as a result of the proposed actions, as well as details as to mitigation. It seems that more extensive and recent data should be provided in the DEIR, given the extent of impact that dredging, and "shooing" seals, will likely have.

Why are there not more recent, detailed, extensive, and thorough studies of site usage, during breeding season in particular, but also year round, with regard to the harbor seal use of CB?

AK-2 Historical information about seal use at the CB site, as suggested in the naming of the Botsford map of 1887, and in USGS maps, given knowledge of site fidelity, haul-out site requirements, and the historical hunting of seals, is not specifically discussed in view of this historical perspective. Please specifically address these documents and their implications for a complete understanding of the history of site usage by harbor seals with regard to CB. Given that this may be a historic haulout site, what is th appropriate mitigation standard that should be sought with regard to eliminating, or dispersing, a historically based, birthing colony of harbor seals? In addition, what is the specific scientific and administrative basis for this unprecedented dispersing of, and potential elimination of, an entire birthing colony of pinnipeds, specifically, harbor seals, that has established a history of site rookery usage for more than ten years in the current time frame?

AK-3 Given what is known, and not known, about harbor seal behavior, ecology, site usage, and distribution, there does not appear to be sufficient and adequate detail supplied in the DEIR with regard to what will happen to the seals upon initial dispersement, and with long term "shooing". Other than vague theories as to exactly where, and in what way the dispersed and continually "shooed" seals will find an alternate site or sites, nothing specific and definitive is shown or offered in the DEIR. Also, given that there are specific requirements or for a haulout site to be suitable for harbor seals including (Allen) ease of access to the water, close proximity to food sources, and protection from disturbance, and given that an apparent "suitable" site may not be accepted by the seals, what mitigation to dispersing can be specified? What specific information can be provided as to where they will go, where they can reasonably go, and other other potential immediate or cumulative impacts upon them, such as reduced reproductive success? If they "move" to another La Jolla beach, what will happen then? How will that be managed?

There is insufficient detail in the DEIR, to substantiate what will take place for the displaced seals with regard to short term, long term, and cumulative effects of dredging and "shooing". Additionally, per Allen, it is known that harbor seals are site specific, show site fidelity, and are loyal to their haulout sites for generations. Per Allen (1991), it was shown that seals would not utilize an alternate site that had been created for them. In light of

AK-4 these scientific points, what kind of mitigation regarding the impact on the CB seals of dredging and "shooing" can be specifically represented?

Response to Comment

AK-1 The 2004 seal count data incorporated into the Draft EIR is adequate to establish the fact of seal presence at Casa Beach. Providing detailed figures in an updated study would have no effect on the analysis and conclusions stated in the Draft EIR regarding the project's impact on seals.

AK-2 The City acknowledges the likely historic presence of seals and other marine mammals at Casa Beach and surrounding areas, as is implied by the historical maps attached to this letter. Past use of the site by seals does not affect the analysis or conclusions of the Draft EIR. The project does not propose to eliminate the local seal colony, as this comment suggests. The EIR analyzes the project's impacts of dispersing the seals and concludes that the impact would be less than significant.

AK-3 For a discussion of the Draft EIR's coverage of seal displacement and associated impacts on seals, please see the responses to comments A-5 and B-3.

Letter of Comment

AK-4 (cont.)

Again,, it is known that harbor seals are site specific (Allen), that they are loyal to their haulout and breeding sites for generations, and that they have specific needs for a haulout site to be usable. The latter includes ease of access to the water, proximity to food sources, and protection from disturbance. Rocky areas, and non flat areas that are frequently covered by tidal action, are not suitable for harbor seal haulout; additionally, different haulout sites are used for different purposes, and the CB site is used for resting, pupping, molting and breeding. Per a study at Strawberry Spit, (Allen 1991), it was shown that seals would not utilize an alternate site that had been created for them as a mitigation. In this case, seals were abandoning a haulout site due to disturbance.

AK-5

Per Grigg, et.al., (2002), it is stated that "In the face of continuing urbanization, maintaining the integrity of harbor seal haul-out sites is important for protecting harbor seal populations." In this study, it is also stated that, per Suryan and Harvey(1999), disturbance to harbor seals "may have considerable impact in areas where haulout space is limited, and this may be of particular concern when considering suitable haulout for mother-pup pairs". What are the implications here for the CB harbor seals, especially, for mother-pup pairs?

Per Dianne Kopec, another noted harbor seal researcher,(Harbor Seals in the Bay, San Fransisco Bay Seal Project), it is stated that:

"Haulout sites are critical habitat for the survival of Harbor seals within a given region. Harbor seal physiology requires them to routinely haul out on land. Regular hauling out on land reduces thermal stress on the seals....Pupping increases the need to haul out. Harbor seals give birth on land and nurse only on land or in very shallow water. For the pup, adequate milk consumption during the lactation period is crucial to its survival after weaning. Without adequate time on land, milk consumption is lowered, pups gain less weight and pup mortality rates increase." If haulout sites are critical habitat for the survival of harbor seals in a given region, what are the implications here?

Additionally, per a study by Brasseur, (1996,Deprivation Indicates Necessity For Haul-Out In Harbor Seals), it is noted that deprivation of haulout time is followed by an increase in hauling out when seals are then free to do so. Again, what are the implications here if haulout is made unavailable or diminished for the CB seals?

AK-6

With regard to the shared use concept, it should be noted that recommended viewing distance for Harbor seals is approximately 300 feet on land. The shoreline of CB is 180 feet, and the size of the beach is very small. Critical distance varies in harbor seals depending on many factors, such as age, sex, class, and other variables.

AK-7

There needs to be thorough study of the ecological role of the CB Harbor seals in the nearshore La Jolla ecosystem; what will the impacts be upon the ecosystem if the seal colony is reduced or eliminated?

AK-8

Per La Jolla Friends of the Seals statistics, in the 2009 pupping season, 46 pups were born at CB. In 2008, 42 pups were born at Casa Beach and in recent, previous pupping seasons, birth totals have been in the 30's and high 20's. Pup birth numbers for 2007 are 32, for 2006, they are 29, for 2005, 26 pups, for 2004, 26. Other pup counts are available. These numbers do not indicate survival rates. What precedent is there for eliminating an established breeding colony and rookery of pinnipeds, specifically, harbor seals?

AK-9

Many issues have been raised above with regard to harbor seal site usage, with implications as to how these issues might impact the Casa Beach seals in the context of the proposed

Response to Comment

AK-4 The project does not propose to construct an alternate haulout location for the seals; indeed, the EIR considered the merits of such a plan as part of Alternative 6, and concludes that doing so would be ineffective at dissuading seals from hauling out on Casa Beach. The Draft EIR concludes the project, "…is unlikely to displace any seal populations geographically, and the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces along the adjacent areas of coastline." (see page 3.2-25) Because the project would not have a significant impact with respect to displacing seals, no mitigation is necessary.

AK-5 The Draft EIR addresses long-term impacts on seals on page 3.2-25, concluding that the project, "…is unlikely to displace any seal populations geographically, and the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces along the adjacent areas of coastline." Furthermore, seal experts Dr. Hanan and Mr. Lecky are cited as supporting the conclusion that the project would not result in significant impacts on seals and concerns over mother-pup pairs were not raised.

AK-6 The seals that haul out on Casa Beach have become very well acclimated to the presence of humans at the viewing distances afforded by the breakwater, so it would be unnecessary for any joint-use alternative undertaken by the City to increase the distance between seals and human viewers.

AK-7 The project does not entail the complete removal of seals from the local ecosystem. The Draft EIR concludes that the project is unlikely to cause major geographical displacement of the seal population, as stated above in the response to comment AK-4. Accordingly, the project would not have a major impact on the ecosystem by altering the seal's presence or role, and no additional analysis is necessary.

AK-8 The seal pupping statistics provided in this comment are noted. Additional consideration of detailed seal statistics would have no effect on the analysis and conclusions stated in the Draft EIR regarding the project's impact on seals. Again, please note that the project does not propose and would not result in elimination of the local harbor seal colony.

AK-9 (cont.)

dredging action. Specifically, how will the issues and concerns referenced here be addressed and mitigated in the context of the proposed actions?

References

Sarah Allen, 1984, Pinniped Assessment in Point Reyes, California, 1983-1984

Sarah Allen, 1991, Harbor Seal Habitat Restoration at Strawberry Spit, San Fransisco Bay

Allen and Markowitz, May–December 1998, Monitoring the Potential Impact of the Seismic Retrofit Construction Activities at the Richmond-San Rafael Bridge of Harbor Seals (Phoca Vitulina)

Brasseur,1996,Deprivation Indicates Necessity For Haul-Out In Harbor Seals

Grigg, et. al., 2002, Nocturnal and Diurnal Haul-Out Patterns of Harbor Seals (Phoca Vitulina Richardsi) at Castro Rocks, San Fransisco Bay, California

Kopec, Harbor Seals in the Bay, San Fransisco Bay Seal Project

San Diego Baykeeper, 2004, La Jolla Children's Pool Issues and Facts Regarding the Proposal to Dredge the Children's Pool Beach to Allow for Joint Use

Suryan and Harvey, 1999, Variability in Reactions of Pacific Harbor Seals, Phoca Vitulina Richardsi, to Disturbance

AK-9 This comment summary is noted. The Draft EIR presented an adequate analysis of the project's impacts on seals, as stated in the responses to prior comments contained in this letter. No additional response is required.

La Jolla Children's Pool Project
Final Environmental Impact Report
Project No. 71362

Volume I

Prepared for:

City of San Diego
202 C Street, MS 35
San Diego, CA 92101-3860
Contact: Samir Mahmalji

Prepared by:

ICF Jones & Stokes
9775 Businesspark Avenue, Suite 200
San Diego, CA 92131
Contact: Bob Stark

State Clearinghouse Number: 1999011060

August 2009

La Jolla Children's Pool Project.
Final Environmental Impact Report. August 2009.
(ICF J&S 00482.08.) San Diego, CA.

Contents

Chapter		Page
	Executive Summary	**S-1**
	Project Synopsis	S-1
	Project Description	S-1
	Project Setting	S-2
	Summary of Significant Effects with Mitigation Measures	S-2
	Environmentally Superior Project Alternative	S-2
	Areas of Controversy	S-3
Chapter 1	**Introduction**	**1-1**
	Purpose of this EIR	1-1
	Requested Actions	1-1
	Lead Agency	1-2
	Responsible Agencies	1-2
	Trustee Agencies	1-2
	The CEQA Environmental Review Process	1-2
	Notice of Preparation	1-3
	Public Scoping Meeting	1-3
	Draft EIR and Public Review	1-4
	Final EIR	1-4
	Regulatory Documents	1-5
	Mitigation Monitoring and Reporting Program (MMRP)	1-5
	Environmental Impact Report Organization	1-5
Chapter 2	**Project Description**	**2-1**
	Introduction	2-1
	Project Purpose and Objectives	2-1
	Environmental Setting	2-2
	Project Background	2-3
	Project Components	2-5
	Upper Sand Excavation, Transfer, and Placement	2-5
	Lower Sand Decontamination and Children's Pool Reconfiguration	2-6
	Ongoing Maintenance of Restored Condition	2-7
	Regulatory Setting	2-8
	Federal	2-8
	State	2-14
	Local	2-21
	Required Approvals	2-33

National Oceanic and Atmospheric Administration / National Marine Fisheries Service 2-33
U.S. Fish and Wildlife Service 2-34
U.S. Army Corps of Engineers 2-34
California Department of Fish and Game 2-35
California Coastal Commission 2-35
Regional Water Quality Control Board—San Diego 2-36
City of San Diego 2-36
Project Alternatives 2-37
Year-Round Joint Use Alternative 2-37
Seasonal Joint Use 2-37
Open Breakwater and Sluiceways 2-37
Create a New Children's Pool 2-37
Offshore Seal Platform Alternative 2-38
No Project Alternative 2-38

Chapter 3 Environmental Analysis 3-1
Effects Found Not to be Significant 3-2
Agricultural Resources 3-2
Air Quality and Odor 3-2
Greenhouse Gasses 3-3
Mineral Resources 3-3
Noise 3-4
Paleontological Resources 3-4
Public Services and Facilities 3-4
Public Utilities 3-5

Section 3.1 Aesthetics and Neighborhood Character 3.1-1
Introduction 3.1-1
Existing Conditions 3.1-1
Scenic Vistas/Observation Points 3.1-2
Thresholds of Significance 3.1-5
Impacts and Mitigation Measures 3.1-6

Section 3.2 Biological Resources 3.2-1
Introduction 3.2-1
Existing Conditions 3.2-2
Terrestrial Habitats 3.2-2
Marine Habitats 3.2-5
Special Status, Managed, and Listed Species 3.2-18
Thresholds of Significance 3.2-20
Impacts and Mitigation Measures 3.2-21

Section 3.3 Geology and Soils 3.3-1
Introduction 3.3-1
Existing Conditions 3.3-1
Regional Geology 3.3-1
Faulting and Seismicity 3.3-2

Groundwater and Liquefaction....3.3-2
Soils and Geologic Formations....3.3-3
Topography....3.3-4
Coastal Processes and Erosion....3.3-5
Thresholds of Significance....3.3-6
Impacts and Mitigation....3.3-6

Section 3.4 Historical Resources....3.4-1
Introduction....3.4-1
Existing Conditions....3.4-1
Landform....3.4-1
Cultural Setting....3.4-2
Thresholds of Significance....3.4-4
Impacts and Mitigation Measures....3.4-4

Section 3.5 Human Health, Public Safety, and Hazardous Materials....3.5-1
Introduction....3.5-1
Existing Conditions....3.5-1
Waves and Currents....3.5-1
Rocky Shoreline and Marine Life....3.5-2
Contaminants....3.5-3
Thresholds of Significance....3.5-4
Impacts and Mitigation Measures....3.5-5

Section 3.6 Hydrology and Water Quality....3.6-1
Introduction....3.6-1
Existing Conditions....3.6-1
Hydrology....3.6-1
Thresholds of Significance....3.6-7
Impacts and Mitigation Measures....3.6-8

Section 3.7 Land Use....3.7-1
Introduction....3.7-1
Existing Conditions....3.7-1
Thresholds of Significance....3.7-2
Impacts and Mitigation Measures....3.7-2

Section 3.8 Recreational Resources....3.8-1
Introduction....3.8-1
Existing Conditions....3.8-1
Public Parks and Open Space....3.8-1
Thresholds of Significance....3.8-3
Impacts and Mitigation Measures....3.8-3
Would the project affect recreational activities?....3.8-3

Section 3.9 Transportation and Circulation....3.9-1
Introduction....3.9-1
Existing Conditions....3.9-1

Roadway Network....3.9-1
On-Street Parking....3.9-2
Thresholds of Significance....3.9-2
Impacts and Mitigation Measures....3.9-3

Chapter 4 Cumulative Impacts....4-1
Introduction....4-1
Aesthetics and Neighborhood Character....4-2
Biological Resources....4-2
Geology and Soils....4-3
Historical Resources....4-3
Human Health, Public Safety, and Hazardous Materials....4-3
Hydrology and Water Quality....4-3
Land Use....4-4
Recreational Resources....4-4
Transportation and Circulation....4-4
Growth Inducement....4-4
Irreversible Environmental Changes....4-5

Chapter 5 Alternatives....5-1
Purpose....5-1
Proposed Project Goals and Objectives....5-2
Alternatives Considered....5-2
Alternative 1 (No Project)....5-2
Alternative 2 (Year-Round Joint Use)....5-5
Alternative 3 (Seasonal Joint Use)....5-8
Alternative 4 (Open Breakwater Sluiceways)....5-10
Alternative 5 (Create a New Children's Pool)....5-13
Alternative 6 (Offshore Seal Platform)....5-16
Comparison of Alternatives....5-18
Environmentally Superior Alternative....5-20

Chapter 6 List of Preparers and References....6-1
City of San Diego....6-1
ICF Jones & Stokes....6-1
Contributors....6-2
References....6-2
2.0 Project Description....6-2
3.1 Aesthetics and Neighborhood Character....6-2
3.2 Biological Resources....6-3
3.3 Geology and Soils....6-7
3.4 Historical Resources....6-8
3.5 Human Health, Public Safety, and Hazardous Materials....6-8
3.6 Hydrology and Water Quality....6-9
3.7 Land Use....6-11
3.8 Recreational Resources....6-11

Appendices

Appendix A: **NOP, Comment Letters, and Scoping Meeting Minutes**

Appendix B: **La Jolla Children's Pool Joint Use Feasibility Study by San Diego Parks and Recreation, March 2, 2006**

Appendix C: **Biological Letter Report and Recommendations for Construction Regarding Pinniped Surveys at Children's Pool, La Jolla, California by Hanan and Associates, May 1, 2004**

Appendix D: **Potential Sources of Escherichia coli (E. coli) to Children's Pool in La Jolla, CA by George M. Simmons, Jr. Virginia Polytechnic Institute, revised October 18, 1998.**

Appendix E: **La Jolla Children's Pool Sand Excavation and Placement Plan by Coastal Environments, November 20, 2008**

Appendix F: **Declaration of Doyle Hanan, Ph.D by Hanan and Associates, January 22, 2006**

Declaration of Sarah Wilkin, October 21, 2008

Declaration of Joe Cordaro, January 4, 2008

Appendix G: **La Jolla Children's Pool—Joint Use, Effect of Excavation of the Children's Pool on Marine Resources by Coastal Environments, June 22, 2004**

Appendix H: **Marine Habitat Assessment, ICF Jones and Stokes, 2009**

Intertidal and Subtidal Biological Survey of the Children's Pool (Casa) and South Casa Beaches, MBC, 2008

Appendix I: **Terrestrial Habitat Assessment, ICF Jones and Stokes, 2009**

Appendix J: **Wildlife Assessment, ICF Jones and Stokes, 2009**

Appendix K: **EIR Geology Section Review, La Jolla Children's Pool Project EIR, La Jolla, California, Walter F. Crampton and Gregory A. Spaulding at TerraCosta Consulting Group, February 23, 2009**

Geology And Hydrology (Erosion) Study, Children's Pool Sand Excavation EIR, La Jolla, California, by TerraCosta Consulting Group, March 12, 2009.

Appendix L: **Traffic Memorandum by Linscott, Law and Greenspan, December 3, 2008**

Tables

Table		On Page
S-1	Matrix of Significant Impacts and Mitigation Measures	S-4
3.2-1	Relative Abundance and Location of Common Plant and Algal Species Recorded along Subtidal Biological Transects	3.2-10
3.2-2	Macroinvertebrate Species and Relative Abundance along Subtidal Biological Transects	3.2-13
3.2-3	Relative Abundance and Location of Fish Species Recorded along Biological Assessment Transects	3.2-16
3.7-1	Comparison of the Proposed Project with Local Plans	3.7-6
5-1	Comparative Environmental Analysis of Alternatives to the Proposed Project	5-19

Figures

Figure		Follows Page
2-1	Regional Map	2-2
2-2	Expanded Project Area Map	2-4
2-3	Project Site	2-4
2-4	1941 Configuration	2-4
2-5	Construction Scenario	2-6
2-6	Preliminary Grading Plan	2-6
2-7	Project Site Before and After	2-8
2-8	Elements of the Project Area	2-8
3.1-1	Scenic Resources	3.1-2
3.1-2	Project Vicinity	3.1-2
3.1-3	Key Observation Point Map	3.1-2
3.1-4	Key Observation Point Photos	3.1-2
	Photo 1 KOP A — Coast Walk	
	Photo 2 KOP B — Coast Walk	
	Photo 3 KOP C — Scripps Park	
3.1-5	Key Observation Point Photos	3.1-2
	Photo 1 KOP D — Shade Structure above Boomer Beach	
	Photo 2 KOP E — Shell Beach	
	Photo 3 KOP F — Coast Walk	
3.1-6	Key Observation Point Photos	3.1-2
	Photo 1 KOP G — Coast Walk	

Photo 2 KOP H — Panorama, End of Breakwater

Photo 3 KOP I — Coast Walk

3.1-7 Subarea E: Coast Boulevard — Visual Access....3.1-4

3.1-8 Identified Public Vantage Points 3.1-4

3.1-9 KOP G Proposed Project Design Visualization....3.1-8

3.2-1 Intertidal Zone on the Seaward Side of the Children's Pool Breakwater 3.2-6

3.2-2 Sand Channel off South Casa Beach....3.2-6

Acronyms

AB	Assembly Bill
ADD	Assistant Deputy Director
ADRP	Archaeological Data Recovery Program
AME	Archaeological Monitoring Exhibit
APE	area of potential effect
ARMP	Abalone Recovery and Management Plans
ASBS	Areas of Special Biological Significance
BI	Building Inspector
BMPs	Best Management Practices
breakwater	Children's Pool Breakwater
Cal/EPA	California Environmental Protection Agency
Caltrans	California Department of Transportation
CCA	California Coastal Act of 1976
CCC	California Coastal Commission
CCR	California Code of Regulations
CCS	California Current System
CDFG	California Department of Fish and Game
CDP	Coastal Development Permit
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CFR	Code of Federal Regulations
CIP	Capital Improvement Program
City	City of San Diego
cKOPs	candidate Key Observation Points
CM	Construction Manager
Cortese List	Hazardous Waste and Substances Sites List
CRHR	California Register of Historical Resources
CSVR	Consultant Site Visit Record
CTR	California Toxics Rule
CWA	Clean Water Act

cy	cubic yards
DEH	Department of Environmental Health
DO	dissolved oxygen
DTSC	Department of Toxic Substances Control
EAS	Environmental Analysis Section
EFH	Essential Fish Habitat
EIR	Environmental Impact Report
EMS	emergency medical services
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
ESL	Environmentally Sensitive Lands
F&G	Fish and Game
FMMP	Farmland Mapping and Monitoring Program
FMPs	fishery management plans
GHG	Greenhouse gas emissions
HAZWOPER	Hazardous Waste Operations and Emergency Response
HMD	Hazardous Materials Division
HRG	Historical Resources Guidelines
HSWA	Hazardous and Solid Waste Act
HWCL	California Hazardous Waste Control Law
IP	Individual Permit
LDC	Land Development Code
LIP	Local Implementation Plan
LLG	Linscott, Law and Greenspan Engineers
LUP	Land Use Plan
MBTA	Migratory Bird Treaty Act
mg/l	milligrams per liter
MHPA	Multiple Habitat Planning Area
MHW	Mean High Water
ml	milliliter
MLLW	Mean Lower Low Water
MLPA	Marine Life Protection Act
MMC	Mitigation Monitoring Coordination
MMPA	Marine Mammal Protection Act
MMRP	Mitigation Monitoring and Reporting Program
MPRSA	Marine Protection, Research, and Sanctuaries Act
MSA	Magnuson Stevens Fishery Conservation and Management Act
MSL	mean sea level
NCP	National Contingency Plan

NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List
NRHP	National Register of Historic Places
pH	hydrogen ion concentration
PI	Principal Investigator
pool	Children's Pool
ppt	parts per thousand
PRC	Public Resources Code
proposed project	La Jolla Children's Pool Project
RCRA	Resource Conservation and Recovery Act of 1976
RE	Resident Engineer
READ	Real Estate Assets Department
RFMCs	Regional Fisheries Management Councils
RWQCB	Regional Water Quality Control Board
SANDAG	San Diego Association of Government
SCCAT	Southern California Caulerpa Action Team
SD-LJ Reserve	San Diego-La Jolla Ecological Reserve
SDMC	San Diego Municipal Code
SDMR	San Diego Marine Refuge
SDP	Site Development Permit
SHPO	State Historic Preservation Officer
SOPs	standard operational procedures
SWRCB	State Water Resources Control Board
TMDLs	Total Maximum Daily Loads
USACE	U.S. Army Corps of Engineers
USC	U.S. Government Code
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
UV	ultraviolet rays

Executive Summary

Executive Summary

Project Synopsis

Project Description

The La Jolla Children's Pool Project (proposed project) aims to restore the Children's Pool (pool) and Casa Beach to their 1941 configurations by excavating and transferring approximately 3,000 cubic yards (cy) of beach sand from Casa Beach to South Casa Beach. The proposed project includes three primary project components which consist of: (1) upper sand excavation, transfer, and placement; (2) lower sand decontamination and Children's Pool reconfiguration; and (3) ongoing maintenance of restored condition. Specifically, excavated sand from Casa Beach will be transferred in 200 to 300 cy increments by a front-end loader from the upper sand area of Casa Beach, up the beach access ramp, south along the bluff-top paved walkway, to a conveyor system above the southern portion of South Casa Beach. Because the sand is known to contain unsafe levels of fecal coliform, it will first be decontaminated by exposing it to the sun's ultraviolet rays (UV). Sand would be spread in one- to two-foot thick layers, exposed to UV rays, and raked until bacteria returns to safe levels. Since sand buildup on Casa Beach and in the pool will likely occur after project construction, maintenance of the restored condition of the beach and pool will consist of smaller scale sand excavation (approximately 200 to 300 cy) and transfer every two to five years.

The project will require approval by the U.S. Army Corps of Engineers (USACE) for permits related to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Appropriations Act. A San Diego Regional Water Quality Control Board (RWQCB – Region 9) Clean Water Section 401 permit would also be required for the project. Both a Site Development Permit and a Coastal Development Permit would have to be issued by the City of San Diego for the project. In addition, a Coastal Development Permit from the California Coastal Commission will need to be issued for any activity extending seaward of the coastal zone's Mean High Tide Line. Lastly, in order to identify any potential indirect effects to abalone, essential fish habitat, marine mammals, or migratory birds, informal consultation with the National Marine Fisheries Service and U.S. Fish and Wildlife Service will also be completed for this project.

Project Setting

The proposed project site is located on the seaward side of Coast Boulevard in the community of La Jolla, within the jurisdictional boundaries of the City of San Diego, California. The project is bordered by Ellen Browning Scripps Park to the north, and developed land uses, primarily multi-family residential and hotel/commercial uses to the east and southeast. The Casa de Mañana residential facility for the elderly is located across Coast Boulevard. A lifeguard tower for Children's Pool, a stairway access down the bluff, public walkway, planters, vegetation, and Children's Pool breakwater are located near the project site. The Pacific Ocean surrounds the site to the west.

Summary of Significant Effects with Mitigation Measures

Significant direct (i.e., not cumulative) environmental impacts are discussed and analyzed in detail in Chapter 3 of this Environmental Impact Report (EIR). Significant cumulative impacts are discussed in Chapter 4. Technical reports were prepared to determine potential impacts on biological resources, geology/soils, hydrology/drainage, and transportation/traffic; their findings have been incorporated into this document, and copies of the reports are provided as appendices.

Project implementation has potential to result in significant direct impacts to biological resources and cultural resources. Mitigation measures have been incorporated into the project to reduce potentially significant impacts on biological and cultural resources to a level below significance. The proposed project will not contribute to any significant cumulative impacts. Table S-1 below presents a matrix of potentially significant impacts associated with the proposed project along with mitigation measures that will reduce or avoid the significant impacts.

Environmentally Superior Project Alternative

Five project alternatives, in addition to the CEQA-mandated "No Project" Alternative, are evaluated in this EIR. While Alternative 2 (Year-Round Joint Use), is identified as the environmentally superior alternative, it does not achieve the main project objective identified for the project, which is to comply with the California Superior Court order to return Children's Pool and Casa Beach to their 1941 physical configurations (refer to Chapter 2). Alternative 2 would allow for year-round shared use of Children's Pool and Casa Beach by humans and seals, providing a dedicated pathway for humans to access the ocean without disturbing

seals. Compared to the proposed project, Alternative 2 would result in a lesser degree of impacts to aesthetics and neighborhood character, biological resources, historical resources, land use, and transportation and circulation. Impacts related to recreational resources would be similar and greater effects would occur to geology and soils, human health, public safety and hazardous materials, and hydrology and water quality. In addition to not achieving the project objectives, Alternative 2 does not achieve compliance with the court order described in Chapter 2.

Areas of Controversy

Section 15123(b)(2) of the California Environmental Quality Act (CEQA) Guidelines requires that any known areas of controversy surrounding the project, including issues raised by agencies and the public, be disclosed. The proposed project as a whole has been controversial for many years. The focal point of controversy has been, and continues to be, the local seal population that occupies the beach at Children's Pool intermittently on a daily basis. While the project's intent of cleaning the beach sand and providing a safe swimming area that is protected from strong ocean currents and waves would appear to be of unanimous benefit to beach users, swimmers, divers, and other recreationalists, it would also temporarily restrict the seal population from using the beach and potentially result in a condition that would dissuade them from returning over the long term. Seal viewing has become popular over the past decade. The short term project consequence and potential long term consequences to the seal population have garnered opposition.

Table S-1. Matrix of Impact Determinations and Mitigation Measures

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
AESTHETICS AND NEIGHBORHOOD CHARACTER			
Would the proposed project affect the visual quality of the area, particularly with respect to views from public viewing areas, vistas, or open spaces as identified in the community plan? **Impact Determination:** Construction of the proposed project would affect the existing visual quality of the area, particularly with respect to views from public viewing areas, vistas, and open space identified in the La Jolla Community Plan. Construction staging and activities would create a temporary visual impact. Maintenance activities associated with the proposed project would not significantly impact the area's visual quality. Views from designated public viewing areas, vistas, and open spaces as identified in the Community Plan would be temporarily impacted by maintenance activities and would ultimately retain their inherent visual attributes in the nature of form, line, color and texture. Therefore, impacts on the area's visual quality would be less than significant.	Less than significant	No mitigation is required.	Less than significant
Would the proposed project substantially alter the existing character of the area? **Impact Determination:** The proposed project would temporarily alter the existing character of the area. Impacts on Children's Pool and the adjacent pocket beach would be limited to the project's construction period. Therefore, impacts on the area's existing character would be temporary and less than significant. Maintenance activities would not result in a substantial alteration to the area's existing character. Although maintenance activities would lead to a decrease in the size of Children's Pool beach and an increase in the elevation of South Casa Beach, the fundamental characteristics of these pocket beaches and the surrounding area would remain unchanged. Therefore, impacts on the area's existing character would be less than significant.	Less than significant	No mitigation is required.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
Would the proposed project result in the creation of a negative aesthetic site or project? **Impact Determination:** The proposed project would result in the creation of a negative aesthetic site, however this condition would be limited to the construction period. Therefore, the proposed project's negative aesthetic site impacts would be less than significant. Long term, the proposed project would not result in the creation of a negative aesthetic site or project. Therefore, impacts would be less than significant.	Less than significant	No mitigation is required.	Less than significant
Would the proposed project result in substantial change in topography or ground surface relief features? **Impact Determination:** Construction of the proposed project would not result in a substantial change in topography or ground surface relief features. Although the project would lead to a decrease in size of Children's Pool beach and an increase in the elevation of South Casa Beach, these alterations would not change the fundamental topography or surface features of the area. Likewise, maintenance activities would not result in a substantial change in topography or ground surface relief features. Therefore, impacts would be less than significant	Less than significant	No mitigation is required.	Less than significant
Would the proposed project result in the loss, covering, or modification of any unique geologic or physical features such as a sandstone bluff or rock outcrop? **Impact Determination:** The proposed project would not result in the loss, covering, or modification of any unique geologic or physical features such as a sandstone bluff or rock outcrop. The project specifically prohibits any alterations to natural geologic features such as the bluffs and rock outcroppings, or historical constructed features such as the breakwater and stairs. Likewise, project maintenance would not result in the loss, covering, or modification of any of	Less than significant	No mitigation is required.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
these unique geologic or physical features. Therefore, impacts would be less than significant.			
Cumulative Impact Determination: The proposed project would not result in significant impacts on aesthetics and neighborhood character. The only other proposed project in the area is the reconstruction of the Casa Beach Lifeguard Tower. This project is not expected to significantly alter the aesthetic quality of the area, as it would not encroach into the existing view corridor identified in the La Jolla Community Plan. Therefore, adverse cumulative impacts on aesthetics and neighborhood character would not occur.	Less than significant	No mitigation is required.	Less than significant
BIOLOGICAL RESOURCES			
Would the proposed project result in a reduction in the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals? **Impact Determination:** **Impact BIO-1.1:** The impacts on unique, rare, endangered, sensitive, or fully protected species resulting from the construction activities associated with the excavation, transport, and recontouring of the sandy beach at the Children's Pool and adjacent pocket beach would be significant. Impacts to specific habitats and species are described below. The disturbed coastal bluff habitat is currently degraded and subject to continual erosion resulting from both natural and human disturbances. Additional disturbance to the bluffs from transport and use of construction equipment could result in trampling and degradation of the remaining vestiges of native vegetation. The marine algae, *Phyllospadix* turfs, and benthic invertebrate species in the intertidal and subtidal habitats would be significantly impacted if the construction activity results in scouring of the breakwater and rocky outcrops, or results in degradation of the water quality and clarity. These benthic communities would also be significantly affected if too much sand is dispersed at one time such that the habitats become smothered.	Significant	**Mitigation Measure BIO-1.1.a:** A Biological Monitor shall conduct a pre-construction biological survey and shall be present throughout the construction process and shall monitor both the sand donor and receiver sites to ensure that sensitive areas and species are avoided and appropriate BMPs are implemented. If the monitor determines that sand is being dispersed too quickly and therefore causing negative impacts on the marine or terrestrial environment, construction shall be slowed or halted to allow more gradual dispersal. Additional measures overseen by the monitor will include: ▪ Ensure that the sand excavation area is centralized and equipment will not directly scrape or scour the hard intertidal surfaces (the breakwater and rocky outcrops) that support sensitive species.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
California spiny lobsters migrate seasonally between the surfgrass beds in the shallower elevations and the deeper, subtidal waters during spawning periods of their life cycle. Juvenile lobsters, as well as other species, use the surfgrass beds for nursery and feeding grounds. Although few abalone exist within the pool area, the site is considered to be an abalone recovery area for both green and black species. Black abalone, an intertidal species previously common in the area, was recently listed as endangered. Grunion could also be significantly impacted if construction activity on the beach and within the pool were to occur during the grunion spawning season when the fish use the beach and nearshore waters. Harbor seals would be significantly impacted by the construction and disturbance if they are not excluded from the area. Although the available haul out area surrounding the pool will be reduced, the harbor seals will search out alternative areas for hauling out. Construction activities would also result in a significant impact to seals if they occurred during the seal pupping season when the seals use the beach area for pupping, nursing and rearing of juveniles.		▪ Ensure that excavation and sand transfer activity in the lower pool beach area and on the lower pocket beach area avoids surfgrass turfs to the maximum extent practicable. ▪ Ensure that staging areas for the excavation and sand transfer equipment, and the sand transport route, are not sited within the bluff habitats. ▪ Ensure that transported sand is redistributed on the upper portions of the pocket beach above the high tide line and as far under the cliff base as feasible. ▪ Ensure that all excavation and sand transport equipment is checked for presence of *Caulerpa* fragments prior to use within the beach areas. ▪ Ensure that seals do not approach the construction equipment and, if so, halt construction until the seals are no longer within the active areas. **Mitigation Measure BIO-1.1.b:** Grunion spawning occurs from March through August, and peak spawning is late March to early June (CDFG 2001). Excavation shall occur outside of the grunion spawning season unless a qualified biologist determines that the spawning season has concluded, or as determined by and in consultation with the resource agencies. **Mitigation Measure BIO-1.1.c:** Spiny lobsters mate from November through May	

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
		and egg-bearing females occur in shallower waters. Excavation shall occur outside of the lobster breeding season unless a qualified biologist determines that the reproductive season has concluded, or as determined by and in consultation with the resource agencies. **Mitigation Measure BIO-1.1.d:** Seals may molt and pup anywhere from December to June. Excavation activity shall occur outside of the seal pupping season unless a qualified biologist determines that the pupping season has concluded, or as determined by and in consultation with the resource agencies.	
Would the proposed project result in a substantial change in the diversity of any species of animals or plants? **Impact Determination:** **Impact BIO-2.1:** Construction of the project could result in a substantial change in the diversity of animal or plant species, resulting in a significant impact. The benthic algae, surfgrass and marine invertebrate species that occupy the area constitute a highly diverse, species-rich assemblage and the diversity of these sensitive habitats would be significantly impacted if the ambient conditions of surrounding water clarity and nutritional load are changed. Newly exposed surfaces could be colonized by weedy, opportunistic species, or invasive species such as *Caulpera*, that would outcompete native and resident species and upset the balance of flora and fauna resulting in a degradation of diversity. **Impact BIO-2.2:** Periodic maintenance activities could result in significant impacts on the diversity of terrestrial and marine species. Maintenance activities could result in the same types of impacts referenced	Significant	**Mitigation Measures BIO-1.1.a–d**, as listed above. **Mitigation Measure BIO-2.1:** During excavation, a silt curtain on the seaward side of the berm shall be used to minimize changes to ambient turbidity and nutrient levels within the immediate waters that could contribute to changes in species composition.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
above since the proposed construction activities would be the same, although they would be of shorter duration and smaller sand volume. Nevertheless, repeated disturbance to established benthic communities, in the absence of mitigation measures, could result in an overall degradation of species diversity and resultant deterioration of the habitats that support these species.			
Would the proposed project interfere with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors?	Significant	**Mitigation Measures BIO-1.1.a–d**, as listed above.	Less than significant
Impact Determination: **Impact BIO 3.1:** Construction and maintenance activities could result in significant impacts to the movement of native residents or wildlife species, or migratory wildlife corridors. Migratory marine species, particularly groundfish and crustaceans would be significantly impacted if the construction activity affected the habitats they rely on for food, protection and breeding. While adult fish are highly mobile and would likely vacate the area, habitats such as surfgrass turfs are also wildlife corridors for lobster and many small invertebrates that are not as mobile as fish species. Harbor seals will be prevented from using the beach area during construction, but will likely continue to use the surrounding waters for foraging. Therefore, while temporarily inhibited from the immediate area during the construction phase, the overall migration of seals along this stretch of coastline will not be significantly impacted by the project. **Impact BIO-3.2:** Periodic maintenance activities could result in significant impacts to the movement of native residents or wildlife species, or migratory wildlife corridors. Shorter term maintenance activities could result in the same types of impacts referenced above since the proposed construction activities would be the same, although they would be of shorter duration and smaller sand volume. Nevertheless, repeated disturbance to established benthic communities, in the absence of mitigation measures, could result in an overall degradation of			

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
species diversity and resultant deterioration of the habitats that support these species. This in turn would decrease available foraging, breeding and protective habitat for other larger mobile species.			
Would the proposed project result in an impact on City, State, or federally regulated wetlands (including, but not limited to, coastal salt marsh, vernal pools, lagoon, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? **Impact Determination:** **Impact BIO-4.1:** The distribution and release of large volumes of sand over short periods of time could significantly impact regulated areas and species within the intertidal and subtidal zones. Significant impacts due to sand deposition could occur if too large a volume of sand is dispersed over sensitive benthic habitats, including surfgrass turfs. Although these habitats, and the occupants they support, are habituated to cyclic disturbance resulting from natural events such as storms, long shore movement of sand, and periodic short term scouring, they could be permanently smothered if sand dispersal is not carefully managed. The base of the disturbed coastal bluff area along the South Casa beach will benefit from additional sand deposition under the base of the bluffs. The natural, seasonal movement of sand on this pocket beach would ultimately redistribute the sand off shore, but increased sand volume at the base of the bluff would improve stability and reduce erosion. **Impact BIO-4.2:** The distribution and release of smaller volumes of sand associated with periodic maintenance activities could impact regulated areas and species within the intertidal and subtidal zones. This impact would be significant. Shorter term maintenance activities could result in the same types of impacts referenced above since the proposed construction activities would be the same, although they would be of shorter duration and smaller sand volume. Nevertheless, the potential smothering of established benthic communities, in the absence of mitigation measures, could result in the disappearance of species from the area and an overall degradation of this regulated section of	Significant	**Mitigation Measures BIO-1.1.a–d**, as listed above.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
the coastline.			
Would the proposed project result in a conflict with the provisions of the City's Multiple Species Conservation Program Subarea Plan or other approved local, regional, or state habitat conservation plan? **Impact Determination:** The project site is not situated within any MSCP or Multiple Habitat Planning Area (MHPA) and therefore any periodic maintenance involving the movement and distribution of sand will not conflict with any provisions of the MSCP.	No impact	No mitigation is required.	No impact
Cumulative Impact Determination: With the incorporation of the mitigation measures listed above, the project would have less-than-significant impacts on biological resources. The only other project identified, Casa Beach Lifeguard Tower reconstruction, is likewise not anticipated to result in adverse impacts on biological resources. Therefore, cumulative impacts on biological resources would not occur.	Less than significant	No mitigation is required.	Less than significant
GEOLOGY AND SOILS			
Would the proposed project be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project? **Impact Determination:** A geologic study performed for the project indicates that the project site would not be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project. Project maintenance would occur on the same site as project construction and would, thus, not be located on a geologic unit or soil that is unstable. Impacts would be less than significant.	Less than significant	No mitigation is required.	Less than significant
Would the proposed project result in a substantial increase in wind or water erosion of soils, either on or off the site? **Impact Determination:** There are no aspects of the proposed project that would be expected to result	Less than significant	No mitigation is required.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
in a substantial increase in wind or water erosion of soils on or off the project site. As such, no significant impacts would occur. Further, sand placement at South Casa Beach would result in beneficial impacts to erosion.			
Cumulative Impact Determination: The project would not result in any significant impacts on geology or soils. The only other proposed project in the area, reconstruction of Casa Beach Lifeguard Tower, is not expected to result in impacts on geology or soils. Therefore, no cumulative impacts on geologic hazards or soil erosion would occur.	Less than significant	No mitigation is required.	Less than significant
HISTORICAL RESOURCES			
Would the proposed project result in any adverse physical or aesthetic effects on a prehistoric or historic building, structure, object, or site? **Impact Determination:** **Impact CUL-1.1:** The presence of a recorded cultural resource site in close proximity to the project, coupled with the fact that the shoreline has fluctuated back and forth over the last 10,000 years, indicates a potential for unexpected cultural resources to be present. Given that there is no clear delineation between the sand that has accumulated within the pool over the last 70 to 80 years and sand that has been present for hundreds of years, it must be assumed that deeper sands potentially containing cultural resources could be affected, thus leading to a finding that significant impacts on archaeological resources could result. **Impact CUL-1.2:** Dredging associated with maintenance activities constitutes a potential significant impact on cultural resources due to the possibility that overexcavation might penetrate undisturbed layers of sand. Given the presence of a previously recorded cultural resource site in close proximity to the project, maintenance activities could result in a significant impact.	Significant	**Mitigation Measure CUL-1.1:** A qualified archaeologist shall monitor all construction activity that disturbs native soils. The monitoring shall involve both archaeological and Native American Monitors. If human remains are discovered, work will halt in that area and the following procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) will be undertaken. Due to its size, the details of Mitigation Measure CUL-1.1 are not included in this summary, but may be reviewed in Section 3.4.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
Would the proposed project result in any adverse physical or aesthetic effects to an architecturally significant building, structure, or object?	Less than significant	No mitigation is required.	Less than significant
Impact Determination: Impacts to historic resources that include the Children's Pool breakwater and stairs would be less than significant. Assuming that the avoidance required by the work plan is observed, no direct or indirect impacts on the breakwater or the stairs are anticipated. Project operation would not result in any adverse physical or aesthetic effects on an architecturally significant building, structure, or object. Therefore, impacts would be less than significant.			
Cumulative Impact Determination: The project would not result in any significant impacts to historical resources and potential impacts to archeological resources would be mitigated to less-than-significant levels. The only other project identified, Casa Beach Lifeguard Tower reconstruction, would likewise not result in adverse impacts to historical or archeological resources. Therefore, no cumulative impacts to historical or archeological resources would occur.	Less than significant	No mitigation is required.	Less than significant
HUMAN HEALTH, PUBLIC SAFETY, AND HAZARDOUS MATERIALS			
Would the proposed project create any known health hazard (excluding mental health)?	Less than significant	No mitigation is required.	Less than significant
Impact Determination: Project construction and maintenance would not create any known health hazards. Construction areas will be cordoned off to prevent public access during construction and construction BMPs will be implemented for worker safety and to help prevent spills associated with heavy equipment. In addition, a sand berm will be created to help prevent seals from hauling out onto the beach during construction while also creating a barrier between the construction area and the ocean. Therefore, impacts would be less than significant.			

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
Would the proposed project expose people or the environment to a significant hazard through the routine transport, use, or disposal of hazardous materials? **Impact Determination:** Project construction and maintenance would not expose people or the environment to a significant hazard through the routine transport, use, or disposal of hazardous materials. The project does not propose the routine transport, use, or disposal of hazardous materials. Fuel and lubricants for construction equipment would be contained within the equipment, and spill prevention measures will be implemented as part of established BMPs. The project proposes excavating contaminated sand, but this would be decontaminated on the excavation site prior to being transported to the receiver site. Therefore, impacts would be less than significant.	Less than significant	No mitigation is required.	Less than significant
Would the project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment? **Impact Determination:** Project construction and maintenance would not create a significant hazard to the public or environment as it would not be located on or near a hazardous materials site. No impacts would occur.	No impact	No mitigation is required.	No impact
Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? **Impact Determination:** Project construction and maintenance would not result in upset and accident conditions involving the release of hazardous materials into the environment. Fuel and lubricants for construction equipment would be contained within the equipment, and spill prevention measures will be implemented as part of established BMPs. In addition, a sand berm will be created to help prevent seals from hauling out onto the beach during	Less than significant	No mitigation is required.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
construction while also creating a barrier between the construction area and the ocean. As a result, potential construction period impacts such as increased turbidity and accidental hazardous materials leakage from equipment into the water column will be reduced. Therefore, impacts would be less than significant.			
Cumulative Impact Determination: The project would not result in any significant impacts on human health, public safety, and hazardous materials. Implementation of the project would result in beneficial effects on sand and water quality. Similarly, reconstruction of the Casa Beach Lifeguard Tower would not result in significant impacts on human health, public safety, and hazardous materials. That project is specifically being proposed to improve public safety in the project area. Therefore, no cumulative impacts on human health, public safety, and hazardous materials would occur.	Less than significant	No mitigation is required.	Less than significant
HYDROLOGY AND WATER QUALITY			
Would the proposed project result in the erosion of public beaches or adversely impact local shoreline sand supply? **Impact Determination:** The proposed project would not result in substantial erosion of public beaches or adversely impact local shoreline sand supply. No sand would be permanently removed from the local shoreline sand supply. Excavation of sand at Casa Beach would not result in any significant erosion impacts as the combination of the breakwater and remaining beach would protect the shoreline from erosion. Sand replenishment at South Casa Beach would provide better protection from erosion than under existing conditions. Therefore, impacts would be less than significant.	Less than significant	No mitigation is required.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
Would the proposed project result in changes in deposition or erosion that may be deposited in sensitive marine habitats? **Impact Determination:** The proposed project would not interfere with natural geological processes such as deposition. Expert analysis has determined that no significant erosion would result from construction of the proposed project. Therefore, impacts from changes in deposition, or erosion being deposited in sensitive marine habitats, would be less than significant.	Less than significant	No mitigation is required.	Less than significant
Would the proposed project result in a substantial alteration to on- and offsite drainage patterns due to changes in runoff flow rates or volumes? **Impact Determination:** Transferring sand from Casa Beach to South Casa Beach would not change runoff flow rates or volumes, nor would it alter drainage patterns in any way. Therefore, no impact would occur. In the long-term, the project would have no effect on drainage patterns or runoff flow rates or volumes. Therefore, there would be no impact.	No impact	No mitigation is required.	No impact
Would the proposed project result in an increase in pollutant discharges, including downstream sedimentation, to receiving waters during or following construction? **Impact Determination:** Implementation of standard operational procedures (SOPs) and best management practices (BMPs) will greatly reduce the potential for any pollutant discharge to occur as a result of construction activities (e.g., leakages from equipment). There are no operational components of the project that have potential to result in discharge of pollutants. Therefore, impacts would be less than significant.	Less than significant	No mitigation is required.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
Would the proposed project cause discharge into surface water or any alteration in surface water quality? **Impact Determination:** The implementation of construction SOPs and BMPs would reduce the potential impacts of discharge into surface waters or alteration of surface water quality to less than significant levels. There would be no discharge into surface water, or degradation of surface water quality, as a result of the proposed project. Therefore, impacts would be less than significant.	Less than significant	No mitigation is required.	Less than significant
Cumulative Impact Determination: The project would not result in any significant impacts on hydrology and water quality. The project would have beneficial effects on hydrology and water quality through decontamination of polluted sand and improvements to erosion conditions. Similarly, the Casa Beach Lifeguard Tower reconstruction would not result in significant impacts on hydrology and water quality. Therefore, no cumulative impacts on hydrology and water quality would occur.	Less than significant	No mitigation is required.	Less than significant
LAND USE			
Would the proposed project implement or result in a conflict with the goals, objectives, and recommendations of the City of San Diego Progress Guide and General Plan, the La Jolla Community Plan and Local Coastal Program Land Use Plan, and the State of California Coastal Commission? How is the proposed project consistent with the land use designation, intensity of development, and environmental goals of these plans? **Impact Determination:** The proposed project would not result in any conflicts with the goals, objectives, and recommendations of the City of San Diego Process Guide and General Plan, the La Jolla Community Plan and Local Coastal Program Land Use Plan, and the State of California Coastal Commission. Therefore, impacts would be less than significant.	Less than significant	No mitigation is required.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
Cumulative Impact Determination: The project would not result in any significant impacts on land use. The only other project identified, Casa Beach Lifeguard Tower reconstruction, would likewise not result in significant land use conflicts. Therefore, no cumulative land use impacts would occur.	Less than significant	No mitigation is required.	Less than significant
RECREATIONAL RESOURCES			
Would the proposed project affect recreational activities? **Impact Determination:** Project construction and maintenance would temporarily limit public access to the Children's Pool, the Children's Pool breakwater, South Casa Beach, and the La Jolla Underwater Park. No permanent loss of access to recreational activities would occur. Therefore, impacts would be less than significant. Overall project impacts would be beneficial since 'clean' beach space will be made available to the public, the reconfigured pool area will provide a secure swimming area, and the ocean will be easily accessible to snorkelers, divers, and swimmers entering and exiting the water.	Less than significant	No mitigation is required.	Less than significant
Cumulative Impact Determination: The project would not result in any significant impacts on recreational resources. The only other project identified, Casa Beach Lifeguard Tower reconstruction, would likewise not result in significant impacts on recreational resources. Therefore, no cumulative impacts on recreational resources would occur.	Less than significant	No mitigation is required.	Less than significant
TRANSPORTATION AND CIRCULATION			
Would the proposed project result in an increased demand for off-site parking? **Impact Determination:** Construction and maintenance activities associated with the proposed project would result in temporary loss of approximately five parking spaces. The temporary loss of approximately five parking spaces would not have a	Less than significant	No mitigation is required.	Less than significant

Environmental Effects	Level of Significance	Proposed Mitigation	Level of Significance after Mitigation
significant impact on off-site parking. Therefore, impacts would be less than significant. Implementation of the proposed project would not result in increased parking demand in the vicinity, thus long-term effects would also be less than significant.			
Would the proposed project result in effects on existing parking? **Impact Determination:** There is no dedicated parking for Children's Pool or the surrounding beaches. Construction and maintenance activities associated with the proposed project would result in temporary loss of approximately five parking spaces. The temporary loss of approximately five parking spaces would not have a significant impact on off-site parking. Therefore, impacts would be less than significant. Implementation of the proposed project would not result in increased parking demand in the vicinity, thus long-term effects would also be less than significant.	Less than significant	No mitigation is required.	Less than significant
Would the proposed project result in alterations to present circulation movements including effects on existing public access to beaches, parks, or other open spaces areas? **Impact Determination:** Since all construction and maintenance activities would occur off-street and access to the beach would be impacted only temporarily during construction and maintenance work, impacts on present circulation movements within the project area would be less than significant. Therefore, impacts would be less than significant.	Less than significant	No mitigation is required.	Less than significant
Cumulative Impact Determination: Construction of the proposed project, as well as long-term maintenance, would not have significant impacts on the existing transportation network or parking supply within the project area. The only other project identified, Casa Beach Lifeguard Tower reconstruction, would likewise not result in significant impacts on traffic circulation and parking supply. Therefore, no cumulative impacts on transportation and parking would occur.	Less than significant	No mitigation is required.	Less than significant

Chapter 1
Introduction

Chapter 1
Introduction

Purpose of this EIR

An Environmental Impact Report (EIR) is an informational document prepared pursuant to the California Environmental Quality Act (CEQA) to inform decision-makers, responsible or interested agencies, and the general public of the environmental effects of a proposed project. This Draft EIR presents environmental analysis conducted to determine the effects of the La Jolla Children's Pool project (referred to throughout this EIR as "the project" or "the proposed project"), and address appropriate and feasible mitigation measures and alternatives that would reduce or eliminate those impacts. A detailed description of the proposed project is provided in Chapter 2, "Project Description."

This Draft EIR has been prepared in conformance with the requirements of CEQA (Public Resources Code [PRC] 21000 et seq.); the State CEQA Guidelines (California Code of Regulations [CCR], Section 15000 et seq.); and the rules, regulations, and procedures for implementing CEQA adopted by the City of San Diego (City). The City will review and consider all comments to this Draft EIR prior to the completion of the Final EIR. Details on the review process of the Draft EIR and completion of the Final EIR are discussed later in this chapter.

This EIR is further intended to serve as the primary environmental document for all future entitlements associated with the proposed project, including all discretionary approvals requested or required to implement the project. In addition, this EIR is the primary reference document in the certification and implementation of mitigation measures for the proposed project.

Requested Actions

The project proposes to return La Jolla Children's Pool to its 1941 configuration. Approval of the project's components including sand excavation, decontamination, transfer, and placement; and ongoing pool maintenance is requested. Agencies will also need to grant permits in order for construction to proceed on the site. Chapter 2, "Project Description," presents a summary list of the agency approvals that will be required to implement the proposed project.

Lead Agency

The City of San Diego will serve as the lead agency pursuant to Section 15051 of the State CEQA Guidelines to maximize the efficiency of a single document for the various actions necessary to approve the project. A lead agency is the public agency that has principal responsibility for carrying out or approving a project that may have a significant effect on the environment. As the lead agency under CEQA, the City will be taking responsibility for conducting the environmental review and certifying the EIR.

Responsible Agencies

Below is a list of the responsible agencies for the proposed project. Per Section 21069 of CEQA, a responsible agency is a public agency, other than the lead agency, that has responsibility for carrying out or approving a project.

- California Coastal Commission (CCC)
- National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS)
- San Diego Regional Water Quality Control Board (RWQCB)
- U.S. Army Corps of Engineers (USACE)
- U.S. Fish and Wildlife Service (USFWS)

Trustee Agencies

Listed below are the trustee agencies for the proposed project. A trustee agency is a state agency that has jurisdiction by law over natural resources affected by a project that are held in trust for the people of the state of California by Section 21070 of CEQA.

- California Department of Fish and Game (CDFG)
- California State Lands Commission (CSLC)

The CEQA Environmental Review Process

As required by CEQA, this EIR has been prepared to provide decision makers, public agencies, and the general public with an objective and informative document that fully discloses the potential environmental effects of the proposed project. The EIR process is specially designed to facilitate the objective evaluation of potential significant direct, indirect, and cumulative impacts of the

proposed project and identify potentially feasible mitigation measures and alternatives that reduce or avoid the project's significant effects. In addition, as required, this EIR also identifies those adverse impacts determined to be significant after mitigation. The following sections discuss the CEQA environmental review process that was undertaken for the proposed project.

Notice of Preparation

In accordance with Section 15063 of the CEQA Guidelines, the City circulated a Notice of Preparation (NOP) to interested agencies, organizations, and individuals and solicited comments regarding the scope of environmental review for the project. This NOP was publicly noticed and distributed on October 19th, 2007. All comments received were considered during EIR preparation. The NOP and comments are included as Appendix A of this Draft EIR.

The NOP identified potentially significant impacts, which, as required, are addressed in this EIR. Additionally, several environmental areas that were determined to be potentially significant or less than significant with incorporation of mitigation measures are also discussed in this EIR. These include:

- Aesthetics and Neighborhood Character
- Biological Resources
- Geology and Soils
- Historical Resources
- Human Health, Public Safety, and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Recreational Resources
- Transportation and Circulation

Public Scoping Meeting

In accordance with CEQA Guidelines, a public scoping meeting was held on February 15, 2007, at the La Jolla Recreation Center, 615 Prospect Street, La Jolla, California 92037. During the public comment portion of the meeting, questions were raised with concerns regarding impacts that the proposed project may have on the area (see Appendix A, "Children's Pool Scoping Meeting Minutes"). A majority of the issues raised concerned the change in seal population at the site upon implementation of the project and possible impacts that would result on the aesthetics and neighborhood character, biological resources, and recreational activities of the area. Other issues focused on human

health and public safety and the request that the EIR include analysis of contamination of the sand and water at Children's Pool. Comments at the meeting also included ideas for alternatives to the proposed project including opening the sluiceways of the Children's Pool breakwater and continuing joint-use of the Children's Pool between people and seals.

Draft EIR and Public Review

This EIR will be circulated as a Draft EIR for public review and comment for a period of 45 days. During this period, comments from the general public, organizations, and agencies regarding environmental issues raised in the EIR and the EIR's accuracy and completeness may be submitted to the City of San Diego.

Final EIR

Upon completion of the public review period, a Final EIR will be prepared. The Final EIR will include the comments on the EIR received during the formal public review period as well as responses to those comments. Responses to comments will be reviewed by the San Diego City Council prior to making a decision to approve, revise, or deny the proposed project. CEQA also requires the City to adopt "findings" with respect to each significant environmental effect identified in the EIR prior to approval of the proposed project (PRC, Section 21081, and CEQA Guidelines, Section 15091).

For each such significant effect, CEQA requires the approving agency to reach one or both of the following findings:

- the project has been altered to avoid or substantially lessen significant impacts identified in the EIR; or
- specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers, make the mitigation measures or project alternatives identified in the final EIR infeasible.

In the event that the City, as the lead agency under CEQA, concludes that the proposed project will result in significant effects, which are identified in this EIR but not substantially lessened or avoided by feasible mitigation measures and alternatives, the City of San Diego must adopt a "statement of overriding considerations" prior to approval of the proposed project (PRC, Section 21081, subd. (b); and CEQA Guidelines, Section 15093). Such statements are intended, under CEQA, to provide a written means by which the lead agency balances in writing the benefits of the proposed project and the significant and unavoidable environmental impacts. Where the lead agency concludes that the economic, legal, social, technological, or other benefits outweigh the unavoidable

environmental impacts, the lead agency may find such impacts "acceptable" and approve the project.

Regulatory Documents

In addition to state guidelines, the following regulatory land use plans are referenced in this report:

- City of San Diego Progress Guide and General Plan
- La Jolla Community Plan
- La Jolla Local Coastal Program Land Use Plan

Mitigation Monitoring and Reporting Program (MMRP)

Pursuant to PRC Section 21081.6, public agencies, when approving a project, must also adopt a monitoring and reporting program for the changes that were incorporated into the project or made a condition of project approval to mitigate or avoid significant effects on the environment. The monitoring and reporting program is adopted at the time of project approval and must be designed to ensure compliance during the proposed project; the City of San Diego will implement the proposed project and mitigation monitoring and reporting program.

Environmental Impact Report Organization

This EIR is organized into chapters presenting information required by CEQA. In addition to the preceding Summary chapter, which is a requirement of the State CEQA Guidelines, and this Introduction chapter (Chapter 1), the EIR contains the following chapters:

- Chapter 2, "Project Description," presents a detailed description of the project and includes information on project location, the purpose and objectives identified for the project by the City, specific components and characteristics of the project, and a summary of discretionary actions and approvals necessary to implement the project.
- Chapter 3, "Environmental Analysis," provides detailed analyses of the project's environmental impacts and the mitigation measures identified to reduce the level of impact. Individual sections cover each environmental issue area identified during the scoping process and the preparation of this EIR as being potentially significant, including: (1) aesthetics and neighborhood character; (2) biological resources; (3) geology and soils;

(4) historical resources; (5) human health, public safety, and hazardous materials; (6) hydrology and water quality; (7) land use; (8) recreational resources; and (9) transportation and circulation. For each environmental issue area, existing conditions of the project site are characterized relative to the issue; significance thresholds used for the impact analysis are identified; the various direct, indirect, short-term, long-term, and any unavoidable consequences that would occur with implementation of the proposed project are described; and measures for mitigating impacts are set forth.

- Chapter 4, "Cumulative Impacts," provides an overview of other development projects in the vicinity of the proposed project, considers their cumulative impact on the environment, and analyzes whether the project would contribute to any such impacts. Included in the cumulative analysis is a discussion on growth inducement that addresses the potential for the project to directly or indirectly spur additional growth in the City or region.
- Chapter 5, "Alternatives," describes the alternatives to the proposed project, which are discussed and evaluated in accordance with CEQA requirements in order to discern whether different versions of the project reduce or avoid significant impacts, while successfully meeting the project objectives.
- Chapter 6, "List of Preparers and References," presents a list of the contributors to the EIR and contains the sources and references used in preparing this document.

A list of acronyms and abbreviations is provided for the reader's reference immediately following the list of tables and figures in the Table of Contents.

Chapter 2
Project Description

Chapter 2
Project Description

Introduction

This chapter describes the proposed La Jolla Children's Pool Project and highlights its key components. In accordance with the requirements of CEQA (Section 15124), a description of the proposed actions is provided as well as information about the location of the proposed project, a statement of objectives, and a general description of the characteristics of the project.

Project Purpose and Objectives

A statement of project objectives is required by the State CEQA Guidelines (Section 15124[b]). In general, an objective can be defined as the purpose for which something is proposed or as a type of goal. Under CEQA, a clear statement of objectives is important because alternatives evaluated in an EIR must achieve, in whole or in part, these objectives.

The principal objectives developed by the City for the proposed project are to remove sand buildup at Casa Beach and the Children's Pool, and reduce levels of water contamination in the Children's Pool to safe levels. This would comply with the Superior Court decision outlined below. The project objectives are further clarified as:

- comply with the California Superior Court decision that orders returning and maintaining the Children's Pool to its 1941 condition (excavation of approximately 3,000 cubic yards (cy) of sand);
- keep the Children's Pool safe and accessible for public swimming and recreation;
- reduce sand contaminants to achieve a quality deemed safe for public use of the beach; and
- meet requirements for water pollutant removal as set forth by the San Diego County Health Department Standards and any other resource agency water quality requirements.

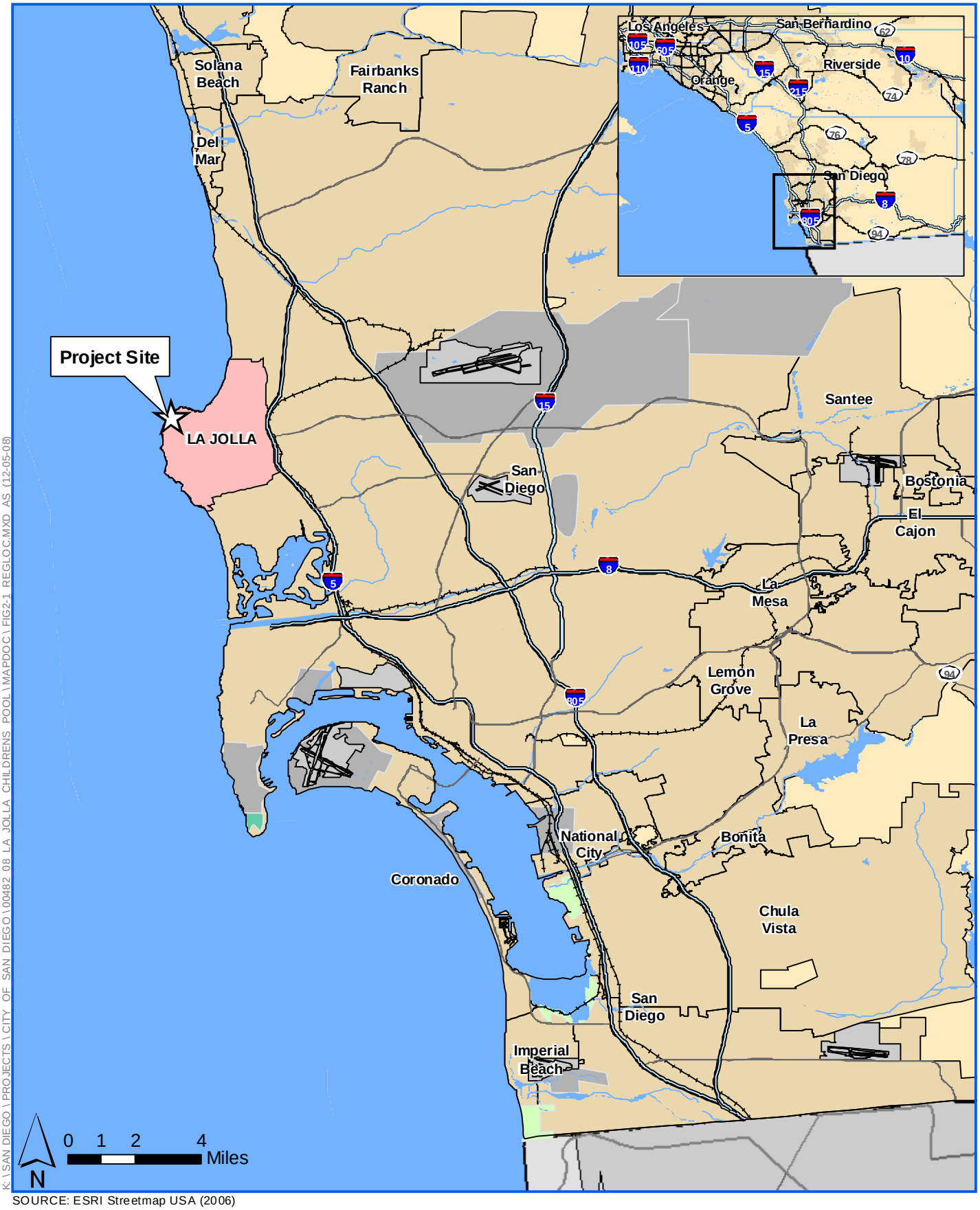
The project proposes the excavation of approximately 3,000 cubic yards of beach sand from Casa Beach and the Children's Pool to return the pool to its 1941 condition. The project also proposes the decontamination of sand likely to contain unsafe levels of fecal coliform. There are three primary components to the project: (1) *upper sand excavation, transfer, and placement; (2) lower sand decontamination and Children's Pool reconfiguration; and (3) ongoing maintenance of restored condition*.

Environmental Setting

The proposed project is located in the community of La Jolla, within the jurisdictional boundaries of the City of San Diego, California. The project area consists of the Children's Pool, Casa Beach, South Casa Beach, and the area between these beaches. This area is on the seaward side of Coast Boulevard at the base of Jenner Street, south of Shell Beach, north of the Marine Street Beach, and across from and northwest of Casa de Mañana (849 Coast Boulevard) (Figure 2-1). Casa Beach and the Children's Pool (pool) are protected from the open ocean by the Children's Pool Breakwater (breakwater), which was constructed in 1931 to reduce wave action and create a shallow, calm swimming area for human use. South Casa Beach is more exposed. Both beaches have stair access and the shoreline is composed of sandstone bluffs and rocky outcrops with small pocket beaches between them. Casa Beach is the largest of the sandy areas in the immediate vicinity.

The proposed project area includes a small portion of subtidal water adjacent to Casa and South Casa Beaches (including the pool), the intertidal zone of these beaches (including the pool and some rocky areas), and the small area between the mean high tide line of these beaches and the landward sandstone bluffs. The boundaries of the proposed project area include the top of these bluffs which is characterized by the Casa Beach lifeguard tower, public walkways, planters, railings, and vegetation (both native and nonnative). In addition, the portion of the breakwater nearest to the northwest corner of the Casa Beach lifeguard tower can also be considered a boundary of the proposed project area. These project boundaries encompass all areas where proposed work would be performed, staged, and accessed. Sand removal would occur only within the beach area adjacent to and east of the breakwater. Furthermore, the project does not propose any changes to the breakwater, bluffs, lifeguard tower, or other areas above the beach.

Offshore of the proposed project site are diverse marine habitats including sandy areas, rocky reefs, seagrass beds, and southern California kelp forests. The La Jolla Ecological Preserve and the San Diego Marine Life Refuge are located offshore and northwest of the proposed project area. Ellen Browning Scripps Park is on land roughly ¼-mile northwest of the proposed project area.



K:\SAN DIEGO\PROJECTS\CITY OF SAN DIEGO\00482 08 LA JOLLA CHILDRENS POOL\MAPDOC\FIG2-1_REGLOC.MXD AS (12-05-08)

SOURCE: ESRI Streetmap USA (2006)

Figure 2-1
Regional Map - La Jolla Children's Pool Project

The community of La Jolla lies to the east of the project area's shoreline; La Jolla is an urbanized area of mixed commercial and residential uses with a population of approximately 43,000 (SANDAG 2004).

Casa Beach, South Casa Beach, Children's Pool, and the adjoining coastline are important regional recreational attractions for residents and visitors. To protect public health and safety in the area, bathrooms and lifeguard services are available during most daylight hours at the landscaped bluff-top area between Casa and South Casa Beaches. Parking is available along on the entire length of Coast Boulevard and the adjacent surface streets. (See Figures 2-2 and 2-3 for more detail of the project area.)

Project Background

In June 1930, Ellen Browning Scripps requested permission from the Mayor and City Council of San Diego to construct a concrete breakwater in order to create a safe swimming zone for children adjacent to La Jolla Park. Soon after, City and State permission was granted and construction began. The project was completed in February 1931. Figure 2-4 depicts how the Children's Pool was configured in 1941. In June 1931, Ms. Scripps donated the labor and materials for the construction of the breakwater, however, the breakwater was built on tidelands and the surrounding tidelands are what constitute the Children's Pool. At the time the breakwater was constructed, the State of California owned the tidelands. The 1931 Tidelands Trust deeded the Children's Pool from the State to the City in trust for public use. On June 15, 1931, the Governor of California signed statute No. 937 granting the City of San Diego the right and title to the Children's Pool to be held

> …in trust for the uses and purposes and upon the express conditions following, to wit:
>
> (a) That said lands shall be devoted exclusively to public park, bathing pool for children, parkway, highway, playground, and recreational purposes, and to such other uses as may be incident to, or convenient for the full enjoyment of, such purposes;
>
> (b) The absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the right of convenient access to said waters over said lands for said purposes is hereby reserved to the people of the State of California.

The breakwater was initially constructed with four sluice gates that were designed to allow sand passage and avoid sand accumulation behind the breakwater. However, these sluice gates were closed by field engineers shortly after the pool was opened to the public, perhaps due to safety concerns, and they were eventually capped with concrete. In subsequent years sand gradually accumulated in the pool, eventually creating the much wider, larger beach that exists today.

Beachgoers, swimmers, and divers have utilized Casa Beach and the Children's Pool in large numbers since it opened in 1931. However, two factors have created significant human health and safety hazards at Casa Beach and the pool: exposure to unsafe ocean conditions and poor water quality.

Although the Children's Pool breakwater has fulfilled its intended purpose of protecting the area behind it from hazardous ocean waves, it has also had the unintended consequence of sediment capture. This has resulted in sand accumulation on Casa Beach, which has reduced the size of the pool. Because a rip current consistently forms at the pool's mouth, its reduced size has increased public exposure to this hazard. In addition, the pool water quality has reached levels considered unsafe for human contact. The San Diego County Department of Environmental Health (DEH) first closed the Children's Pool to water contact in September of 1997 because of high coliform counts. Since that time, DEH water sampling has consistently demonstrated unsafe levels of fecal coliform in the pool. As a result, the area is under constant health advisory status and related signs are posted. Due to these hazards, public use of Casa Beach and the Children's Pool for bathing and associated activities has reduced substantially over the last 10 years (Appendix B).

Over the last 20 years, there has been sporadic use of Children's Pool and Casa Beach by sea lions, elephant seals, and harbor seals; however, harbor seals started using Casa Beach much more frequently around 1990, and by 1995 were using the site daily for hauling out and as a rookery. The number of seals using the site has continued to grow, with numbers reaching as high as 164 in a 2004 count, but typically averaging between 70 and 80 (Appendix C). A connection between seals and unsafe levels of fecal coliform was confirmed by DNA testing in 1998 (Appendix D).~~)~~. Therefore, it is likely that as long as seals inhabit the Children's Pool and Casa Beach in large numbers, the water and sand there will remain unsafe for human contact.

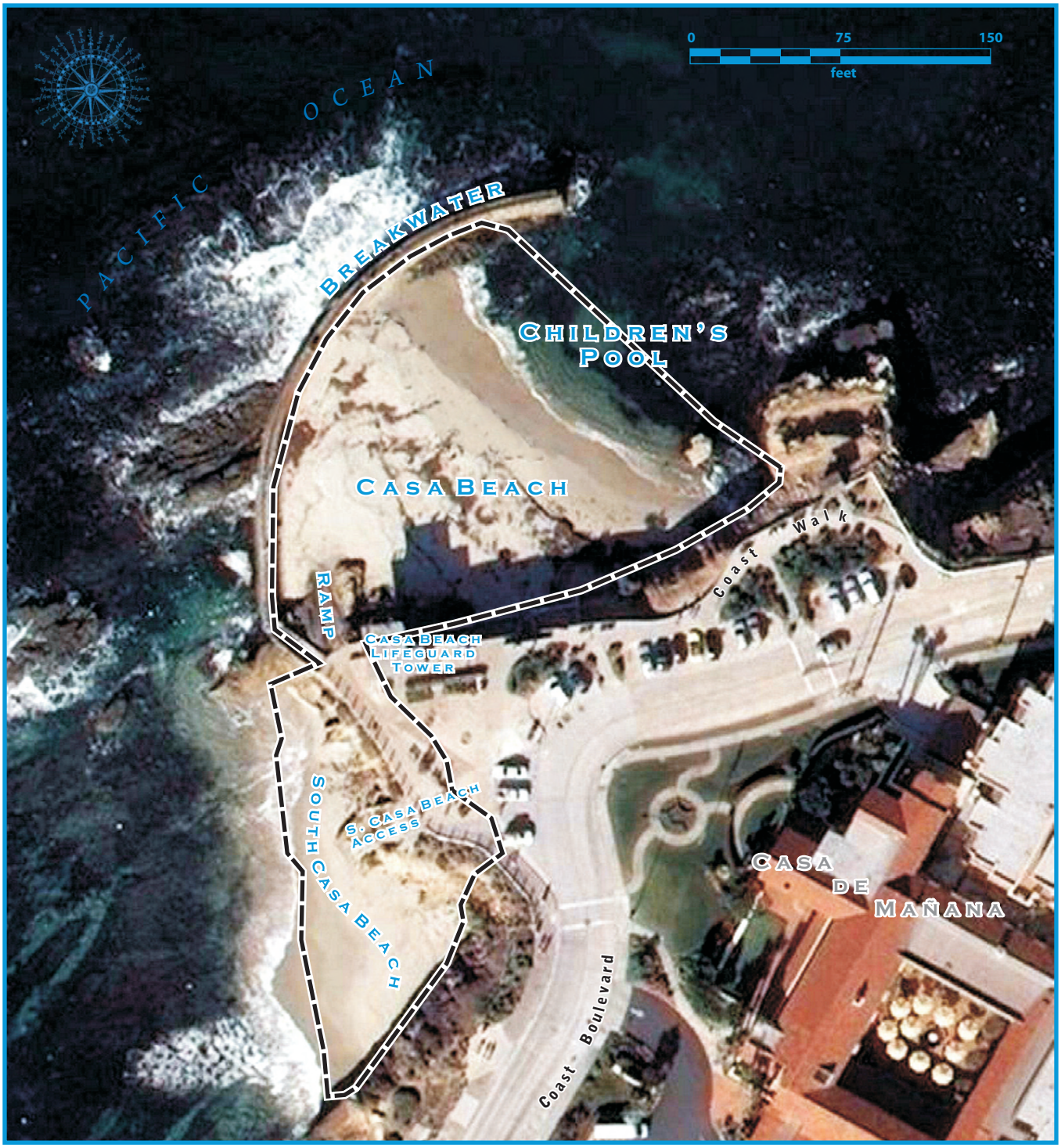
Because of the increasing hazards at Children's Pool and Casa Beach, a sand excavation project was proposed as early as 1998 by the City of San Diego. Several subsequent plans and associated studies have been developed since that time. However, potential conflict with marine mammal protection laws hindered any concrete steps toward sand excavation, as did public discord between individuals and groups favoring either sole seal or sole human use of Casa Beach and the Children's Pool. Ultimately, in 2005 the Superior Court of California ruled on the issue and ordered the following injunctive relief:

> Defendant City of San Diego is ordered to employ all reasonable means to restore the Children's Pool to its 1941 condition by removing sand build-up and further to reduce the level of water contamination in the Children's Pool to levels certified by the County of San Diego as being safe for humans (Superior Court of California 2005).



Soucre: Landiscor, Flight Date: January 2008

Figure 2-2
Expanded Project Area Map - La Jolla Children's Pool Project



Soucre: Google Earth PRO and Coastal Environments

Legend
Limits of Work

Figure 2-3
Project Site - La Jolla Children's Pool Project



Source: San Diego Historical Society #79:741-712

Figure 2-4
1941 Configuration-La Jolla Children's Pool Project

Project Components

Figure 2-5 shows the project site and construction components. Figures 2-6a, 2-6b and 2-6c show the preliminary grading plan and cross-sections for the proposed project. Additional information about each element is provided in the sections that follow.

Upper Sand Excavation, Transfer, and Placement

The project proposes the excavation of 3,000 cubic yards of sand from the upper, landward side of Casa Beach. This sand is unlikely to be contaminated by seal feces because this area is above the current mean high-high water mark. Seals typically haul out in the intertidal zone of the beach, which is below this mark. Nonetheless, this sand would be tested to ensure it is safe for human contact before being transferred to South Casa Beach for placement. Therefore, preconstruction sediment sampling is the first action of the proposed project.

If upper sand sediment sample results confirm that the sand is safe, construction would begin. If sediment sample results show that the upper sand is contaminated, onsite decontamination measures would be implemented for this sand. Then construction would begin. This would extend the proposed construction schedule by approximately two weeks.

The first step in the construction process would be the installation of a sand berm at approximately the mean low-low water line of Casa Beach. This berm would be approximately 8 feet high and 10 feet wide and stretch from the breakwater (northwest) to the bluffs (southeast). The berm would serve as a seal deterrent and construction buffer. The size and steep slope of the berm combined with the noise and general disturbance of construction activities would deter seals from hauling out onto Casa Beach. If, for any reason, stray seals cross over the berm onto the beach, City staff or other qualified personnel would shoo the animal(s) away from the construction area. The berm would also prevent tide and wave action from affecting the construction area, thus keeping the interior, landward side of its placement dry. Furthermore, if any accidental spill were to occur as a result of construction activities, the berm would prevent hazardous materials from entering the ocean.

Once the berm is in place, sand excavation would begin at upper Casa Beach. This sand would be transferred to South Casa Beach in daily increments of 200 to 300 cubic yards, thus requiring 10 to 15 days for completion of the 3,000 cubic yards excavation. This would create a large depression at upper Casa Beach, which will be used in the next step of the process (see below). In addition, construction plans will identify sensitive resources, such as the breakwater, to indicate where construction activities would be prohibited to assure that sensitive resources are not affected during construction and future maintenance (see Figure 2-5). All work immediately adjacent to the breakwater would be done by hand.

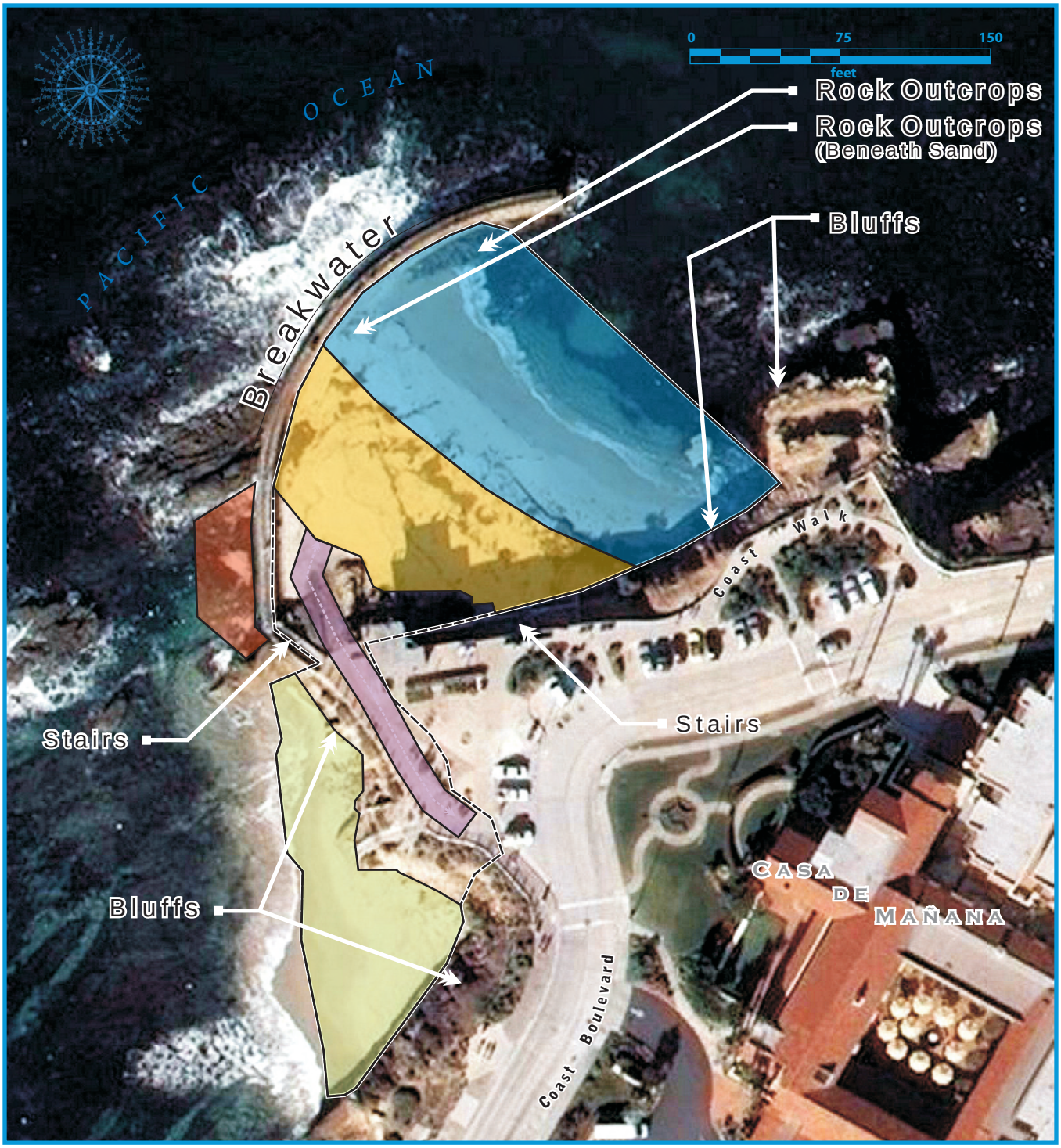
Sand would be transferred by a front-end loader from upper Casa Beach, up the beach access ramp, south along the bluff-top paved walkway, to a conveyor system above the southern portion of South Casa Beach. This conveyor system would function similar to a slide whereby the loader would place sand at the top above the coastal bluffs, where it would be conveyed down to the bottom of the slide onto the upper, landward, southern portion of South Casa Beach. In earlier excavation plans the sand placement site was divided into two parts (Site 1 and 2) as shown in Appendix G, Joint Use, Effect of Excavation of the Children's Pool on Marine Resources by Coastal Environments. During the environmental review process, it was determined that there would be no value in placing the sand at Site 1 and Site 2 was recommended as the preferred placement site. In addition to lessening potential impacts to biologically sensitive resources found at Site 1, placing the sand at Site 2 would result in positive effects on beach, bluff, and shoreline erosion conditions at South Casa Beach. Therefore, the sand placement site is Site 2, located west and southwest of the breakwall at South Casa Beach, above the mean high water line (see Figure 5-1 in Appendix E, Sand Excavation and Placement Plan).

The sand would be placed on South Casa Beach in 200 to 300–cubic yard increments. This slow, incremental method would allow the sand to be spread by hand, avoiding potential impacts on area ecology. Sand would be contoured by hand into natural form (i.e., not simply left in piles). It is expected that the upper, landward, southern portion of South Casa Beach would increase in elevation by approximately three feet. Sand placed on South Casa Beach would likely migrate over time onshore, nearshore, and offshore through natural processes (e.g., gravity, wind, tide, and waves).

Lower Sand Decontamination and Children's Pool Reconfiguration

As previously discussed, the lower beach sand at Casa Beach is likely contaminated by unsafe levels of fecal coliform from seal feces. This sand would require decontamination in order to meet the objective of improving water quality and making Casa Beach and Children's Pool safe for public use. Decontamination is required because the sand is likely to interact with the water due to tidal and wave action, thus contaminating the water. Studies have shown that the sun's ultraviolet rays (UV) exposure is an effective way to reduce fecal coliform levels in contaminated sediment to levels safe for human contact (see Section 3.5, "Human Health, Public Safety, and Hazardous Materials"). Therefore, this would be the method used to decontaminate the polluted sand.

Sand from the lower, seaward side of Casa Beach (above the berm) would be excavated and transferred to the large depression on the upper beach created during the previous construction component. Sand would be spread in the upper beach depression in one- to two-foot thick layers. Once spread in the depression, the sand would be exposed to UV rays and raked until bacteria returns to safe



Soucre: Google Earth PRO and Coastal Environments

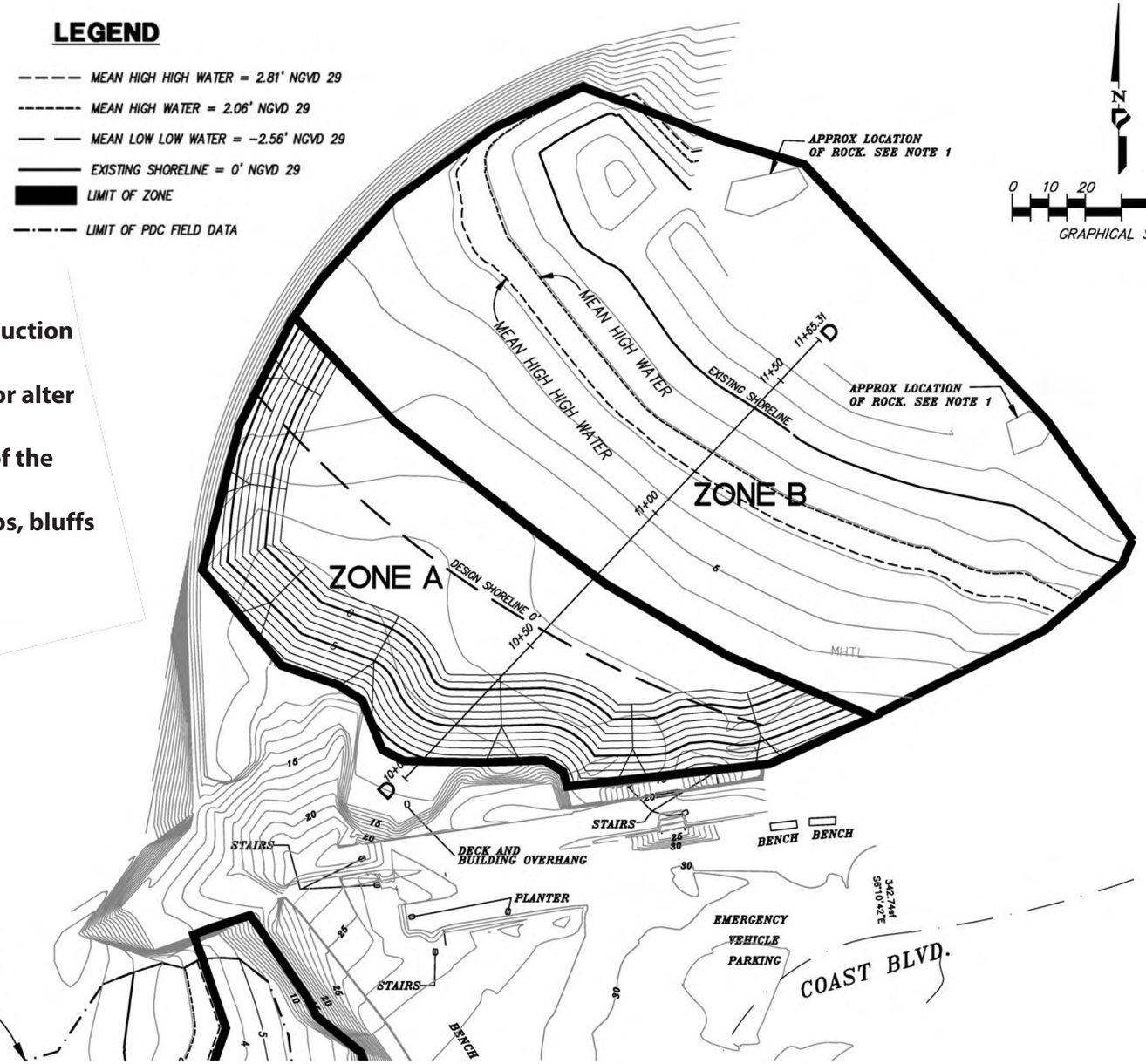
Legend

- Upper Sand Area
- Lower Sand Area
- Sand Placement Site #1*
- Sand Placement Site #2
- Sand Transport Route

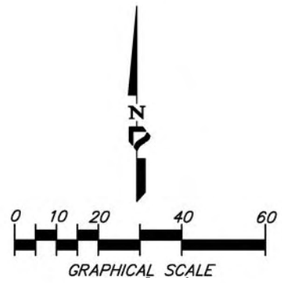
NOTE: No construction activities shall encroach upon or alter the physical characteristics of the breakwater, bedrock outcrops, bluffs or stairs.

*** Sand Placement Site #1 was previously considered and rejected, it is shown for informational purposes only.**

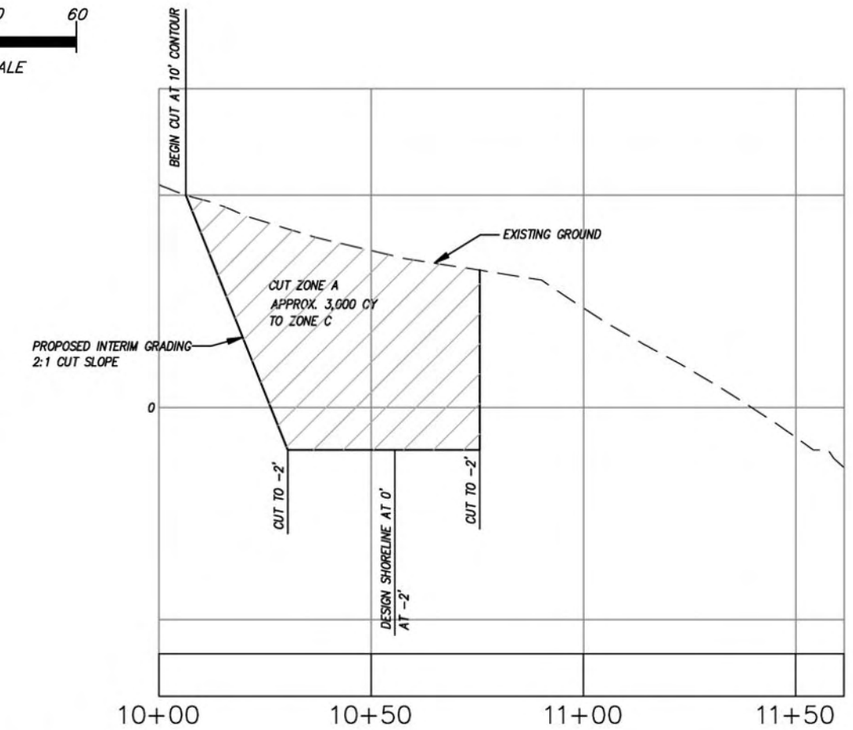
Figure 2-5
Construction Scenario- La Jolla Children's Pool Project



NOTE: No construction activities shall encroach upon or alter the physical characteristics of the breakwater, bedrock outcrops, bluffs or stairs.



NOTE:
1. CONTRACTOR TO PLACE TEMPORARY BERM AWAY FROM THE ROCKS TO INSURE THE SEALS CAN NOT ACCESS THE TOP OF THE BERM FROM THE ROCKS

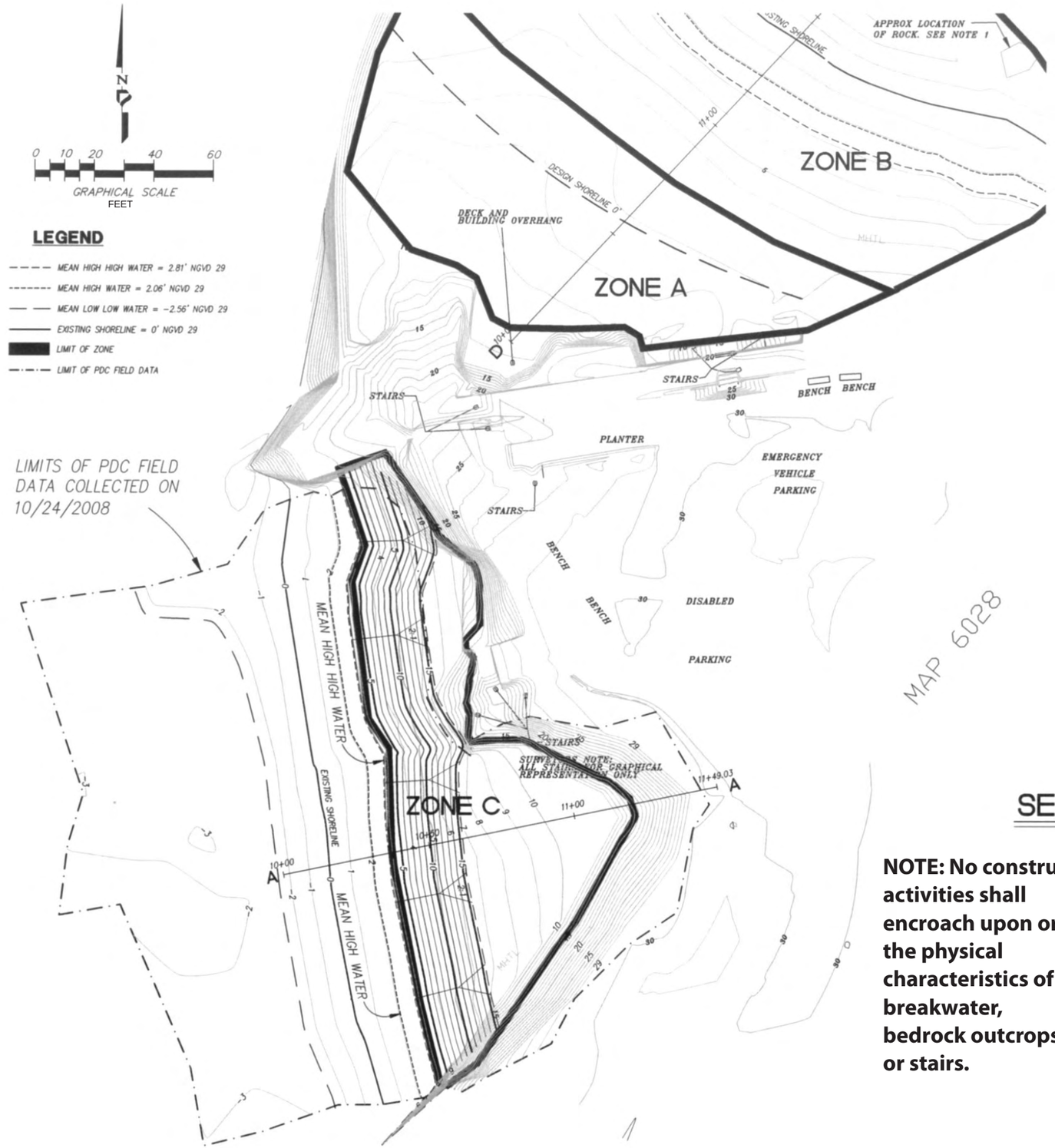


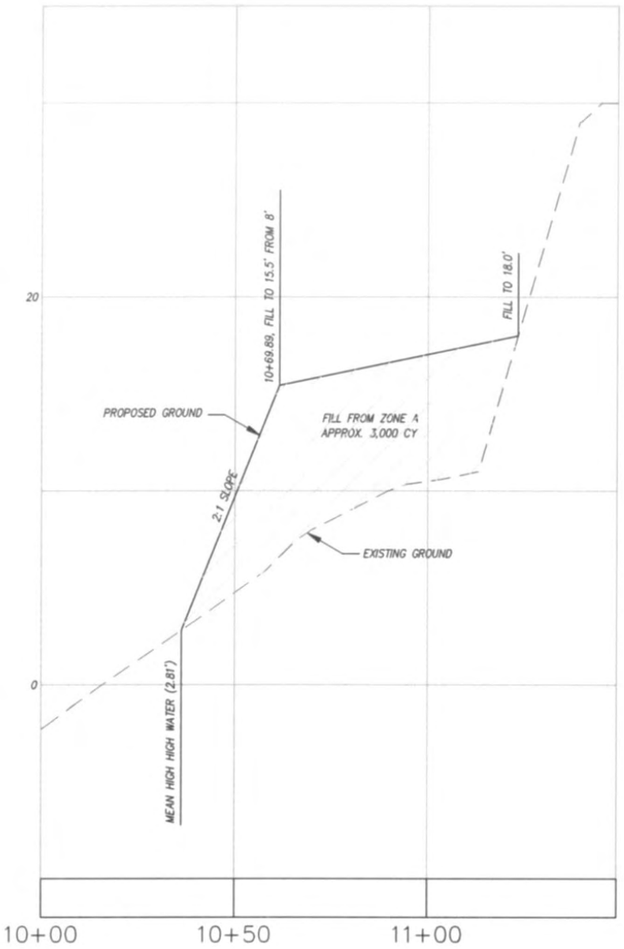
SECTION D-D: PHASE I - CUT ZONE A

Vertical exaggeration 5:1

Preliminary Drawings - NOT FOR CONSTRUCTION

Figure 2-6a
Preliminary Grading Plan - La Jolla Children's Pool Project





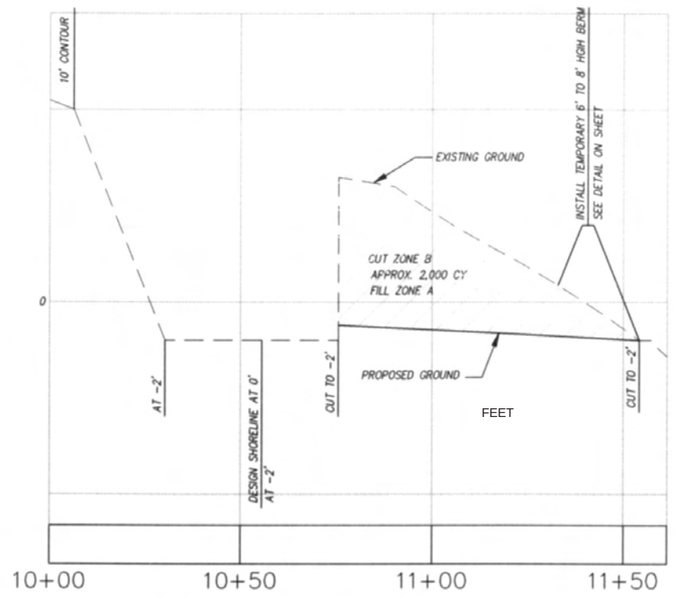
SECTION A-A: PHASE II FILL ZONE C

Vertical exaggeration 5:1

NOTE: No construction activities shall encroach upon or alter the physical characteristics of the breakwater, bedrock outcrops, bluffs or stairs.

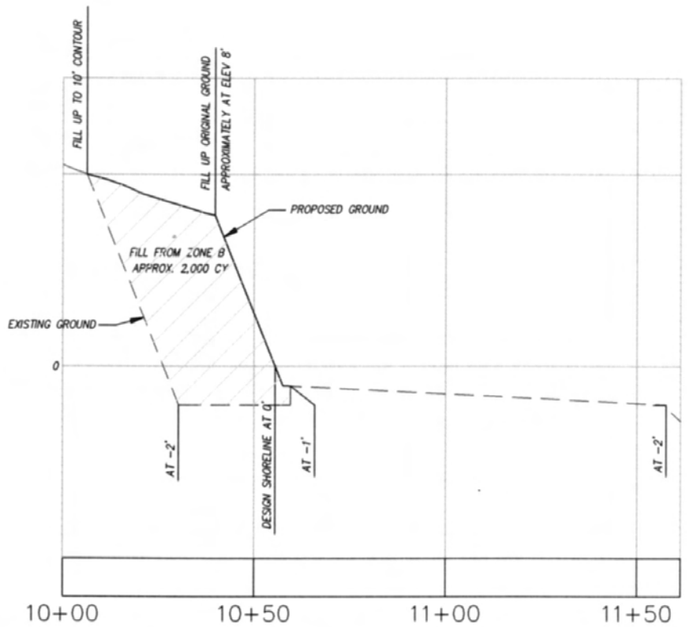
Preliminary Drawings - NOT FOR CONSTRUCTION

Figure 2-6b
Preliminary Grading Plan - La Jolla Children's Pool Project



SECTION D-D: PHASE III CUT ZONE B

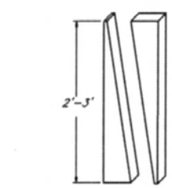
Vertical exaggeration 5:1



SECTION D-D: PHASE IV - FILL ZONE A

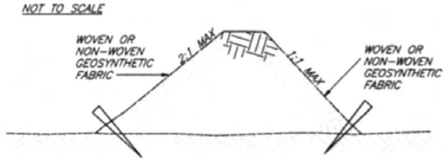
Vertical exaggeration 5:1

NOTE: No construction activities shall encroach upon or alter the physical characteristics of the breakwater, bedrock outcrops, bluffs or stairs.



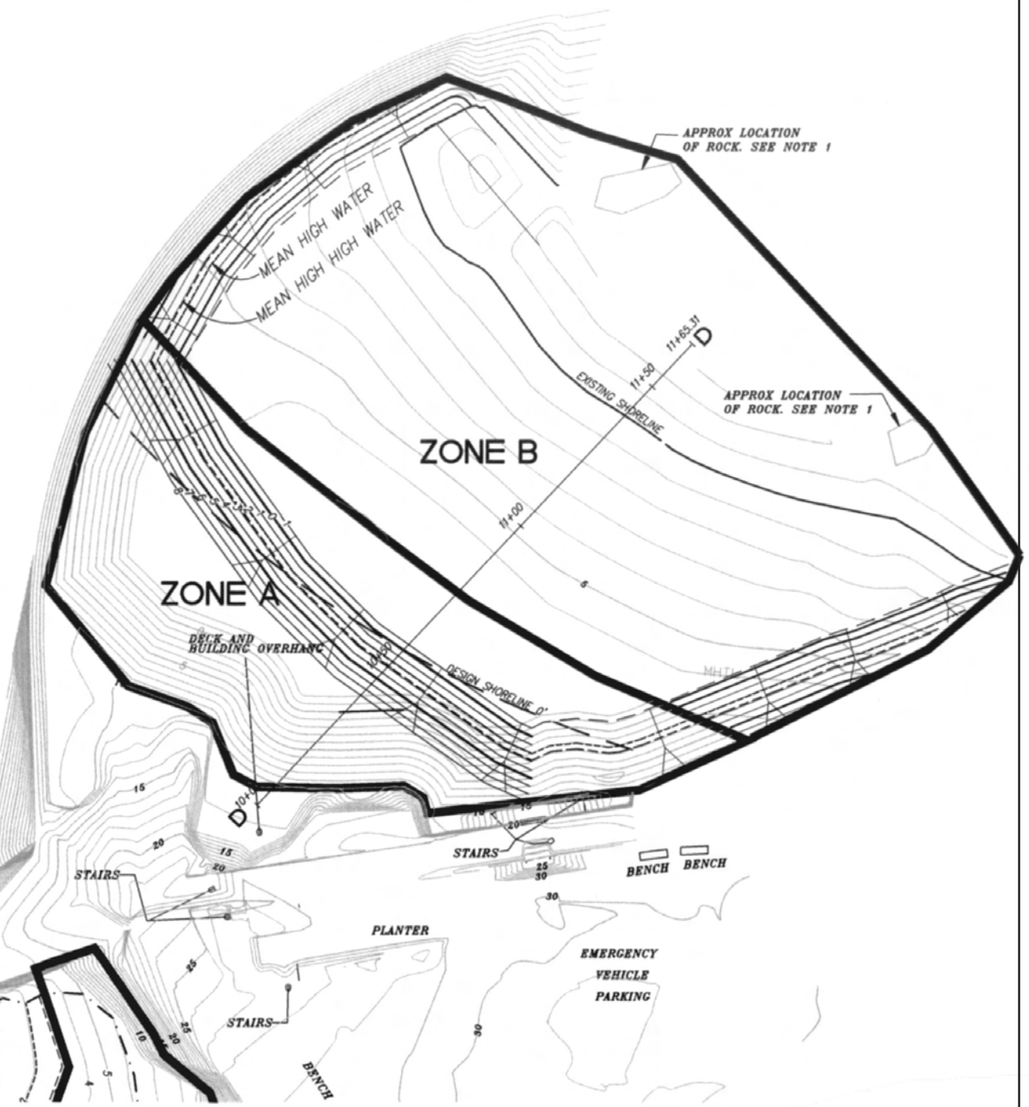
LIMITS OF PDC FIELD DATA COLLECTED ON 10/24/2008

TYPICAL CONSTRUCTION STAKE
SAW 2X4 LUMBER ON DIAGONAL
NOT TO SCALE



BERM DETAIL





Preliminary Drawings - NOT FOR CONSTRUCTION

Figure 2-6c
Preliminary Grading Plan - La Jolla Children's Pool Project

levels (one to two days depending on sunlight), then another layer would be added. It is estimated that 10 removal and spreading events will be needed to excavate sand from the lower beach and decontaminate it on the upper beach. At this the point, the depression will have been filled.

The next step would consist of excavation from within the Children's Pool to increase its depth and size. This would be accomplished by an excavator working from the landward side of the berm, reaching into the pool, excavating wet sand, and transferring it to the upper beach. Sand would be moved to the upper beach by the excavator, or by the excavator dumping the sand into a front-loader (also located on the dry, landward side of the berm) that would then transfer the sand to the upper beach. This sand would be placed on the upper beach for spreading, decontamination, and contouring.

After wet sand excavation is complete, the berm would be deconstructed incrementally. The final phase of berm deconstruction will be timed with low tide(s) to minimize working with and in wet sand. Sand from the berm would be transferred to the upper beach for spreading, decontamination, and contouring.

Casa Beach and the Children's Pool would then be contoured in a natural, sloping fashion to reflect the 1941 condition. The end result of this reconfiguration would be a smaller, more steeply sloping beach and larger, deeper pool than current conditions (Figure 2-7).

Sand decontamination combined with the seal deterrence resulting from construction activities will improve sand and water quality to levels safe for human contact. Following the completion of contouring, six, 6-foot sediment cores will be taken from Casa Beach. A composite sample will be extracted from each 6-foot core, and samples will be analyzed for bacteria. If sediment samples are found to contain unsafe levels of bacteria, further decontamination activities may be implemented. Water samples will also be taken on a regular basis following construction to ensure water quality is improving to levels safe for human contact.

Figure 2-8 includes photographs of the project elements discussed above including Casa Beach, the Children's Pool breakwater, lifeguard tower, access ramp, and paved walkways.

Ongoing Maintenance of Restored Condition

The Children's Pool breakwater will most likely continue to serve as a sediment trap. As a result, sand buildup on Casa Beach and in the pool will likely occur after project construction. Therefore, the proposed project would maintain the restored condition of the beach and pool by implementing ongoing maintenance, consisting of sand excavation and transfer every two to five years. The volume of sand to be excavated would be approximately 200 to 300 cubic yards, an

amount much smaller than the initial project's 3,000 cubic yards. This sand is unlikely to be contaminated; however, sediment and water testing conducted prior to maintenance would confirm this. If sediment and/or water are found to be contaminated, decontamination measures similar to those implemented during the initial construction phase would also be implemented for maintenance. If necessary, maintenance would likely be on a relatively small scale and would require a week or less for excavation, transfer, placement, and contouring.

Regulatory Setting

Federal

Clean Water Act

The federal Water Pollution Control Act Amendments of 1972, better known as the Clean Water Act (CWA) (33 U.S. Government Code [USC] 1251–1376), as amended by the Water Quality Act of 1987, is the major federal legislation governing water quality (EPA 2002). The purpose of the federal Clean Water Act (CWA) is to "restore and maintain the chemical, physical, and biological integrity of the nation's waters." Discharges into waters of the U.S. are regulated under Section 404 of the CWA. Waters of the U.S. include: (1) all navigable waters (including all waters subject to the ebb and flow of the tide); (2) all interstate waters and wetlands; (3) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, or natural ponds; (4) all impoundments of waters mentioned above; (5) all tributaries to waters mentioned above; (6) the territorial seas; and (7) all wetlands adjacent to waters above. Important applicable sections of the Act are as follows:

- Section 303 requires states to develop water quality standards for all waters and submit to the federal EPA for approval all new or revised standards established for inland surface and ocean waters. Under Section 303(d), the state is required to list water segments that do not meet water quality standards and to develop action plans, called Total Maximum Daily Loads (TMDLs), to improve water quality.
- Section 304 provides for water quality standards, criteria, and guidelines.
- Section 401 requires an applicant for any federal permit that proposes an activity that may result in a discharge to waters of the United States to obtain certification from the state that the discharge will comply with other provisions of the Act. Certification is provided by the RWQCB. A section 401 permit from the RWQCB would be required for the proposed project.
- Section 402 establishes the NPDES, a permitting system for the discharge of any pollutant (except for dredge or fill material) into waters of the U.S. This permit program is administered by the RWQCB.



Children's Pool Existing Conditions



Children's Pool Proposed Project (Simulated View)

Figure 2-7
Project Site Before and After-La Jolla Children's Pool Project

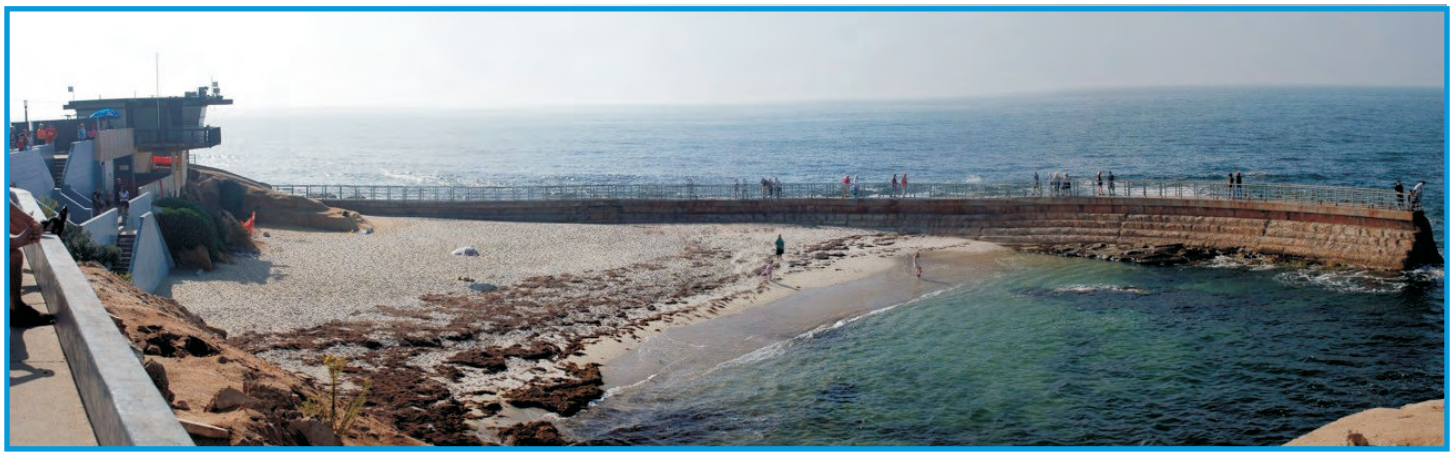


Photo 1: Panoramic Photograph of Children's Pool Breakwater and Casa Beach



Photo 2: Casa Beach Lifeguard Tower



Photo 3: Casa Beach Access Ramp



Photo 4: Seals on Casa Beach

Figure 2-8
Elements of the Project Area - La Jolla Children's Pool Project

- Section 404 provides for issuance of dredge/fill permits by the USACE. Permits typically include conditions to minimize impacts on water quality. Common conditions include (1) USACE review and approval of sediment quality analysis prior to dredging, (2) a detailed pre- and post-construction monitoring plan that includes disposal site monitoring, (3) timing and water quality restrictions on flow back of dredged water at the dredging site, and (4) requiring compensation for loss of waters of the U.S. A section 404 permit from USACE would be required for the proposed project.

The proposed project would require authorization under Section 404 of the CWA in the form of an Individual Permit (IP) for excavation of the pool sand and the adjacent beach nourishment activity. Individual Permits also require a Section 404(b)(1) alternatives analysis that must be conducted for disposal of dredge or fill material into waters of the U.S. This NEPA documentation will be prepared as part of the permit processing by the USACE.

On October 5, 2005, USACE stated that the project will require an Individual Permit for activity that will occur within jurisdictional waters of the U.S below the High Tide Line. As part of the IP process, USACE will publish a Public Notice.

Endangered Species Act

The ESA protects plants and wildlife that are listed as endangered or threatened by USFWS and NMFS. Section 9 of the ESA prohibits the taking of endangered wildlife, where taking is defined as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in such conduct" (Code of Federal Regulations (CFR), title 50, section 17.3). For plants, this statute governs removing, possessing, maliciously damaging, or destroying any endangered plant on federal land and removing, cutting, digging-up, damaging, or destroying any endangered plant on non-federal land in knowing violation of state law.

Under Section 7 of the ESA, federal agencies are required to consult with USFWS or NMFS as applicable if their actions, including permit approvals or funding, could adversely affect an endangered species (including plants) or its critical habitat. Through consultation and the issuance of a Biological Opinion, USFWS or NMFS may issue an incidental take statement allowing take of the species that is incidental to another authorized activity provided the action will not jeopardize the continued existence of the species. In cases where the federal agency determines its action may affect but would be unlikely to adversely affect a federally listed species, the agency informally consults with USFWS and/or NMFS. This informal consultation typically involves incorporating measures intended to ensure effects would not be adverse, and concurrence from the USFWS and/or NMFS, as well as concurrence from CDFG for any state-listed species, concludes the informal process. Without concurrence, the federal agency formally consults to ensure full compliance with the ESA.

The project would require an informal consultation with NMFS and USFWS, under Section 7 of the ESA, to consider any potential indirect effects on the brown pelican and western snowy plover (migratory listed species), and any potential direct effects on the black abalone (proposed listed species and potentially occurring within the project area) that may occur as a result of the proposed beach excavation and adjacent beach replenishment activity. Listed species are summarized above.

On September 30, 2005, USFWS stated that they will defer to NMFS as experts on any MMPA issues. USFWS will also review the USACE's Public Notice and the project designs for avoiding impacts on the surrounding reef and sea grass habitats (City 2006).

Magnuson-Stevens Fishery Conservation and Management Act of 1976

This Act was established in order to promote domestic and commercial fishing under sound conservation and management principles. NMFS, as a branch of NOAA, implements the Act via eight Regional Fisheries Management Councils (RFMCs). The RFMCs in turn prepare and implement fishery management plans (FMPs) in accordance with local conditions. The RFMC responsible for the Pacific Region in which the proposed project area is located has FMPs for five fisheries: Pacific Halibut, Salmon, Pacific Groundfish, Coastal Pelagic Species, and Highly Migratory Species. These FMPs establish Essential Fish Habitat (EFH) for the species they manage and require consultation with NMFS for actions that may adversely affect EFH. EFH is defined as waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.

Of the species identified in the Fish and Invertebrate sections that are known to occur in the proposed project area, several are regulated under FMPs. The Pacific halibut is likely found in some numbers in or near the proposed project area, particularly juveniles and/or adults utilizing the drift algal habitat. Several species of coastal pelagic fishes and groundfishes also occupy the area. Although the entire coast of California is designated as EFH for pelagic and groundfish species, the proposed project is not expected to have a significant impact on EFH managed species. An evaluation of potential effects on EFH will be included in the USACE's NEPA EA.

Marine Mammal Protection Act of 1972

The MMPA prohibits, with certain exceptions, the take of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States. Congress passed the MMPA based on the following findings and policies: (1) some marine mammal species or stocks may be in danger of extinction or depletion as a result

of human activities, (2) these species of stocks must not be permitted to fall below their optimum sustainable population level (depleted), (3) measures should be taken to replenish these species or stocks, (4) there is inadequate knowledge of the ecology and population dynamics, and (5) marine mammals have proven to be resources of great international significance.

The MMPA was amended substantially in 1994 to provide for: (1) certain exceptions to the take prohibitions, such as for Alaska Native subsistence, and for permits and authorizations for scientific research; (2) a program to authorize and control the taking of marine mammals incidental to commercial fishing operations; (3) preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction; and (4) studies of pinniped-fishery interactions. NMFS and the USFWS administer this Act. The harbor seals and any other MMPA species that inhabit the pool site areas and surrounding waters fall under the jurisdiction of NMFS.

Under Section 109h of the MMPA, the City has the local authority to dissuade the seals from using the Children's Pool Beach as a haul out in the interest of public safety, health, and water quality. This approach has been commented on by NMFS, who views the conflict of land use between the seals and the people as a local government issue. NMFS stated (September 16, 2005) that they would provide the City with counsel to operate under Section 109h such that the seals would not be officially "harassed" per MMPA, and such that any mechanism the City implemented to dissuade the seals would fall within acceptable methodology per the MMPA (City 2006). NMFS requested that the City submit a letter to NOAA/NMFS stating its intent to exercise its authority under Section 109h and to request technical support from NMFS. ~~However, whether 109h confers the City with authority to remove the large number of seals currently inhabiting the Children's Pool without obtaining a permit under the MMPA is the subject of current federal litigation in the case of the *La Jolla Friends of Seals v. NOAA*, Case No. 08cv1847 WQH (POR). It is anticipated that the federal court will issue a decision that resolves this legal issue.~~

Marine Protection, Research, and Sanctuaries Act

The Marine Protection, Research, and Sanctuaries Act (MPRSA), Section 102 (33 USC 1401 et seq.) allows for the siting of offshore ocean disposal sites and use permits by EPA (EPA 2000). Prior to permit issuance, the applicant must demonstrate a need of ocean disposal and have evaluated alternative beneficial re-use options. Also, material must be deemed suitable in accordance with EPA dumping criteria.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act prohibits take of nearly all native birds. Under the MBTA, "take" means only to kill, directly harm, or destroy

individuals, eggs, or nests, or to otherwise cause failure of an ongoing nesting effort. Permits are available under the MBTA through USFWS, and authorization for potential take under MBTA is addressed as part of the Section 7 consultation process.

The proposed project site does not support nesting habitat for the state and federal listed as endangered California brown pelican or the federal listed as threatened western snowy plover. However, although formal consultation for these species is not anticipated, the USACE will likely confer with the USFWS on the potential for the project activities to affect any avian species.

National Historic Preservation Act

The National Historic Preservation Act (NHPA) of 1966, as amended, is the primary set of federal laws governing projects that may affect cultural resources. Section 106 of the NHPA requires that all federal agencies review and evaluate how their actions or undertakings may affect historic properties. Historic properties may include those that are already listed in the National Register or those that are eligible but not yet listed. The regulations implementing Section 106 are codified at 36 CFR Part 800 (2001). The Section 106 review process involves four-steps:

1. Initiate the Section 106 process by establishing the undertaking, developing a plan for public involvement, and identifying other consulting parties.
2. Identify historic properties by determining the scope of efforts, identifying cultural resources and evaluating their eligibility for inclusion in the NRHP.
3. Assess adverse effects by applying the criteria of adverse effects to historic properties (resources that are eligible for inclusion in the NRHP).
4. Resolve adverse effects by consulting with the State Historic Preservation Officer (SHPO) and other consulting agencies, including the Advisory Council if necessary, to develop an agreement that addresses the treatment of historic properties.

To determine whether an undertaking may affect National Register of Historic Places (NRHP)-eligible properties, cultural resources (including archaeological, historical, and architectural properties) must be inventoried and evaluated for eligibility to be listed in the NRHP.

Rivers and Harbors Appropriations Act of 1899

The Rivers and Harbors Appropriation Act of 1899 (USC, title 33, section 403), commonly known as the Rivers and Harbors Act, prohibits the construction of any bridge, dam, dike, or causeway over or in navigable waterways of the U.S. without Congressional approval. Under Section 10 of the Rivers and Harbors

Act, USACE is authorized to permit structures in navigable waters. Building or modifying wharfs, piers, jetties, and other structures in or over the waters of the San Diego coastline requires USACE approval through the Section 10 permit process. When reviewing applications for Section 10 permits, USACE reviews the proposal for consistency with maintaining established navigation channels and consults with NMFS or USFWS for compliance with the ESA when a project may affect a federally listed species administered by one of those agencies.

The proposed project would also require authorization under the Section 10 process for the berming and excavation activity that would occur within tidal waters below the Mean High Waterline. USACE confirmed the requirement for a Section 10 permit on October 5, 2005 (City 2006).

Superfund

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), commonly known as the Superfund, was enacted by Congress on December 11, 1980 (EPA 2008). This law provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites, and established a trust fund to provide for cleanup when no responsible party could be identified. CERCLA also enabled revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List (NPL).

Toxic Substances Control Act

The federal Toxic Substances Control Act (1976) and the Resource Conservation and Recovery Act of 1976 (RCRA) established a program administered by EPA for the regulation of the generation, transportation, treatment, storage, and disposal of hazardous waste (EPA 2008). RCRA was amended in 1984 by the Hazardous and Solid Waste Act (HSWA), which affirmed and extended the "cradle to grave" system of regulating hazardous wastes. The use of certain techniques for the disposal of some hazardous wastes was specifically prohibited by HSWA.

State

Alquist-Priolo Earthquake Fault Zoning Act

Principal state guidance relating to geologic hazards is contained in the Alquist-Priolo Act (PRC Section 2621 et seq.) and in the Seismic Hazards Mapping Act of 1990 (PRC Sections 2690–2699.6). The Alquist-Priolo Act prohibits the location of most types of structures for human occupancy across the active traces of faults in Earthquake Fault Zones, as shown on maps prepared by the state geologist, and regulates construction in corridors along active faults (Earthquake Fault Zones) (State of California 2007a).

California Coastal Act

The California Coastal Act of 1976 (CCA) recognizes California ports, harbors, and coastline beaches as primary economic and coastal resources and as essential elements of the national maritime industry. Decisions to undertake specific development projects, where feasible, are to be based on consideration of alternative locations and designs in order to minimize any adverse environmental impacts. The CCA is regulated by the California Coastal Commission (CCC) and the project would require a Coastal Development Permit (CDP) from the CCC for activities, within the coastal zone, that extend seaward of the Mean High Tide Line.

The City previously applied for a Coastal Development Permit (#6-93-26) in 1993 that would temporarily designate the Seal Rock area (400 feet north of the pool) and 1.35 acres of surrounding water as a Marine Mammal Reserve. That CDP was authorized by the CCC but did not include the Children's Pool area, and the temporary reserve status expired in 1999.

In 2001, the City applied for a CDP to establish a permanent Reserve, "Seal Rock Marine Mammal Reserve," over the same 1.35 acres of open coastal waters. However, the establishment of the permanent Reserve would have excluded public access to the pool beach. That CDP was ultimately denied by the Commission, in part because it would have violated the State Land Commission Grant that was deeded in 1931. The Commission report stated that the "city should do everything possible to protect public access in this area and to alleviate the health concerns. However, if the city believes that protecting the seals is a higher public need than public access to the waters, then they should seek a change to the law (the underlying State Grant)" (CCC 2001). Instead, the Commission decided to renew the permit for another, temporary 5-year period.

On September 28, 2005, the City submitted another CDP application to the CCC for the current, proposed beach restoration project. The CCC has agreed to process the CDP pending approval and processing of the other permits and environmental documents.

Section 307 of the Coastal Zone Management Act requires that all federal agencies with activities directly affecting the coastal zone, or with development projects within that zone, comply with the state coastal acts (in this case, the CCA of 1976) to ensure that those activities or projects are consistent to the maximum extent practicable. The CCC review for the CDP may include a federal consistency determination.

Section 30251 of the CCA specifically recognizes that scenic and visual qualities of coastal areas should be protected as a resource of public importance (CCC 2008).

Policies governing public access to coastal recreational opportunities that pertain to this project are listed below:

- Section 30211 requires that development not interfere with the public's right of access to the sea, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.
- Section 30214 provides public access policy implementation guidelines and regulations and legislative intent.

California Department of Fish and Game Code

The Fish and Game Code is regulated by the Fish and Game Commission, as authorized by Article IV, Section 20, of the Constitution of the State of California; the Commission is responsible, under the provisions of Sections 200–221, for regulating the take of fish and game, not including the taking, processing, or use of fish, mollusks, crustaceans, kelp, or other aquatic plants for commercial purposes. However, the Commission does regulate aspects of commercial fishing including: fish reduction; shellfish cultivation; take of herring, lobster, sea urchins and abalone; kelp leases; lease of state water bottoms for oyster allotments; aquaculture operations; and other activities (CDFG 2003). These resource protection responsibilities involve the setting of seasons, bag and size limits, and methods and areas of take, as well as prescribing the terms and conditions under which permits or licenses may be issued or revoked by the Department. The Commission also oversees the establishment of wildlife areas and ecological reserves and regulates their use, as well as setting policy for the CDFG.

CDFG is the lead state agency charged with implementing, safeguarding, and regulating the uses of wildlife, and they oversee the management of marine species through several programs, including some that are coordinated with NMFS and other agencies.

The relevant programs for the proposed project may include spiny lobster management, the Southern California Caulerpa Action Team (SCCAT), any Abalone Recovery and Management Plans (ARMP) that include the areas around

the Children's Pool, and concurrence on the analysis of any potential impacts on state-listed bird species (the brown pelican and least tern).

On September 30, 2005, CDFG stated that they would not require any permits and would defer to NOAA/NMFS regarding any project effects on harbor seals under the MMPA. They will review any potential effects on grunion, or other species of interest, through the CEQA process.

California Department of Transportation (Caltrans)

Transportation analysis in the State of California is guided by policies and standards set at the state level by the California Department of Transportation (Caltrans) and the local jurisdictions. The proposed project is within the City's jurisdiction and, therefore, subject to adopted City transportation policies and guidelines, which are consistent with Caltrans policies and standards.

California Environmental Quality Act (CEQA), California Public Resources Code and Health and Human Safety Code

CEQA is the primary state law that may affect cultural resources. Other laws governing cultural resources include California Public Resources Code 5097.9 et seq. and Health and Human Safety Code 7050.5 et seq. Records about Native American graves, cemeteries, and sacred places, as well as information about the location of archaeological sites shall not be disclosed to the public (California Government Code 6254.10). Such information is considered sensitive and confidential and should not be contained in any public document.

CEQA mandates that local agencies consider potential significant environmental impacts on cultural resources as a result of proposed projects. Significant resources are those that are listed in or considered eligible for listing in the California Register of Historical Resources (CRHR). The fact that a resource or property is not listed on the CRHR does not preclude it from being significant and does not make it exempt from CEQA evaluation.

CEQA Guidelines define three ways that a property may qualify as a *historical resource* for the purposes of CEQA review:

1. The resource is listed in or determined eligible for listing in the CRHR.
2. The resource is included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code or identified as significant in a historical resource survey that meets the requirements of Section 5024.1(g) of the Public Resources Code, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

3. The lead agency determines the resource to be significant as supported by substantial evidence in light of the whole record.

These three conditions for qualifying as a historical resource under CEQA are related to the eligibility criteria for inclusion in the CRHR. A cultural resource may be eligible for inclusion in the CRHR for the same criterion listed for the NRHP.

In addition, properties that are listed in or eligible for listing in the NRHP are considered eligible for listing in the CRHR, and thus are significant historical resources for the purposes of CEQA.

CEQA states that a *unique archaeological resource* is an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that the resource:

- contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information; or
- has a special and particular quality such as being the oldest of its type or the best available example of its type; or
- is directly associated with a scientifically recognized important prehistoric or historic event or person.

Senate Bill 18 requires city and county governments to notify California Native American tribes prior to the adoption or any amendment of a general plan or specific plan. The intent of the bill is to provide the tribes an opportunity to participate in local land use decisions at an early stage for the purpose of protecting or mitigating impacts on cultural places. As defined in the California Public Resources Code Sections 5097.9 and 5097.995, California Native American Cultural Places include:

- Native American sanctified cemetery, places of worship, religious or ceremonial site, or sacred shrine; and
- Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources, including any historic or prehistoric ruins, any burial ground, and any archaeological or historic site.

California Hazardous Waste Control Law

The California Hazardous Waste Control Law (HWCL) is administered by Cal/EPA to regulate hazardous wastes (EPA 2006). While the HWCL is generally more stringent than the RCRA, until EPA approves the California program, both state and federal laws apply in California. The HWCL lists

791 chemicals and about 300 common materials that may be hazardous; establishes criteria for identifying, packaging, and labeling hazardous wastes; prescribes management controls; establishes permit requirements for treatment, storage, disposal, and transportation of hazardous wastes; and identifies some wastes that cannot be disposed of in landfills.

California Marine Life Protection Act of 1999

The California Marine Life Protection Act (MLPA) directs the state to design and manage a network of marine protected areas in an effort to protect marine life and habitats, marine ecosystems, and marine natural heritage, as well as improve recreational, educational, and study opportunities provided by marine ecosystems. Scientists, resource managers, experts, stakeholders, and members of the public all participate in guiding the outcomes of this public-private partnership. Marine protected areas include state marine reserves, state marine parks, and state marine conservation areas. The boundaries of both the San Diego Marine Refuge (SDMR) and the San Diego-La Jolla Ecological Reserve (SD-LJ Reserve) occur north of the Children's Pool and adjacent pocket beaches. These reserves were established and are regulated by the City of San Diego and the California State Water Resources Control Board (SWRCB) under the Ocean Plan (SWRCB1972; 2000).

However, a South Coast Marine Protected Area (MPA), which would include the proposed project area, is being developed and the initial public outreach process is underway. At this time no special designation under the MLPA has yet been applied to the area.

California Ocean Plan

The SWRCB adopted the Ocean Plan in 1972; it was last amended in 2005 (CEPA 2005). The Ocean Plan has been developed to control the discharge of waste into the ocean for the protection of public health. The plan sets safety standards for a wide range of contaminants including heavy metals and coliforms, while limiting allowances of effluent discharges. City agencies are responsible for implementation. The San Diego DEH monitors water quality in San Diego and posts advisories or closures when contaminant levels exceed Ocean Plan thresholds.

California State Lands Commission

In 1931, the State of California conveyed, among other areas, the Children's Pool Beach, by Grant Deed (Grant; Statute 937) to the City and County of San Diego for public use including swimming, fishing, parking, playground, recreational purposes, and a bathing pool for children. The language and intent of the Scripps

bequest to the City (the funding and construction of the breakwater to create a children's beach area, Resolution No. 54177), as well as the "public enjoyment" language accompanying the State Grant for the tidal lands, has been the subject of much discussion, and has ultimately factored in the court decision to restore the beach to its former configuration.

The City was directed, by court order from the California Superior Court, to restore the Children's Pool Beach to its former condition in compliance with the directives of the Land Grant and the bequested gift from Eleanor Scripps.

California Toxics Rule

This rule establishes numeric criteria for priority toxic pollutants in inland waters, as well as enclosed bays and estuaries, to protect ambient aquatic life (23 priority toxics) and human health (57 priority toxics). The California Toxics Rule (CTR) also includes provisions for compliance schedules to be issued for new or revised NPDES permit limits when certain conditions are met. The numeric criteria are the same as those recommended by the EPA in its CWA Section 304(a) guidance (EPA 2008).

Government Code Section 65962.5 (Cortese List)

The Hazardous Waste and Substances Sites (Cortese) List is a planning document used by the state, local agencies, and developers to comply with CEQA requirements for providing information about the location of hazardous materials release sites (CEPA 2006a). Government Code section 65962.5 requires the California Environmental Protection Agency (Cal/EPA) to develop at least annually an updated Cortese List. The Department of Toxic Substances Control (DTSC) is responsible for a portion of the information contained in the Cortese List. Other state and local government agencies are required to provide additional hazardous material release information for the Cortese List.

Porter-Cologne Water Quality Control Act

The State of California's Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) is the principal law governing water quality regulation within California (SWRCB 2007). The Act established the State Water Resources Control Board (SWRCB) and nine RWQCBs, which are charged with implementing its provisions and which have primary responsibility for protecting water quality in California. The Porter-Cologne Act also implements many provisions of the federal CWA, such as the NPDES permitting program. CWA Section 401 gives the SWRCB the authority to review any proposed federally permitted or federally licensed activity that may impact water quality and to certify, condition, or deny the activity if it does not comply with

state water quality standards. If the SWRCB imposes a condition on its certification, those conditions must be included in the federal permit or license. The Porter-Cologne Act also requires a "Report of Waste Discharge" for any discharge of waste (liquid, solid, or otherwise) to land or surface waters that may impair a beneficial use of surface or groundwater of the state.

San Diego Regional Water Quality Control Board (Region 9) Clean Water Act Section 401

The Regional Water Quality Control Board (RWQCB) regulates impacts on both federal and state waters under Sections 401 and 402 of the CWA, and to isolated waters of the state under the Porter-Cologne Act.

Through the authority of the State Water Resources Control Board (SWRCB) as handled by the various RWQCBs the state administers requirements and permitting under Section 401 of the federal CWA through agreement with EPA. If an activity may result in the discharge of dredge or fill material into a water of the U.S., the 401 process is triggered and water quality certification (or waiver of certification) that the proposed activity would be in compliance with Section 401 of the CWA is required. Water quality certification under Section 401 generally requires compliance with both construction and post-construction Best Management Practices (BMPs) that are designed to ensure the minimization of impacts on waters of the U.S.

On October 3, 2005, the San Diego RWQCB stated that the project would require Water Quality Certification under Section 401 of the CWA and that they would coordinate with USACE through the CWA 404 process. The Board also noted that the project may be exempt from Porter Cologne Water Quality Control Act regulation if the sand discharge is less than 5,000 cy and that they would review the proposed project to make that determination.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act of 1990 focuses on hazards related to strong ground shaking, liquefaction, and seismically induced landslides. Under its provision, the state is charged with identifying and mapping areas at risk of strong ground shaking, liquefaction, landslides, and other corollary hazards. The maps are to be used by cities and counties in preparing their general plans and adopting land use policies to reduce and mitigate potential hazards to public health and safety (State of California 2007b).

State Water Resources Control Board Clean Water Act Section 402

As noted above, through the authority of the SWRCB as handled by the various RWQCBs the state administers requirements and permitting under Sections 401 and 402 of the federal CWA through agreement with EPA. In addition to Section 401 requirements, some projects are subject to compliance with Section 402 of the CWA in accordance with the National Pollutant Discharge Elimination System (NPDES). The process for compliance with this provision is normally perfunctory with notification and fee payment under the State General Permit for Construction Period discharges. However, construction activity must conform to BMPs in accordance with a written Storm Water Pollution Prevention Plan, which may be subject to local agency review prior to issuance of grading permits.

Surface Mining and Reclamation Act

Pursuant to the Surface Mining and Reclamation Act (PRC Section 2710 et seq.), the State Mining and Geology Board identifies, in adopted regulations, areas of regional significance that are known to contain mineral deposits judged to be important in meeting the future needs of the area (see PRC Sections 2726 and 2790; 14 CCR 3550 et seq.). The State Mining and Geology Board also adopts state policies for the reclamation of mined lands and certifies local ordinances for reclamation plans when consistent with state policies (PRC Sections 2755–2764 and 2774 et seq.) (State of California 2007c).

Water Quality Control Plan

Similar to the Ocean Plan, the WQCP for the San Diego Basin establishes standards for contaminants, but also designates beneficial uses for surface water and groundwater. The San Diego WQCP was established in 1994 and last amended in 2007 (CRWQCB 2007). In general, this plan focuses on surface waters, which the proposed project would not influence. Therefore, water quality standards referred to for the purposes of this document are usually those of the Ocean Plan.

Local

City of San Diego General Plan

The City of San Diego's General Plan (March 10, 2008) is primarily a policy document that sets goals and policies concerning the community and gives direction to growth and development. In addition, it outlines the programs that

were developed to accomplish the goals and policies of the general plan (City of San Diego 2008). Included in the document are elements that specifically address issues, concerns, and goals related to land use and community planning; recreation; conservation; urban design; and public facilities, services and safety.

- The Land Use and Community Planning Element contains policies that provide for recreational parks to be located on notable natural features such as beaches and contain specific guidelines to preserve and enhance coastal resources when within the Coastal Zone. Land use goals and policies applicable to the proposed project are:

  LU-C.1.a Rely on community plans for site-specific land use and density designations and recommendations

  LU-C.2 Prepare community plans to address aspects of development that are specific to the community, including: distribution of land uses; the local street and transit network; location, prioritization, and provision of public facilities; community and site-specific urban design guidelines; urban design guidelines addressing the public realm; community and site-specific recommendations to preserve and enhance natural and cultural resources; and coastal resource policies (when within Coastal Zone)

  LU-E.3 Ensure that community plans contain policies to implement Chapter 3 of the Coastal Act and that the Land Development Code contains provisions to fully implement those policies

- The Conservation Element addresses management of land resources including beaches and shorelines. The element strives for long-term management of natural land forms and open space that make San Diego unique. Policies protect public access to the shoreline and the coast. The following policies for the management of coastal resources apply to the proposed project:

  CE-B.2 Apply the appropriate zoning and Environmentally Sensitive Lands (ESL) regulations to limit development of floodplains, sensitive biological areas including wetlands, steep hillsides, canyons, and coastal lands

  CE-B.2.a Manage watersheds and regulate floodplains to reduce disruption of natural systems, including the flow of sand to beaches. Where possible and practical, restore water filtration, flood and erosion control, biodiversity and sand replenishment benefits

CE-B.2.b Limit grading and alterations of steep hillsides, cliffs and shoreline to prevent increased erosion and landform impacts

CE-B.4 Limit and control runoff, sedimentation, and erosion both during and after construction activity

CE-C.1. Protect, preserve, restore and enhance important coastal wetlands and habitat (tidepools, lagoons and marine canyons) for conservation, research, and limited recreational purposes.

CE-C.2. Control sedimentation entering coastal lagoons and waters from upstream urbanization using a watershed management approach that is integrated into local community and land use plans.

CE-C.3. Minimize alterations of cliffs and shorelines to limit downstream erosion and to ensure that sand flow naturally replenishes beaches.

CE-C.4. Manage wetland areas for natural flood control and preservation of landforms.

CE-C.5. Limit the use of beaches and shorelines to appropriate coastal dependent and ocean oriented recreational/ educational uses as identified in local coastal/community plans.

CE-C.6. Implement watershed management practices designed to reduce runoff and improve the quality of runoff discharged into coastal waters.

CE-C.7. Encourage conservation measures and water recycling programs that eliminate or discourage wasteful uses of water.

CE-C.8. Protect coastal vistas and overlook areas from obstructions and visual clutter where it would negatively affect the public's reasonable use and enjoyment of the resource.

CE-C.9. Develop an integrated system of pedestrian, bicycle, local transit and automobile access to the shoreline that will connect major coastal activity areas with a focus on the ocean and natural scenic corridors.

CE-C.10. Work with local fishing and other coastal-related industry representatives to enhance their possibilities of economic survival in San Diego.

CE-C.11. Integrate the many coastal resources and recreational opportunities into the City's proposed Parks Master Plan.

CE-C.12. Ensure that all City beaches and shorelines are accessible and available for appropriate public use for all users.

CE-C.13. Acquire remaining beach and shoreline areas for public use.

CE-G.5 Promote aquatic biodiversity and habitat recovery by reducing hydrological alterations, such as grading a stream channel

- The Urban Design Element contains policies recognizing major views in the City and natural landforms. In particular, the Urban Design Element requires the protection of community plan designated open spaces and major views of open space and water. Specific policies and goals related to this element include:

  UD-A.1 Preserve and protect natural landforms and features

  UD-A.1.a Protect the integrity of the community plan designated open spaces

  UD-A.1.b Preserve and encourage preservation of physical connectivity and access to open space

  UD-A.3.l Protect views from public roadways and parklands to natural canyons, resource areas, and scenic vistas

- The Public Facilities, Services, and Safety Element addresses the City's mission to provide fire suppression, emergency medical services (EMS), water rescue, hazardous materials response, various rescue services including cliff rescue, and response to terrorism and weapons of mass destruction. City Fire-Rescue personnel's primary General Plan goal is the protection of life, property, and environment by delivering the highest level of emergency and fire-rescue services, hazard prevention, and safety education. Specific General Plan Public Facilities, Services, and Safety Element policies relevant to Children's Pool are:

  PF-D.1 Locate, staff, and equip fire stations (emergency response staff) to meet established response times

  PF-D.3 Adopt, monitor, and maintain service delivery objectives based on time standards for all fire, rescue, emergency response, and lifeguard services

  PF-D.5 Maintain service levels to meet the demands of continued growth and development, tourism, and other events requiring fire-rescue services

PF-D.11 Space oceanfront seasonal lifeguard towers every 1/10 of a mile or ten towers per mile

- The Public Facilities, Services, and Safety Element of the City's General Plan also includes goals and policies aimed at protecting public health and safety (City of San Diego 2008). The following policies regarding seismic safety apply to the proposed project:

  PF.Q.1. Protect public health and safety through the application of effective seismic, geologic and structural considerations.

  PF.Q.1.a. Ensure that current and future community planning and other specific land use planning studies continue to include consideration of seismic and other geologic hazards. This information should be disclosed, when applicable, in the California Environmental Quality Act (CEQA) document accompanying a discretionary action.

  PF.Q.1.c. Require the submission of geologic and seismic reports, as well as soils engineering reports, in relation to applications for land development permits whenever seismic or geologic problems are suspected.

  PF.Q.1.d. Utilize the findings of a beach and bluff erosion survey to determine the appropriate rate and amount of coastline modification permissible in the City.

  PF.Q.1.g. Adhere to state laws pertaining to seismic and geologic hazards.

City of San Diego Historic Resource Guidelines

The City of San Diego, as the Lead Agency for this EIR, implements the cultural resources provisions of CEQA through its Historical Resources Guidelines as amended September 2001. These guidelines expand and refine the requirements for conducting cultural resource studies at all levels from initial surveys through test and evaluation, data recovery, and accidental discovery during construction. The guidelines also define the qualifications needed by key personnel.

For projects within or in proximity to known archaeological sites, it is the City's policy to engage in Native American consultation via the Native American Heritage Commission at the earliest possible time. If the proposed project involves grading or excavation that might disturb or destroy known or potential resources, the City will require both archaeological and Native American mitigation monitoring programs to be conducted to ensure that project effects remain below a level of significant.

City of San Diego Zoning

The proposed pool beach and pocket beach site are situated at 850 Coast Boulevard in La Jolla and, as such, are incorporated within the La Jolla Community Plan, the Local Coastal Program Land Use Plan, the Coastal Zone Overlay, the Coastal Height Limitation Overlay Zone, the Sensitive Coastal Resources Overlay Zone, the first Public Roadway, and the Beach Parking Impact Overlay Zone. The project would require a Site Development Permit (SDP) for Environmentally Sensitive Lands (ESL), including sensitive biological resources and southern coastal bluffs and beaches. The site is not, however, identified on the City's MSCP as a Multiple Habitat Planning Area (MHPA).

In 1999, as a result of contamination from seal feces and as authorized under Section 409.5 of the City's Penal Code for public safety, the City erected a barricade at Children's Pool Beach to prevent humans from using the beach and water. Repeated water quality testing over the next 16 months determined that the contamination within the pool area was 'sporadic" and ongoing. In 2001, the City explored alternatives for a shared-use concept of Children's Pool Beach and considered options to restore the water quality to acceptable levels so that the beach could be used by both seals and humans. At that time the City considered an alternative to dredge the sand from Children's Pool and restore it to its former conditions. It was hoped that this would result in more tidal flushing of the area, which would consequently result in reducing the high fecal counts and public access to the water would be restored. The City subsequently submitted a Coastal Development Permit application (CDP # 6-98-22) for this proposal. However, the County informed the City that even if the water quality testing determined that the water was safe for human contact, as long as the seals were in the area, the County Public Health Department would still consider the area to be contaminated. Thus, the City withdrew that CDP application for the project.

La Jolla Community Plan and Local Coastal Program Land Use Plan

The proposed project is located within the La Jolla Community Planning Area. The entire La Jolla Community is located within the Coastal Zone, as defined by the California Coastal Act (CCA). The CCA requires that its goals and policies be implemented by local government through the La Jolla Community Plan (LCP) process. The City adopted the LCP, which consists of a Land Use Plan (LUP) and a Local Implementation Plan (LIP), on November 4, 2003. California Coastal Commission Certification of the LCP was granted on February 19, 2004, as Local Coastal Program No. 1-02A. The LCP is intended to protect, maintain, and, where feasible, enhance and restore the overall quality of the Coastal Zone environment. The LIP was adopted by the California Coastal Commission on September 13, 2002, pursuant to the provisions of PRC Section 30166.5, for implementing the policies of the LUP of the LCP. LIP Chapter 3, "Zoning Designations and Permitted Uses," contains zoning boundaries and maps, general

regulations and development standards, and other measures for ensuring compliance with the LCP.

Through the LCP, the CCA has designated La Jolla as a "special community" of regional and state-wide significance. This designation is embodied in all land use policies and plan recommendations contained in the La Jolla Community Plan and Local Coastal Program Land Use Plan. This designation emphasizes the importance of La Jolla as a prime visitor destination and has been used as the basis for the approval of special grants to conserve and enhance the character of La Jolla.

Applicable community goals and policies in the LCP are: the maintenance of identified public views to and from the natural amenities of La Jolla, such as its open space, steep hillsides, canyons, bluffs, parks, beaches, tide pools and coastal waters, to achieve a beneficial relationship between the natural and developed areas of the community; maintenance of public ocean views from public vantage points; protection and enhancement of the quality of sensitive coastal bluffs, coastal beaches, and wetlands; and prohibition of development that would create a reduction in the public view provided to and along the ocean. In particular, the Natural Resources and Open Space System Element of the LCP recommends the preservation of public views from public vantage points; preservation of bluffs and beaches; maintenance of identified public views to and from natural coastal amenities; protection of significant public views of the coast from Ellen Browning Scripps Park; prohibition of site-proposed development that may affect an existing or potential public view to be protected in such a manner as to preserve, enhance, or restore the designated public view. As identified in the LCP, the Children's Pool area is considered a "view shed" and Coast Boulevard is listed as a "road from which coastal body of water can be seen" (City of San Diego 2004).

The LCP presents the coastal issues identified as significant for the community, and proposes policies and recommendations to address them. The La Jolla Community Plan and Local Coastal Plan is the land use element of the General Plan for the La Jolla community (City of San Diego 2004). The key issues that are applicable to the proposed project are:

- Public Access to the Beaches and Coastline
- Environmentally Sensitive Habitat Areas
- Provision of Parks and Recreation Areas

Specific LCP policies and goals include the following:

- Conserve and enhance the natural amenities of the community such as its views from identified public vantage points, open space, hillsides, canyons, ocean, beaches, water quality, bluffs, wildlife and natural vegetation, and achieve a desirable relationship between the natural and developed components of the community.

- Provide adequate public facilities necessary to support the educational, recreational, safety and health related needs of La Jolla residents including children, families and the elderly as well as providing for the need of visitors.
- Enhance existing public access to the ocean, beach and park areas…along the shoreline in order to be of greatest benefit to neighborhood residents and visitors to the community.
- Enhance existing public access to La Jolla's beaches and coastline areas (for example La Jolla Shores Beach and Children's Pool areas) in order to facilitate greater public use and enjoyment of these and other coastal resources.
- Provide adequate park and recreational facilities…and parking to meet the needs of the community residents and visitors, including children, families and the elderly.
- Encourage the maximum use of all existing community facilities, in particular, the public parks, beaches, recreational areas, bikeways, museums, and public schools in order to enhance the recreational opportunities for all visitors and residents of La Jolla.
- Preserve the heritage of La Jolla by identifying structures or natural features within the community that are important local landmarks or that hold community-wide significance and by designing them as historic sites.

San Diego Association of Governments (SANDAG) Shoreline Preservation Strategy for the San Diego Region

The Shoreline Preservation Strategy was developed by the Shoreline Erosion Committee and SANDAG staff and approved on July 23, 1993, by the SANDAG Board of Directors. It is the San Diego region's response to the concerns about erosion voiced by citizens and communities up and down the coast, and by the thousands of residents of inland San Diego who use and enjoy the beaches. The Strategy proposes an extensive beach building and maintenance program for the critical shoreline erosion problem areas in the San Diego region, as well as a number of recommendations and actions to support the program and its implementation in an effort to preserve and enhance San Diego's shoreline (SANDAG 1993). The Shoreline Preservation Strategy has two basic goals:

- Preserve and enhance the region's beaches as environmental and recreational resources
- Protect property and development from storm wave damage and coastal flooding

Specific policies that pertain to the project include the following:

A. The Strategy should provide a cooperative, coordinated, and long-range preservation program for the region's shoreline.

B. The Strategy should consider the full range of shoreline management tactics, with emphasis on beachfilling to preserve and enhance the environmental quality recreational capacity, and property protection benefits of the region's shoreline.

C. Structural and mechanical management tactics to stabilize beaches, reduce sand losses and redistribute sand along the shoreline should be evaluated as complements to the regional beachfilling program and implemented where they have a positive impacts on cost-effectiveness. Tactics which mimic natural processes should be preferred when they are equal in cost-effectiveness to other approaches.

D. The Strategy should provide technical information to assist coordinated and consistent approaches to local level management tactics, including regulation of shoreline land use and development, and property protection measures such as artificial dunes, seawalls, and revetments.

To accomplish these goals, the Preservation Strategy identifies regional and local actions. Regional actions are those aimed directly at increasing the amount of sand on the region's beaches. Examples include: beach building and maintenance; reduction of sand loss; redistribution of sand along the shoreline by moving it past barriers such as jetties, recalculating it along natural direction of flow; or creating off-shore breakwaters. Local actions deal with specific shoreline problems and include regulation of land use and development adjacent to the shore and protection of property from storm waves and flooding through the use of artificial dunes, seawalls, and revetments and irrigation controls. While local tactics can do little to add sand to the shoreline, they can make the sand management for the entire regional shoreline more effective.

The Preservation Strategy divides the region's beaches into three stretches of shoreline that are physically interconnected: the Silver Strand cell; the Mission Bay cell (which includes the proposed project); and the southern half of the Oceanside cell ~~(which includes the proposed project)~~ comprised of the shorelines of the Cities of San Diego, Del Mar, Solana Beach, Encinitas, Carlsbad, and Oceanside. Region-wide recommendations include developing technical information regarding issues of shoreline land use and protective structures that may be used by local jurisdictions. The document emphasizes beach building and the use of setbacks from beaches and sea cliffs over the use of seawalls and revetments to protect property. However, the document acknowledges the wide range of local situations throughout the region and recommends each jurisdiction develop standards and guidelines consistent with Preservation Strategy. Also, the Strategy urges citywide, proactive approaches for addressing coast erosion problems.

San Diego County Department of Environmental Health

The San Diego County Department of Environmental Health (DEH) implements and enforces local, state, and federal environmental laws (County of San Diego 2008). They are responsible for water quality testing of the ocean and bays of San Diego County and post beach closures (sewage spills) and advisories (general contamination) when these tests demonstrate results beyond Ocean Plan thresholds. The DEH tested the water quality of the Children's Pool consistently between 1999 and 2004, after which time testing was suspended and a semi-permanent advisory status was given to the area due to consistently high counts of fecal coliforms associated with seal presence.

The DEH Hazardous Materials Division (HMD) has incident response capabilities and is responsible for regulating hazardous materials business plans and chemical inventory, hazardous waste and tiered permitting, underground storage tanks, and risk management plans. HMD also implements the Pollution Prevention Program aimed at reducing point source pollution.

San Diego Land Development Manual

The San Diego Land Development Manual provides guidelines that are intended to assist in the interpretation and implementation of the development regulations for sensitive coastal bluffs and coastal beaches. Every development proposed on a sensitive coastal bluff (within 100 feet of the bluff edge) or on a site containing a coastal beach (where the development will be within 100 feet of the beach) will be subject to the Environmentally Sensitive Lands regulations and will be evaluated for conformance with these guidelines as part of the review process for the required Site Development Permit unless the proposed development is exempt from the Environmentally Sensitive Lands Regulations pursuant to Section 143.0110(c).

San Diego Municipal Code/Land Development Code

The San Diego Municipal Code (SDMC) regulates land use and development throughout the City. It is intended to be the means by which the land use policies in the General Plan are implemented. The SDMC identifies the uses that are allowed on parcels within the City, and it is required by California law to be consistent with the Land Use Element of the City's General Plan. Chapters 11 through 15 of the SDMC are referred to as the Land Development Code (LDC). These chapters contain the City's planning, zoning, subdivision, and building regulations. The LDC is one of the tools used to implement the City's General Plan and the various community plans, which establish land use throughout the City. The provisions addressing Coastal Development Permits, Site Development Permits, the Coastal Overlay Zone, the Sensitive Coastal Overlay Zone, the Coastal Height Limitation Overlay Zone, Environmentally Sensitive

Lands Regulations, the La Jolla Planned District, the Parking Impact Overlay Zone, and the Residential Tandem Parking Overlay Zone are relevant to the proposed project (City of San Diego 1999).

Coastal Development Permits

Chapter 12, Article 6, Division 7 of the LDC establishes Coastal Development Permit procedures. The purpose of these procedures is to establish a City review process for coastal development that is consistent with the LCP, the California Coastal Act of 1976 (PRC Section 30000, et seq.) and the 14 CCR, Division 5.5, Chapter 8, Subchapter 2, Article 17.

A Coastal Development Permit issued by the City and the Coastal Commission is required for all coastal development on a premises located partially within the Coastal Commission permit jurisdiction. A Coastal Development Permit from each agency is required for the portion of the project within the agency's jurisdiction. The project site lies within both the City of San Diego Permit Jurisdiction and the Coastal Commission Permit Jurisdiction.

Site Development Permits

Chapter 12, Article 6, Division 5 of the LDC establishes Site Development Permit procedures. Site Development permits are required City public works projects on premises containing environmentally sensitive lands, as described in Section 143.0110. The intent of these procedures is to apply site-specific conditions as necessary to assure that the development does not adversely affect the applicable land use plan and to help ensure that all regulations are met.

Coastal Overlay Zone

Chapter 13, Article 2, Division 4 of the LDC establishes the Coastal Overlay Zone. The purpose of the overlay zone is to protect and enhance the quality of public access and coastal resources.

Sensitive Coastal Overlay Zone

Chapter 13, Article 2, Division 6 of the LDC establishes the Sensitive Coastal Overlay Zone. The purpose of the zone is to help protect and enhance the quality of the sensitive coastal bluffs, coastal beach, and wetlands.

Coastal Height Limitation Overlay Zone

Chapter 13, Article 2, Division 5 of the LDC establishes height limitations for development along the coastline. The purpose of the Coastal Height Limit Overlay Zone is to provide a supplemental height limit for specific coastal areas as enacted by the voters of the City of San Diego. No building or addition to a building shall be constructed with a height in excess of thirty feet within the Coastal Zone of the City of San Diego

Environmentally Sensitive Lands Regulations

The following provisions of LDC Sections 143.0143 and 143.0144 are applicable to the proposed project.

143.0143, Development Regulations for Sensitive Coastal Bluffs

Section 143.0143 regulations apply to development proposed on premises containing a sensitive coastal bluff.

143.0144, Development Regulations for Coastal Beaches

Section 143.0144 regulations apply to development proposed on premises containing a coastal beach.

La Jolla Planned District

Chapter 15, Article 9, Division 3 of the LDC establishes the La Jolla Planned Districts. The proposed project is located within Zone 5 of La Jolla Planned District. The purpose of this Planned District is to establish development guidelines within various identified zones throughout the La Jolla Community.

Parking Impact Overlay Zone

Chapter 13, Article 2, Division 8 of the LDC establishes the Parking Impact Overlay Zone. The purpose of this zone is to provide supplemental parking regulations for specified coastal, beach, and campus areas that have parking impacts. Additionally, it serves to identify areas of high parking demand and increase the off-street parking requirements accordingly.

Residential Tandem Parking Overlay Zone

Chapter 13, Article 2, Division 9 of the LDC The purpose of the Residential Tandem Parking Overlay Zone is to identify the conditions under which tandem

parking may be counted as two parking spaces in the calculation of required parking.

Urban Runoff Management Plan

The municipal stormwater NPDES Permit (Permit), Order No. 2001-01 and NPDES No. CA0108758, issued to San Diego County, San Diego Unified Port District, and 18 cities including the City of San Diego by the California RWQCB, San Diego Region, contains a requirement for the City to develop and implement a jurisdictional Urban Runoff Management Program (City of San Diego 2006). The City's Jurisdictional Urban Runoff Management Plan and the associated Storm Water Pollution Prevention Program are designed to comply with this mandate. The Plan and Program encompass City-wide programs and activities designed to prevent and reduce stormwater pollution within City boundaries. These activities include, but are not limited to, public education, employee training, water quality monitoring, source identification, code enforcement, watershed management, and BMPs development/ implementation within the City of San Diego jurisdictional boundaries.

Required Approvals

National Oceanic and Atmospheric Administration / National Marine Fisheries Service

Endangered Species Act—Section 7

The project would require an informal consultation with the National Marine Fisheries Services (NMFS) under Section 7 of the Endangered Species Act (ESA) to consider any potential indirect effects on the black abalone (proposed listed species that may be present within the project area) as a result of the proposed beach excavation and adjacent beach replenishment activity. Listed species are summarized in Section 3.2, "Biological Resources."

Magnuson Stevens Fishery Conservation and Management Act—Essential Fish Habitat Assessment

The project would require informal consultation with NMFS under the Magnuson Stevens Fishery Conservation and Management Act (MSA) because the project area is designated as essential fish habitat under the Pacific Regional Fisheries Management Council for coastal pelagic and groundfish species. When a project or activity is deemed to have potentially significant impacts on these designated habitats, an Essential Fish Habitat Assessment is required of NMFS. Although

this is not anticipated for the proposed project, NMFS would be consulted nonetheless.

Marine Mammal Protection Act—Section 109 (h)

The Marine Mammal Protection Act (MMPA) is managed by NMFS and prohibits, with certain exceptions, the take of marine mammals in U.S. waters and by U.S. citizens on the high seas. Section 109 (h) allows the taking of marine mammals as part of official duties only if such taking is for the protection or welfare of the mammal, the protection of the public health and welfare, or the nonlethal removal of nuisance animals. No permit is required by Section 109 (h), but NMFS has requested formal notification from the City that they intend to exercise their 109 (h) authority and seek NMFS technical assistance.

U.S. Fish and Wildlife Service

Endangered Species Act—Section 7

The project would require an informal consultation with the U.S. Fish and Wildlife Service (USFWS) to consider any potential indirect effects on the brown pelican and western snowy plover (migratory listed species) as a result of the proposed beach excavation and adjacent beach replenishment activity. Listed species are summarized in Section 3.2, "Biological Resources."

U.S. Army Corps of Engineers

Federal Clean Water Act—Section 404

Discharges into waters of the U.S. are regulated under Section 404 of the federal Clean Water Act (CWA). The proposed project is expected to require compliance with CWA Section 404 through the application for an Individual Permit related to excavation of the pool sand and the adjacent beach nourishment activity that would occur within jurisdictional waters of the U.S. between the Mean High Water and the Mean Lower Low Water. Individual Permits also require a Section 404(b)(1) alternatives analysis that must be conducted for disposal of dredge or fill material into waters of the U.S.

Rivers and Harbors Appropriations Act of 1899—Section 10

Under Section 10 of the Rivers and Harbors Act, the USACE is authorized to permit structures in navigable waters. Building or modifying wharfs, piers, jetties, and other structures in or over the waters of the San Diego coastline requires USACE approval through the Section 10 permit process. When reviewing applications for Section 10 permits, USACE reviews the proposal for consistency with maintaining established navigation channels and consults with NMFS or USFWS for compliance with the ESA when a project may affect a federally listed species administered by one of those agencies. The proposed project is expected to require compliance with the Section 10 process for berming and excavation activity that would occur within tidal waters.

California Department of Fish and Game

The California Department of Fish and Game (CDFG) is the lead state agency charged with implementing, safeguarding, and regulating the uses of wildlife, and they oversee the management of marine species through several programs, including some that are coordinated with NMFS and other agencies. On September 30, 2005, CDFG stated that they would not require any permits and would defer to NOAA/NMFS regarding any project effects on harbor seals under the MMPA. They will review any potential effects to grunion, or other species of interest, through the CEQA process.

California Coastal Commission

The California Coastal Act—Coastal Development Permit

The California Coastal Act of 1976 (CCA) recognizes California ports, harbors, and coastline beaches as primary economic and coastal resources and as essential elements of the national maritime industry. Decisions to undertake specific development projects, where feasible, are to be based on consideration of alternative locations and designs in order to minimize any adverse environmental impacts. The CCA is regulated by the California Coastal Commission (CCC), and the project would require a Coastal Development Permit (CDP) from CCC for activities, within the coastal zone, that extend seaward of the Mean High Tide Line.

Regional Water Quality Control Board—San Diego

Clean Water Act—Section 401

The State Water Resources Control Board and its Regional Water Quality Control Boards have the primary responsibility in coordinating and controlling water quality in California under the Porter-Cologne Water Quality Control Act. The state administers requirements and permitting under Section 401 of the federal CWA through agreement with the U.S. Environmental Protection Agency (EPA) and the USACE. A Section 401 certification is required for projects involving discharge of dredged and/or fill material; therefore, the proposed project may need to apply for this certification. However, discharge of less than 5,000 cubic yards of sand has the potential for exemption.

Clean Water Act—Section 402

A Section 402 certification is required for projects involving potential pollution discharge in accordance with the National Pollutant Discharge Elimination System (NPDES). The process for compliance with this provision is normally perfunctory with notification and fee payment under the State General Permit for Construction Period Discharges. However, construction activity must conform to Best Management Practices (BMPs) in accordance with a written Storm Water Pollution Prevention Plan, which may be subject to local agency review prior to issuance of grading permits.

City of San Diego

Coastal Development Permit

A City issued Coastal Development Permit (CDP) is required for all development of premises within the Coastal Overlay Zone, as described in Chapter 13, Article 2, Division 4 of the City's Municipal Code. Issuance of a City CDP is dependent upon conformity with the certified Local Coastal Program land use plan and with all regulations of the certified Implementation Program.

Site Development Permit

A City issued Site Development Permit is required for City public works projects on premises containing environmentally sensitive lands, as described in Chapter 14, Article 3, Division 1 of the City's Municipal Code. The intent of these procedures is to apply site-specific conditions as necessary to assure that the development does not adversely affect the applicable land use plan and to help ensure that all regulations are met.

Project Alternatives

The proposed project is designed to meet the requirements set forth by a Superior Court of California order to restore the Children's Pool to its 1941 condition. This would require the removal of roughly 3,000 cubic yards of sand from Casa Beach. The primary objective of the proposed project is to remove this volume of sand from Casa Beach. Any alternative with equal or lesser impacts would not meet the Court order. Therefore, the only feasible alternatives are those that would achieve the same physical reconfiguration of Children's Pool, albeit by different means, and in a manner that would reduce the impacts identified in this EIR. After much consideration, practicable alternatives were deemed not to exist. However, the spirit of CEQA is disclosure of information to the public and decision makers. Therefore, several alternatives, while all deemed infeasible, are discussed in this document.

Year-Round Joint Use Alternative

The Year-Round Joint Use Alternative would address the feasibility of humans and seals sharing Casa Beach and Children's Pool year-round.

Seasonal Joint Use

The Seasonal Joint Use Alternative would address the feasibility of humans using Casa Beach and Children's Pool from July 1st through January 1st, and the harbor seals using Casa Beach and Children's Pool from January 2nd to June 30th.

Open Breakwater and Sluiceways

The Open Breakwater and Sluiceways Alternative would address the feasibility of opening the sluiceways instead of dredging in order to increase water circulation in the Children's Pool to potentially reduce the level of contamination in the water.

Create a New Children's Pool

The Create a New Children's Pool Alternative would address the feasibility of creating a Children's Pool in another location and leaving the current pool to the harbor seals.

Offshore Seal Platform Alternative

This alternative would address the feasibility of constructing a platform adjacent to the Seal Rock Preserve in order to provide an alternative haul out location for the seals.

No Project Alternative

The No Project Alternative, required under CEQA Guidelines Section 15126.6(e), must discuss existing conditions as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services (CEQA Guidelines Section 15126.6(e)(2)). The No Project Alternative prevents all future discretionary actions from occurring and leaves the site in its current state without any new activity that might trigger a discretionary action. This alternative would not meet any of the project objectives listed above.

Chapter 3
Environmental Analysis

Chapter 3
Environmental Analysis

In accordance with CEQA Guidelines (Sections 15128 and 15143), the following chapter presents analysis of the environmental issues identified in the NOP and during project scoping as having potentially significant impacts if the project were implemented. Sections in this chapter cover the following issues: Aesthetics and Neighborhood Character; Biological Resources; Geology and Soils; Historical Resources; Human Health, Public Safety, and Hazardous Materials; Hydrology and Water Quality; Land Use; Recreational Resources; and Transportation and Circulation. Further below in this section is a discussion of the project's impacts for the environmental issue areas which were determined to be less than significant during the project scoping period and, therefore, which are not addressed in individual sections of Chapter 3.

Each environmental impact category in this EIR is discussed separately and includes a description of the environmental setting, the criteria used to determine significance of potential effect, the potential environmental impacts of the project, and mitigation measures to avoid or reduce impacts that were determined significant. The environmental setting for each category contains a description of the physical environmental conditions in the vicinity of the project and the federal, state, and local regulatory background as they existed at the time this EIR was prepared. Typically, the description of the physical environmental conditions in the project vicinity reflects how the area existed at the time of the NOP; however, the NOP was distributed in October 2007 and this EIR included analysis of the project area as current as possible to the date of publication of this document. The existing conditions described in these sections serve as a baseline for the impact analyses in this chapter. The significance criteria identified for each environmental impact category are consistent with the City of San Diego's Significance Determination Thresholds (also known as Guidelines), pursuant to Section 21082.2 of CEQA. The environmental impact analyses focus on the potentially significant effects that could occur during construction and/or operation of the project. As required by CEQA, mitigation measures are identified to reduce or eliminate significant adverse impacts to the extent feasible. All direct impacts can be avoided or reduced to less-than-significant levels by the mitigation measures discussed herein. Cumulative impacts are discussed in Chapter 4 of this EIR.

Effects Found Not to be Significant

Pursuant to Section 15128 of the State CEQA Guidelines, an EIR shall contain a statement briefly indicating the reasons that various potential significant effects of a project were determined not to be significant. Based on initial environmental review of the project, the City determined that the proposed project would not cause significant adverse effects associated with the following issues: agricultural resources, air quality and odor, mineral resources, noise, paleontological resources, public services and facilities, and public utilities. Because these issues were determined to result in less-than-significant impacts during initial review, they are not addressed in depth in this EIR. These issues are briefly explained below:

Agricultural Resources

The project site consists of the Children's Pool, Casa Beach, South Casa Beach, and the area between these beaches. As described in Section 3.3 Geology and Soils, on-site soils consist predominantly of recent beach deposits, alluvial, and colluvial soils from erosion of the local bluffs, and artificial fill soils, mainly consisting of silty to clayey sands with gravel. No agricultural lands are located on or adjacent to the project site. In addition, maps provided by the California State Department of Conservation Farmland Mapping and Monitoring Program (FMMP) show the project area mapped as "Urban and Built-Up Land," which does not include agricultural uses. The project site is also not under a Williamson Act contract. Therefore, no impacts to agricultural resources would occur.

Air Quality and Odor

The proposed project aims to restore the Children's Pool and Casa Beach to their 1941 configurations and is not anticipated to result in significant impacts related to air quality and odor. The project is consistent with the existing land use designation as it would continue to be used for recreational purposes, and therefore would not conflict with or obstruct the implementation of an applicable air quality plan. No new development is proposed by the project that could produce long term sources of air pollution. Potential short term air pollutants resulting from construction activities would be temporary and minimal due to the small scale of project construction, and the project would adhere to standard construction dust and equipment emission control measures to reduce impacts to below a level of significance. In addition, as discussed in Section 3.9 Transportation and Circulation, there would be no increase in traffic as a result of the proposed project and therefore the project is not anticipated to generate additional air pollutant emissions related to project-related traffic. The project is intended to reduce contamination in on-site sand and water, which would

potentially lead to improved odor conditions. Therefore, impacts related to air quality and odor would not be significant.

Greenhouse Gasses

The State of California has passed a number of policies and regulations that are either directly or indirectly related to greenhouse gas emissions (GHG). Notable, the California legislature passed Assembly Bill 32 (AB 32), the "California Global Warming Solutions Act of 2006," which was signed by the governor on September 27, 2006. It requires the California Air Resources Board to adopt rules and regulations that would reduce GHG emissions to 1990 levels by 2020. There are currently no published thresholds or recommended methodologies for determining the significance of a project's potential contribution to global climate change in documents prepared pursuant to the National Environmental Policy Act or CEQA. Therefore, no uniform accepted approach has been developed for assessing a project's potential impacts relative to global climate change.

AB 32 was designed to work in conjunction with CEQA. This bill enacted a timeframe for the development and adoption of guidelines which would direct public agencies on how to reduce GHGs to an acceptable level. Currently, these guidelines are in draft form and nothing has been certified or adopted. Because no significance thresholds have yet been established for GHG, no conclusions regarding the significance of the project's impacts associated with GHG emissions can be made.

Mineral Resources

No mineral resources which would be of future value to the region or state have been identified within the project site by the 1996 Update of Mineral Land Classification completed by the Department of Conservation. The California Department of Conservation Division of Mines and Geology map identifies the project area as Mineral Resource Zone 3 (MRZ-3), which indicates areas containing mineral deposits that cannot be evaluated for their significance from available data. The project does not contain MRZ-2 designation areas, which are areas where significant mineral deposits are known to exist. Furthermore, the project would reuse beach sand extracted from Children's Pool at the adjacent beach, and none of these resources would be adversely affected by the project. Therefore, no significant impacts to mineral resources would occur.

Noise

The proposed project would not create a source of adverse noise levels. The project site would continue to serve as recreational use and no new development would result from the proposed project that could produce new long term sources of noise. Short term noise levels from construction activities would be emitted on the site, but this temporary emission would be in compliance with the City's Noise Ordinance, which prohibits construction between 7:00 p.m. and 7 a.m., and which limits construction noise received by sensitive receptors to an average of 75 dBA over the 12-hour allowable construction period. Residential receptors are located approximately 100 feet from the edge of project construction and are located at a higher elevation than the project construction area. Noise will be attenuated by the distance and elevation change between the construction and residential areas. Noise will also be reduced by the intermittent nature of the project-related construction activities, and noise is not anticipated to exceed an average sound level of 75 dBA over the course of a construction day. In addition, as discussed in Section 3.9 Transportation and Circulation, there would be no increase in traffic as a result of the proposed project and therefore is not anticipated to increase traffic noise. Therefore, significant impacts related to noise would not occur.

Paleontological Resources

As described in Section 3.3 Geology and Soils, the project site is underlain by recent beach deposits, alluvial, and colluvial soils associated with erosion of the local bluffs and artificial fill soils, mainly consisting of silty to clayey sands with gravel. Much of the project site has been disturbed during previous construction activities including construction of the breakwater. The project proposes to remove the sand that has accumulated behind the breakwater to return the pool back to its 1941 condition. Based on the level of disturbance that has occurred at the site, the anticipated extent of excavation that would be associated with the project, and the extremely low paleontological sensitivity of sand that underlies the project site, paleontological resource impacts from project construction would be less than significant.

Public Services and Facilities

The project would not result in significant impacts to public services and facilities. The project would not result in an increased demand for public services including fire, police, school and library services because there is no development proposed by the project, land use would remain the same, and the project would not entail an increase in the intensity of use of the site. The project would not affect lifeguard services stationed near the project site because it would not result in access being cut off or otherwise substantially affected.

Therefore, significant impacts related to public services and facilities would not occur.

Public Utilities

The project would not result in significant impacts to public utilities. The project proposes the excavation of approximately 3,000 cubic yards of beach sand from Casa Beach and the Children's Pool to return the pool to its 1941 condition. This action would not result in an increased demand for public utilities including water, sewer, solid waste disposal, natural gas, and communication services since there is no development proposed by the project and land use would remain the same. Therefore, significant impacts related to public utilities would not occur.

Section 3.1
Aesthetics and Neighborhood Character

Section 3.1

Aesthetics and Neighborhood Character

Introduction

The purpose of this section is to provide a visual impact assessment of the proposed project and to determine its potential effect on visual resources (i.e., effects on scenic views and vistas) in the project area.

Visual character and quality are defined by the developed and natural environment. The character of a view is based largely on topography, general land use patterns, scale, form, and the presence of natural areas. Visual quality refers to the aesthetics of a view based on the relative degree of vividness, intactness, and unity. Vividness is the visual power or memorability of landscape elements as they combine to create striking and distinctive patterns. Intactness is the visual integrity of the landscape and its freedom from encroaching elements. Unity is the visual coherence and compositional harmony of the landscape considered as a whole. Views of high visual quality have the following characteristics:

- Topographic relief
- Vegetation variety
- Rich colors
- Impressive scenery
- Unique natural and built forms

Areas of medium visual quality have interesting but minor landforms, some vegetative variety, some color variety, and/or moderate scenery. Areas of low visual quality have uninteresting features, little vegetative variety, minor color variations, and/or uninteresting scenery.

Existing Conditions

The shoreline of La Jolla is characterized by rocky, wave-cut terraces, sandy bluffs, vertical cliffs, rocky headlands, and small, narrow pocket beaches. This is a scenic coastal area that is heavily used by residents, visitors, and tourists. The shoreline in La Jolla includes: public rights-of-way; pedestrian access along

paths; sidewalks; staircases; and paved surfaces such as roads, bicycle lanes, and parking areas. Some improvements have been made in the past to highly eroded areas. Areas surrounding the proposed project's coastline are developed with landscaped sidewalks, viewing points, and street parking along Coast Boulevard. Surrounding land uses include the Ellen Browning Scripps Park to the north and developed land uses, primarily multi-family residential and hotel/commercial uses, to the east and southeast. Parking is available along the entire length of Coast Boulevard and the adjacent surface streets. The Casa de Manana residential facility for active seniors is located across Coast Boulevard. The lifeguard tower for Children's Pool (Casa Beach lifeguard tower), which has been condemned, is located directly adjacent to the project site. A temporary tower will remain in place until the new, permanent structure is constructed. Additionally, restrooms, stairway access down the bluff, a public walkway, planters, vegetation, and the Children's Pool breakwater are located near the project site.

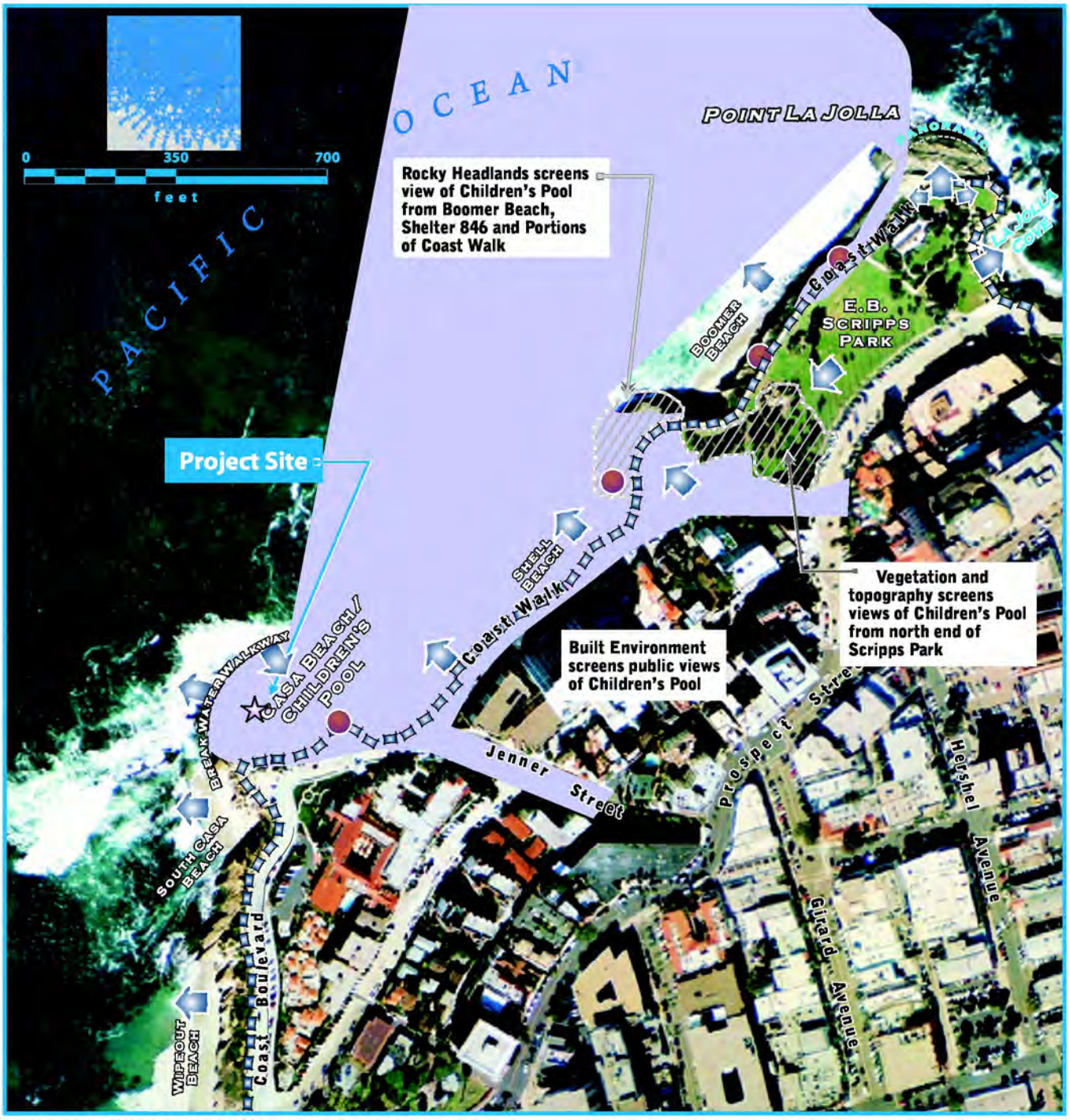
A portion of La Jolla's Coast Walk meanders through the project area. Figure 3.1-1 shows the alignment of this heavily used scenic resource. The Coast Walk is on the seaward edge of the bluff tops and offers high quality panoramic views of the ocean/land interface; and there are two recently constructed portions of the Coast Walk close to the site that deviate from the sidewalk that parallels Coast Boulevard. Figure 3.1-2 is a photograph overlooking the project vicinity from the recently constructed portions of Coast Walk. These alternative routings encourage pausing and serve as vista points.

Another scenic resource/vista point along Coast Walk in the project vicinity are four shade structures (see Figure 3.1-1 for their locations), which have bench seats and 360° open air views.

There are diverse marine habitats offshore of the project site, including sandy areas, rocky reefs, seagrass beds, and southern California kelp forests. The La Jolla Ecological Preserve and the San Diego Marine Life Refuge are clearly visible, located offshore and northwest of the proposed project area.

Scenic Vistas/Observation Points

In order to establish baseline conditions, a photographic survey was conducted on September 24, 2008, to document and inventory potential public views in the project area. Nine Key Observation Points (KOPs) were identified and recorded during the photographic survey. Figure 3.1-3 is an aerial photograph of the Children's Pool project viewshed that shows the locations of the KOPs. Five potential views were identified from locations along Coast Walk, one from Ellen B. Scripps Park, two from nearby pocket beaches, and one from the Children's Pool breakwater. Figures 3.1-4 through 3.1-6 illustrate the project area's existing visual conditions.



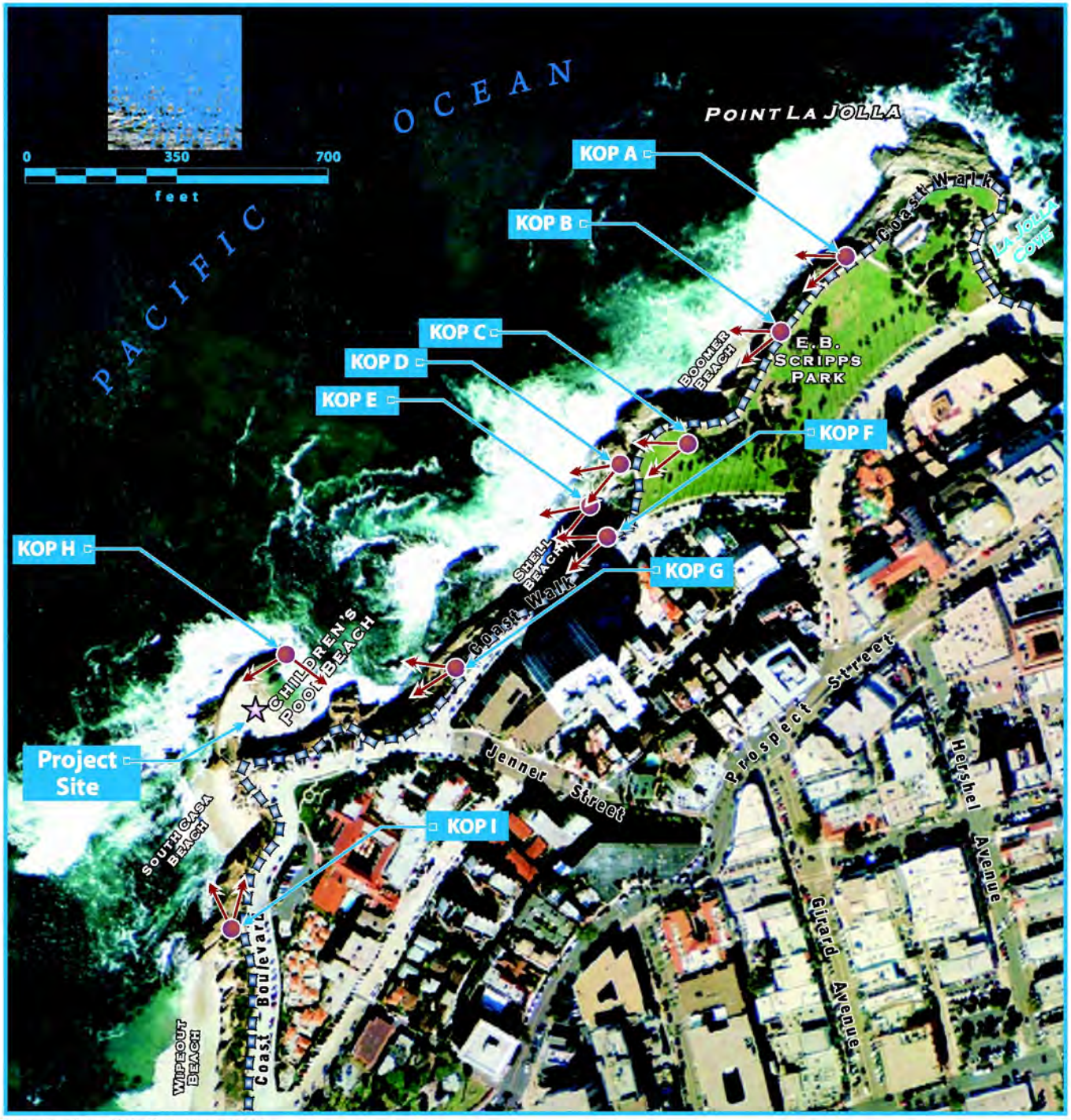
Soucre: Landiscor, Flight Date: January 2008

LEGEND	
☆ Project Location	Scenic Trail/Coast Walk
Scenic Vista/Recreation Nodes	Children's Pool/Casa Beach Public Viewshed
Scenic Vista/Coast Walk Shelter	

Figure 3.1-1
Scenic Resources -La Jolla Children's Pool Project



Figure 3.1-2
Project Vicinity - La Jolla Children's Pool Project



Soucre: Landiscor, Flight Date: January 2008

LEGEND
KOP Location and View Cone Direction
Project Location
Coast Walk

Figure 3.1-3
Key Observation Point Map -
La Jolla Children's Pool Project



KOP A - Coast Walk

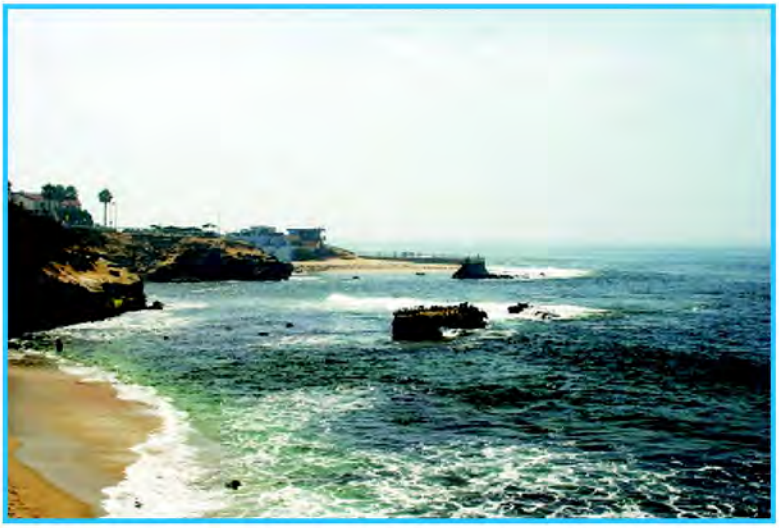


KOP B - Coast Walk



KOP C - Scripps Park

Figure 3.1-4
Key Observation Point Photos - La Jolla Children's Pool Project



KOP D - Shade Structure Above Boomer Beach



KOP E - Shell Beach



KOP F - Coast Walk

Figure 3.1-5
Key Observation Point Photos - La Jolla Children's Pool Project



KOP G - Coast Walk



KOP H - Panorama, End of Breakwater



KOP I - Coast Walk

Figure 3.1-6
Key Observation Point Photos - La Jolla Children's Pool Project

For determining significance with respect to visual corridors and public viewing areas, only those identified in the La Jolla Community Plan are relevant. The La Jolla Community Plan designates Coast Boulevard, Children's Pool, Shell Beach, Ellen B. Scripps Park, and the La Jolla Cove as designated viewshed locations. Figures 3.1-7 and 3.1-8 illustrate the project area's designated Visual Access and Identified Public Vantage Points.

KOP A

A shade structure on Coast Walk in the northern portion of Ellen Browning Scripps Park offers views of the La Jolla coastline and other natural elements that characterize the Children's Pool project area. The immediate southwest-facing foreground is characterized by iceplant-covered bluff tops and coastline wave action. The middleground view showcases a sandy, wave-etched bluff top, a lifeguard tower, a few shade trees, and a high-rise building. The background of this southwestern viewshed consists of the Pacific Ocean and a partial view of Children's Pool and Children's Pool breakwater. Views of the pool are somewhat screened by the rocky headlands located in the middleground. Open Pacific Ocean waters make up the views to the west.

KOP B

This observation point is located along Coast Walk just south of KOP A. The immediate southwest-facing foreground shows the Coast Walk guardrail and the same iceplant-covered bluff top as in KOP A. The middleground is characterized by the Pacific Ocean, a sandy, wave-eroded bluff, a lifeguard tower, a few shade trees, and the high-rise that is visible from KOP A. The Pacific Ocean and an obstructed view of Children's Pool and the pool's breakwater form the background of the southwest viewshed. Views to the north and east face away from the project site.

KOP C

This observation point is located on the southern portion of Ellen Browning Scripps Park and provides southwesterly views of the project area. The immediate foreground consists of the Park's grassy open space. The middleground showcases Coast Walk, Coast Walk users, and the Coast Walk guardrail. Children's Pool, the Casa Beach lifeguard tower, and the breakwater combine to form the background. The distant background is dominated by the Pacific Ocean.

KOP D

This observation point is located in a shade structure on Coast Walk just above the northernmost point of Shell Beach. The southwest-facing foreground includes the Shell Beach coastline and wave-eroded sandy bluffs. The middleground consists of additional wave-eroded sandy bluffs, ocean water, and a few rock outcroppings. The distant background includes views of Children's Pool, the breakwater, and Casa Beach lifeguard tower. The Pacific Ocean is located to the west of this observation point. Views to the east show various buildings including a high-rise tower, while views to the north face away from the project site.

KOP E

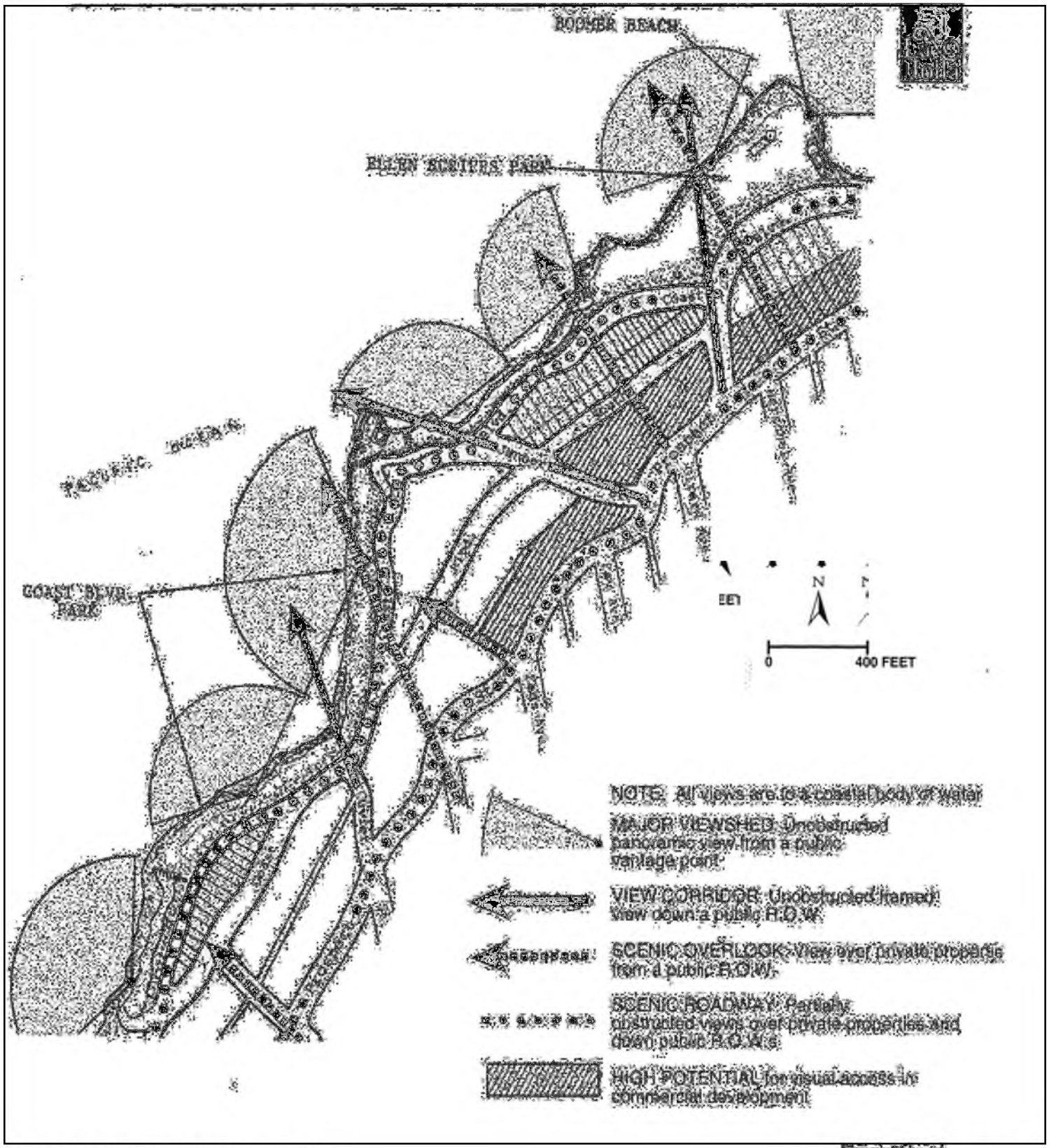
This southwest-facing observation point is located on the Shell Beach coastline below Coast Walk. The foreground consists of sandy beach and breaking ocean waves. The middleground includes rock outcroppings and sandy bluffs. Children's Pool, the breakwater, and Casa Beach lifeguard tower as well as ocean water is visible in the background. Views to the west are dominated by the Pacific Ocean.

KOP F

This observation point, located along Coast Walk at the south edge of Ellen Browning Scripps Park, offers west- and southwest-facing views. The immediate foreground displays slightly vegetated sandy bluffs, rock outcroppings, and coastal waters. The southwest-facing middleground includes the Casa Beach lifeguard tower, breakwater, and beach area. The background view is dominated by the Pacific Ocean.

KOP G

This observation point, which offers a panoramic view of the La Jolla coastline, is located on the Coast Walk just north of Children's Pool. The southwestern viewshed foreground consists of vegetated bluff tops and coastal waters. The middleground is made up of jagged, wave-eroded bluffs and rock outcroppings, a partial view of Children's Pool, the Casa Beach lifeguard tower, and the breakwater. The western viewshed is dominated by the Pacific Ocean. Views to the north and east face away from the project site.



Source: City of San Diego -La Jolla Community Plan

Subarea E: Coast Boulevard - Visual Access

Figure 3.1-7
Subarea E: Coast Boulevard – Visual Access - La Jolla Children's Pool Project

1. Torrey Pines City Park
2. La Jolla Farms Road
3. Scripps Natural Reserve
4. Bluff - top easement at La Jolla Shores Lane
5. Ellentown Road
6. La Jolla Shores Drive from Torrey Pines Rd.
7. La Jolla Shores Dr.
   (looking south from the vicinity of
   Scripps Institution of Oceanography)
8. Allen Field
9. Bordeaux Ave., western half
10. El Paseo Grande after it turns east
11. Camino del Oro after it turns east
12. Whale Watch Way
13. Cliffridge Park
14. Kellogg Park
15. Calle Frescota
16. Prestwick Drive
17. Vallecitos
18. Avenida de la Playa
19. Calle del Cielo
20. Pottery Canyon Park
21. Costabelle Drive
22. Spindrift Drive, South of the Marine
    Room Restaurant
23. Charlotte Park at the foot of Charlotte Street
24. Coast Blvd., Children's Pool, Shell Beach,
    Ellen B. Scripps Park & La Jolla Cove
25. Prospect St. and Cave Street
26. Coast Walk
27. North end of Park Row
28. View of La Jolla Shores from Torrey Pines Road
29. Pubic open space on Torrey Pines Road
    between St. Louis Terrace and Calle de la Plata
30. Azure Coast Drive
31. Hidden Valley Road
32. Ardath Road
33. Girard Avenue
34. Jenner Street
35. View corridor easement through 7963 Prospect Place to ocean
36. Easement across from John Coal Bock Store from
    Prospect Street and Recreation Center
37. Hillside Drive (portions)
38. Caminito Avola/Via Avola
39. Via Siena at Hillside Drive
40. Rue Denise
41. Portions of La Jolla Scenic Drive South
42. Mt. Soledad, north of Ardath Road
43. Rue Adriane
44. Rue Michael
45. Senn Way
46. Rue de Roark
47. Coast Blvd. Park and South Coast Blvd.
48. View corridor at southwest side of Scripps
    Hotel site, from Prospect Street
49. La Jolla Community Center Park,
    Cuvier Street
50. From top of Cuvier Street at Prospect
51. Via Capri (portions)
52. Mount Soledad
53. Country Club Drive
54. Marine St. (Jones Beach)
55. Sea Lane
56. Belvedere Street
57. West Muirlands Drive
58. Neptune Place and La Jolla Strand Park
59. Westbourne Street
60. Nautilus Street
61. Muirlands Drive between Nautilus
    and La Jolla Mesa Drive
62. Soledad Mountain Road
63. Windandsea Park
64. El Camino del Teatro
65. Portions of La Jolla Scenic Drive South
66. Bonair Street
67. Plaza del Norte and Playa del Sur
68. Gravilla Street
69. Kolmar Street
70. Rosemont Street
71. Palomar Street
72. Fay Avenue Bike Path
73. Inspiration Drive
74. Hermosa Terrace Park
75. Newkirk Drive
76. Rodeo Drive
77. Via España
78. Camino de la Costa includes
    Cortez Place, Costa Place
79. Desert View Drive
80. La Jolla Rancho Road
81. Ravenswood Road
82. La Jolla Hermosa Park
83. La Jolla Mesa Drive
    (from Cottontail Lane to Skylark Street)
84. Moss Lane, off Dolphin Place
85. Bird Rock Avenue
86. Dolphin Place
87. Coral Lane
88. Chelsea Place
89. Forward Street
90. Midway Street
91. End of Colima Street (closest to the ocean)
92. Calumet Park
93. San Colla Street
94. Ricardo Place
95. Bandera Street
96. Sea Ridge Drive
97. Linda Way
98. Tourmaline Surfing Park
99. La Cañada Canyon
100. Princess Street

View Cone
Defined by 90° angle radiating lines from public vantage point (the centerline of the street) to the corners of the buildable envelope as defined by the setbacks of each corner property closest to the ocean or shoreline.

note: All views are to a coastal body of water

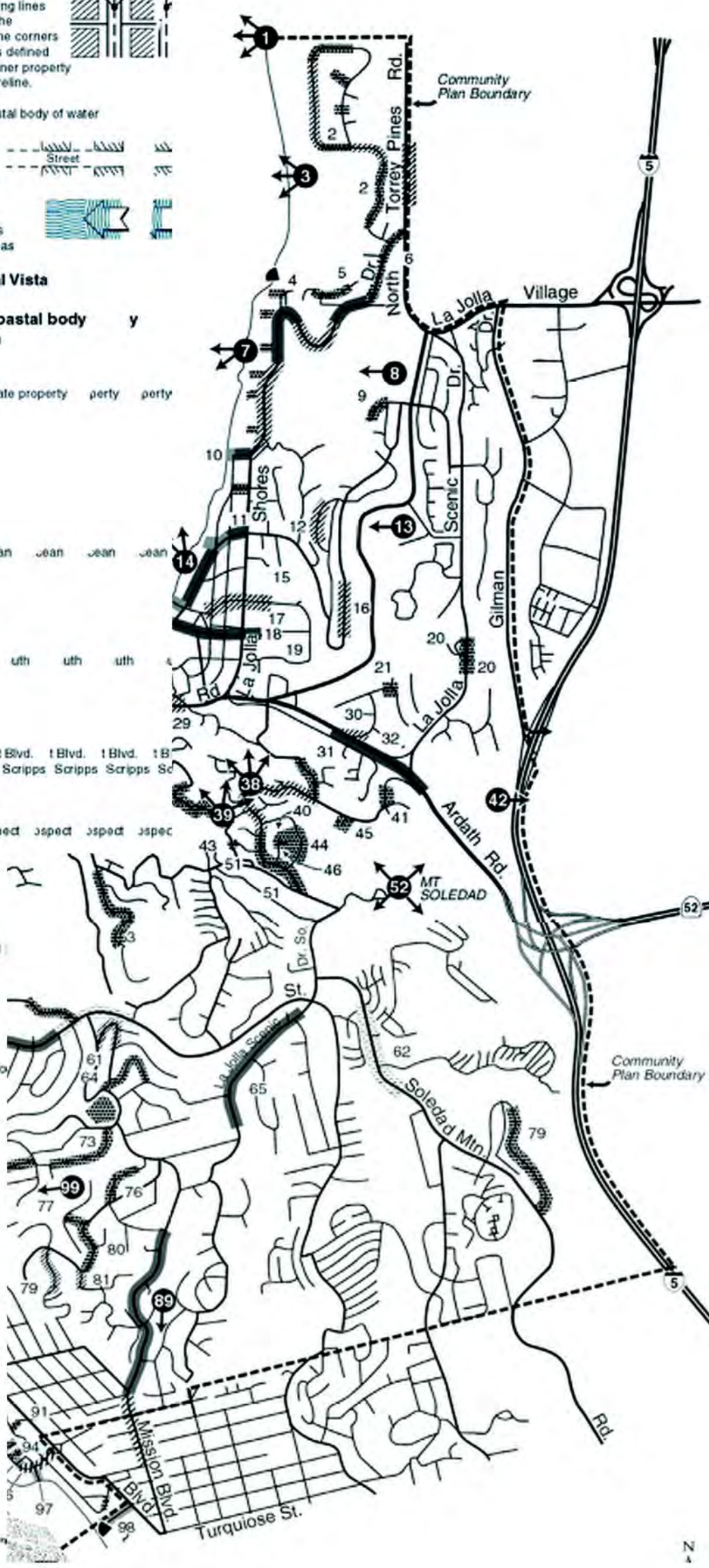
View Corridor
Unobstructed framed view down a public right-of-way

Viewshed
Usually from high elevations looking down over large areas

Intermittent or Partial Vista

Roads from which coastal body of water can be seen

Scenic Overlook
Defined as a view over private property from a public right-of-way.



Source: City of San Diego -La Jolla Community Plan

Figure 3.1-8
Identified Public Vantage Points – La Jolla Children's Pool Project

KOP H

Located on the tip of Children's Pool breakwater, this observation points offers a 360° view of the La Jolla coastline. Facing southeast, the immediate foreground consists of the Children's Pool water and shoreline. The middleground is made up of sandy bluffs, the staircase leading down to children's Pool, the Casa Beach lifeguard tower, and the breakwater. Casa de Mañana fills the eastern-facing background, while the Pacific Ocean fills the western-facing background.

KOP I

A bluff top area located directly south of lower Casa Beach offers views to the north and northwest. From this observation point, views to the south face away from the project area, and views to the east reveal wave-etched cliffs. The immediate foreground facing north is characterized by wave-eroded bluffs. The north-facing middleground includes the Casa Beach lifeguard tower, a section of the breakwater, wave-eroded bluff tops, a stairway leading to South Casa Beach, and a portion of South Casa Beach. The Pacific Ocean fills the background. Views to the northwest are dominated by open Pacific Ocean waters and a few scattered rocky headlands.

Thresholds of Significance

Criteria for determining the significance of impacts related to aesthetics and neighborhood character were taken from the City of San Diego CEQA Significance Determination Thresholds (2007). The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project affect the visual quality of the area, particularly with respect to views from public viewing areas, vistas, or open spaces as identified in the community plan?
- Would the project substantially alter the existing character of the area?
- Would the project result in the creation of a negative aesthetic site or project?
- Would the project result in substantial change in topography or ground surface relief features?
- Would the project result in the loss, covering, or modification of any unique geologic or physical feature such as a sandstone bluff or rock outcrop?

Impacts and Mitigation Measures

Would the project affect the visual quality of the area, particularly with respect to views from public viewing areas, vistas, or open spaces as identified in the community plan?

Short-Term (Construction) Impacts

Construction of the proposed project would require excavating and decontaminating 3,000 cy of sand from Children's Pool beach and transferring it to South Casa Beach. The project also proposes discouraging a large number of seals from hauling out on Children's Pool beach during the construction process. This would allow humans to once again utilize Children's Pool for recreational purposes.

As identified in the Environmental Setting section above, the panoramic views created by La Jolla's natural amenities, including the steep hillsides, canyons, bluffs, parks, beaches, tide pools, and breaking coastal waters, primarily establish the visual quality of the Children's Pool project area. The La Jolla Community Plan identifies Coast Boulevard, Children's Pool, Shell Beach, Ellen B. Scripps Park, and the La Jolla Cove as designated viewshed locations. In addition, the photographic survey conducted in 2008 identified nine KOPs in the Children's Pool project area/vicinity. Of the nine KOPs, seven KOPs (KOP C through KOP I) would be directly affected by any change in visual quality within the project area.

Construction activities lasting approximately eight to ten weeks would result in a temporary disturbance to the project area's visual quality due to the staging of construction equipment. Construction activities would require the construction of a sand berm and utilization of heavy equipment to complete the sand transfer.

Impact Determination

Based on applicable thresholds, construction of the proposed project would affect the existing visual quality of the area, particularly with respect to views from public viewing areas, vistas, and open spaces as identified in the community plan. Construction staging and activities would create a temporary visual disturbance to the La Jolla Community Plan identified public views and visual corridors as well as the seven aforementioned KOPs. Therefore, impacts would be temporary and less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

Ongoing activities to maintain the reconfigured beach and pool would require the excavation and transfer of approximately 200 cy of sand from Children's Pool to South Casa Beach once every two to five years as appropriate to maintain the beach configuration.

Project maintenance would ensure that a safe, decontaminated beach area at Children's Pool remain for human use. This would result in a permanent decrease in the size of Children's Pool beach and an increase in the elevation of South Casa Beach. However, this change in beach size would not significantly affect the area's visual quality. Both pocket beaches would ultimately retain their inherent visual attributes in the nature of form, line, color and texture. No new elements would be introduced to the viewshed that would create incongruity or contrast with the existing visual quality of the landscape. The open beach areas and the ocean-land interface would remain essentially unchanged and the proposed project would not compromise the integrity and quality of the designated viewsheds. Figure 3.1-9 shows a design visualization of the proposed project on Children's Pool from KOP G. The KOP G viewshed was chosen for this visualization because of its close proximity to the proposed project and its characteristic as a focal landscape view. The other KOPs identified are farther away from Casa Beach and their views are better described as panoramic in character, where Children's Pool and Casa Beach area a less dominant feature of the viewshed. In addition, KOP G is located along Coast Boulevard, an Identified Public Vantage Point and near Jenner Street, a designated View Corridor in the La Jolla Community Plan.

Furthermore, Figure 3.1-9 illustrates the existing viewshed and the changes to the views with the implementation of the proposed project. The reduction of the beach area and consequent increase in the size of Children's Pool is the most noticeable change in the view. The basic landscape elements of line, color, and texture are unchanged. The form of the landscape is slightly modified by the larger Children's Pool. This modification in landscapes form is not incongruent with the visual quality of the landscape from KOP G.

Impact Determination

Based on applicable thresholds, maintenance activities associated with the proposed project would not significantly impact the area's visual quality. Views from designated public viewing areas, vistas, and open spaces as identified in the

community plan would ultimately retain their inherent visual attributes in the nature of form, line, color and texture. Therefore, impacts on the area's visual quality would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project substantially alter the existing character of the area?

Short-Term (Construction) Impacts

As identified in the Environmental Setting section above, the Children's Pool project area is characterized by rocky, wave-cut terraces, sandy bluffs, vertical cliffs, rocky headlands, and small, narrow pocket beaches. The existing character of Children's Pool and the adjacent South Casa Beach (pocket beach) would be temporarily altered during the construction period because of the staging and construction activities identified above.

Impact Determination

Based on applicable thresholds, the proposed project would temporarily alter the existing character of the area. Impacts on Children's Pool and the adjacent pocket beach would be limited to the project's construction period. Therefore, impacts on the area's existing character would be temporary and less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

The continual excavation and transfer of sand from Children's Pool to South Casa Beach would permanently reduce the size of the sandy pocket beach at Children's Pool and, in turn, increase the elevation of South Casa Beach. Although these pocket beaches would change in size and elevation, their fundamental character and qualities would remain intact. No other changes to the area's existing character would occur.



Existing Conditions



Design Visualization

Figure 3.1-9
KOP G Proposed Project Design Visualization - La Jolla Children's Pool Project

Impact Determination

Operational impacts related to the proposed project would not result in a substantial alteration to the areas existing character. Although maintenance activities would lead to a decrease in the size of Children's Pool beach and an increase in the elevation of South Casa Beach, the fundamental characteristics of these pocket beaches and the surrounding area would remain unchanged. Therefore, impacts on the area's existing character would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in the creation of a negative aesthetic site or project?

Short-Term (Construction) Impacts

Due to the construction and staging activities identified above, a temporary negative aesthetic site impact would occur at Children's Pool and the immediate project area. Construction activities would result in a change to the existing landform of the project area that would last between eight and ten weeks. No other activities that would contribute to a negative aesthetic site are proposed.

Impact Determination

Based on applicable thresholds, the proposed project would result in the creation of a negative aesthetic site only for the duration of the construction period. Therefore, the proposed project's negative aesthetic site impacts would be temporary and less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

In the long run, maintenance activities would permanently decrease the size of Children's Pool beach and increase the elevation of South Casa Beach. These changes in landform would be considered less than significant as the pocket beaches would retain their inherent shoreline qualities and characteristics.

Additionally, project maintenance would not impact the existing terraces, bluffs, cliffs, or headlands that contribute to the aesthetic quality of the area. Since there would be no impacts on the terraces, bluffs, cliffs, or headlands, and the coastline would retain its aesthetic qualities, no negative aesthetic impacts would occur.

Impact Determination

Operation of the proposed project would not result in the creation of a negative aesthetic site or project. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in substantial change in topography or ground surface relief features?

Short-Term (Construction) Impacts

Project construction would result in an overall decrease in the volume of sand located at Children's Pool and a subsequent increase in sand volume at South Casa Beach. This change in landform would be necessary in order to achieve project objectives. Since project construction would not affect any existing rock outcroppings, bluffs, the breakwater, or other significant relief features, impacts on the area's topography and ground surface relief features would not be significant.

Impact Determination

Construction of the proposed project would not result in a substantial change in topography or ground surface relief features. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

Maintenance activities associated with the project would create a permanent change in the existing landform of the project area. There would be a reduction in the size of Children's Pool beach and a subsequent increase in the elevation of South Casa Beach, but no changes to the area's existing rock outcroppings, bluffs, breakwater, or other significant relief features would occur. Thus, the project area would maintain its current topographic conditions.

Impact Determination

The project's operational impacts would not result in a substantial change in topography or ground surface relief features. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in the loss, covering, or modification of any unique geologic or physical feature such as a sandstone bluff or rock outcrop?

Short-Term (Construction) Impacts

Project construction would not disturb any geologic or physical features such as sandstone bluffs or rock outcroppings. Construction activities would entail working with the beach sand at Children's Pool and South Casa Beach, but would not require the modification of any existing geologic or physical features in the project area, such as rock outcroppings, sandstone bluffs, tidepools, or the breakwater.

Impact Determination

Based on applicable thresholds, the proposed project would not result in the loss, covering, or modification of any unique geologic or physical features such as a sandstone bluff or rock outcrop. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

Project operation would be limited to sand excavation and relocation from Children's Pool to South Casa Beach. This activity would create a permanent change in the existing landform of the pocket beaches, but would not require the modification of any existing geologic or physical features in the project area, such as rock outcroppings, sandstone bluffs, tidepools, or the breakwater.

Impact Determination

In the long-term, the project would not result in the loss, covering, or modification of any unique geologic or physical feature such as a sandstone bluff or a rock outcrop. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Section 3.2
Biological Resources

Section 3.2
Biological Resources

Introduction

This section describes the environmental setting for the proposed project site. It also describes the potential impacts on the terrestrial and marine environments that could result from implementation of the proposed project, as well as mitigation measures that would reduce these impacts.

The biological resources of the La Jolla Children's Pool site reflect the general composition of the San Diego coastline areas between the Scripps Institution of Oceanography research pier to the north and the Marine Street Beach south of the pool site. The resources within that larger stretch of coastline have been studied for many years and have been presented in several papers and reports. The literature describes both the baseline conditions of the area as well as trends and changes in environmental conditions that affect the various biological communities along this extent of the California coastline. This section summarizes information from previous reports as well as more recent studies, cited within the text, that have been completed solely for the purpose of providing additional information regarding the resources within the smaller Children's Pool and pocket beach areas.

The primary sources of data for the marine environment are taken from the Water Quality Technical Reports (SWRCB 1979, 1980) that were prepared for the California State Water Board's designation of 34 Areas of Special Biological Significance (ASBS), which include the San Diego Marine Life Refuge (ASBS # 31) and the San Diego La Jolla Ecological Reserve (ASBS # 29). These reports (Nos. 79-1 and 80-2) were prepared by CDFG, in cooperation with the California State Water Resources Control Board (SWRCB) and represent the most recent marine reports for the area.

Additional comprehensive, regional, and academic resources (Jepson 1993; Holland 1986; Unitt 2004; Dailey et al. 1993; Abbott and Hollenberg 1976; Morris et al. 1980; and Allen et al. 2006) were consulted for general habitat descriptions and species checklists, and are cited as appropriate throughout the text.

More recent general biological assessments for the beach areas (Appendix I), the intertidal and subtidal marine habitats (; Appendix G), the marine mammals

(Appendix F) and the shore birds and wildlife (Appendix J) augment the previous biological studies and are cited within the text.

Existing Conditions

The pool beach, called Casa Beach, and South Casa Beach are surrounded on the landward side by a thin strip of southern coastal bluff scrub habitat and various rock outcrops and disturbed patches of sandy dirt. Landward of the bluff and rocky outcrop habitats the coastline becomes developed with landscaped sidewalks, viewing points, and street parking along Coast Boulevard. Surrounding land uses are the Ellen Browning Scripps Park to the north, and developed residential and commercial sections of the community of La Jolla to the east and southeast.

Both project site areas (the pool and adjacent pocket beach) also include intertidal and subtidal marine zones. Each marine zone can be further characterized by subzones varying in their substrata (rocky or sandy), species complement, and position within the tidal range. Of the six habitats (including developed and disturbed) occurring within the project areas, four (sandy beach, southern coastal bluff scrub, intertidal, and subtidal) have the potential to be affected by the proposed activity. The berming of the pool beach, the excavation of 3,000 cy of sand from the pool beach, and the deposition of the cleaned sand onto the adjacent pocket beach may result in potential disturbance to these existing habitats.

Terrestrial Habitats

ICF Jones & Stokes conducted a vegetation habitat assessment and a wildlife assessment (Appendix I and J) for the pool beach and the adjacent site proposed for sand deposition. Those assessments included the terrestrial vegetation and faunal species that occur, or have potential to occur, within the area. The terrestrial portions of the project areas are comprised of four habitats, classified as sandy beach, southern coastal bluff scrub, disturbed, and developed (Appendix I, Figures 3 and 4).

Sandy beaches are in part a product of land weathering, and beach sand is the primary buffer protecting sea cliffs and coastal development from erosion and storm damage. According to the San Diego Association of Governments' (SANDAG's) regional beach replenishment study (SANDAG 2000), natural sediment transport from land to sea has been interrupted by urban development activities, and sand that would otherwise nourish coastal beaches is trapped on land as a result of development. The beach sand cycle is a seasonal process, and, along the San Diego coastline, beach sand loss occurs in the winter as a result of large storms and waves. Sand then accumulates during the summer months when storms and waves are less intense. During the winter, sand shifts from the beach

above the mean sea level to the larger portion of the beach offshore covered by seawater.

The coves of sandy beach habitat (Holland 1987) within the project boundary vary in size depending on the season and extent of long-shore sand movement, thus the amount of acreage comprising the beaches is constantly shifting (Appendix I, Figure 3a. and b.). The breakwater that occurs along the west side of Casa Beach has interrupted the overall long-shore movement of the sand. Although originally built with a series of four sluiceways, those were filled about five years after construction. As a result, the breakwater has historically functioned in capturing and holding the sand such that the overall size of the beach is about twice what it was prior to its construction. The sandy beach cove habitat along the adjacent pocket beach is subject to the same sand movement, although, as a result of the breakwater, these adjacent pocket beaches have experienced an overall decrease in the amount of sand they receive seasonally.

Southern coastal bluff scrub (Holland 1987) is recognized as a sensitive habitat, characterized as a low, open prostrate scrub growing on sandstone bluffs adjacent to the coast. Within the project area this habitat is represented by a thin strip of disturbed coastal bluff scrub that interfaces with the sandy beach on the seaward side and the disturbed and developed areas on the landward side. The disturbed scrub is predominated by nonnative species, and reflects erosion, encroachment of development, the presence of invasive weeds, and evidence of heavy foot traffic. Sea fig (*Carpobrotus chilensis*), salt bush (*Atriplex canescens*), and ice plant (*Mesembryanthemum* sp.) were identified on site and are typical species of this vegetation habitat (Appendix I, Figure 3b.).

Disturbed areas (Holland 1987) include some of the bluff tops, areas around the original lifeguard tower, disturbed patches of bare ground, and existing foot trails and trampled sandy dirt that support very sparse vegetation (Appendix I, Figure 3a.).

Developed areas (Holland 1987) include the sidewalks and landscaped promenade, the parking stalls, the lifeguard towers (both old and new), the kiosk above the pool area, and the breakwater. Although some of the developed areas are integrated with ornamental plantings (Appendix I, Figure 4a.), developed areas generally have low ecological value. The breakwater is approximately 4 feet wide, 303 feet long, and ranges from 5 to 8 or more feet above the beach. Approximately 150 feet of the breakwater extends seaward past the water's edge to form a protective cove.

Although there are no wetlands within the project areas, the proposed excavation activity would occur between the Mean High Water (MHW) and the Mean Lower Low Water (MLLW) marks, which are within waters of the U.S., as referenced and delineated on the grading plans (Coastal Environments 2008). Activities within these tidal lines are regulated by USACE RWQCB, and CDFG under Sections 404 and 401 of the Clean Water Act, the Porter Cologne Act, Section 10 of the Rivers and Harbors Act, and Section 2000 et seq. of the Fish &

Game Code, respectively. The excavation and beach nourishment activity would require permit authorization in compliance with those regulations.

Water Birds and Terrestrial Wildlife

Casa Beach and the adjacent pocket beach support a number of shorebirds, most of them common residents found within typical rocky and sandy beach habitats in southern California. Areas of open water, rocky outcrops, the breakwater, and the bluffs lining the landward side of the sandy beach all provide habitat available to water birds. Although sandy beaches are common along much of the southern California coastline, many are generally disturbed as bird habitat as a result of trash, mechanical raking, petroleum tar, and heavy human recreational use.

ICF Jones & Stokes (Appendix J) conducted a wildlife habitat assessment to determine which species use the project areas and to determine whether or not any listed species occur, or have the potential to occur, around the pool beach and adjacent pocket beach.

The only upland bird species identified was the rock pigeon (*Columa livia*), and the only terrestrial wildlife species observed on site was the California ground squirrel (*Spermophilus beecheyi*). Both are common species and neither has any sensitive status.

The most well represented bird group observed within the pool areas are the gulls, and western gull (*Larus occidentalis*) and Heermann's gull (*Larus heermanni*) were both identified within the project boundary. Other water bird species detected within the area included the American white pelican (*Pelecanus erythrorhynchos*), the pelagic cormorant (*Phalacrocorax pelagicus*), great egret (*Ardea alba*), and the Caspian tern (*Hydroprogne caspia*). All of these species are protected by the Migratory Bird Treaty Act (MBTA).

Literature research was conducted for wildlife species with potential to occur within the area, defined as within the three U.S. Geological Survey (USGS) coastal Quadrangles of La Jolla, Del Mar, and Point Loma. Those records yielded 31 sensitive species (Appendix J, Table 1), but none were identified within the project boundary, nor are any of those species expected to occur within the project site.

Of the eight species of water birds federally and/or state listed as threatened or endangered within California, four are known to occupy habitats within San Diego County: the federal and state listed as endangered light-footed clapper rail (*Rallus longirostris*), the federal and state listed as endangered California brown pelican (*Pelecanus occidentalis californicus*), the federal and state listed as endangered California least tern (*Sternula antillarum browni*), and the federal listed as threatened western snowy plover (*Charadrius alexandrines*). Of those four, the brown pelican and the western snowy plover are the only species that

could potentially use the project area, and both would occur as winter migratory visitors, although the site does not support any suitable breeding habitat. All the noted avian species, with the exception of the rock pigeon, are protected by the MBTA, and the project site does support suitable habitat for some of these species.

Marine Habitats

The boundaries of both the San Diego Marine Refuge (SDMR) and the San Diego-La Jolla Ecological Reserve (SD-LJ Reserve) occur north of the Children's Pool (Appendix H, Figure 1 of MBC 2008). Collectively, the reserve and the refuge constitute most of the area referred to as the La Jolla Underwater Park, a preserve of approximately 6,000 acres (9 square miles) that extends from La Jolla Cove to the northern boundary of the Torrey Pines State Reserve. Although the nearshore areas around the Children's Pool and pocket beach are outside of the Areas of Special Biological Significance (ASBS) boundary, the southern boundary of the SD-LJ Reserve extends to the north side of the Ellen Scripps Cove Park immediately north of the pool. The general assemblage of marine habitats and species in and around the pool area, with the exception of the unique underwater canyons and the mudstone boulder reef complex habitats situated within La Jolla Bay, is reflective of the species and habitats within the Reserve.

Plant and animal communities within the benthic habitats of the intertidal and subtidal zones are dependent upon the underlying substrata of sand or rock, as well as relatively specific vertical positions within the tidal and photosynthetic zones, for successful colonization. For benthic animal species, marine invertebrates may be either epifaunal (attached to the outer surface of rocks, structures, or sediments) such as barnacles, or they may be infaunal species that live in soft sediments such as tube-dwelling worms. For benthic plant species, all are attached to either hard substrata or other organisms, in some cases with overlying sand, and the hard attachment surface may be either stable (the breakwater and stone dikes) or subject to periodic movement (rocks, cobbles, or boulders). The sea grasses (surfgrass and eel grass) occupy a somewhat mixed habitat in that the turfs are always attached to hard surfaces, but are intermittently covered and abraded by natural sand movement patterns that seasonally affect the size and biomass of the beds.

The benthic habitats of the Children's Pool and pocket beach areas are defined as either intertidal or subtidal in position, and as either sandy or rocky bottomed with respect to the substrata upon which the organisms occur. A marine habitat assessment survey (Appendix H) was completed for the pool and pocket beach offshore areas.

Intertidal Habitats

The intertidal zone is characterized as intermittently exposed and covered by tidal flux, and most intertidal species are dependent upon this cycle of water movement to provide adequate nutrient exchange, to prevent complete desiccation, or for required exposure to photosynthetic light regimes. As a result, species assemblages in the intertidal often appear as visible bands of colonization within the upper, mid and lower intertidal boundaries. While some species are restricted to narrow band zones, others may be more widely distributed throughout the sub zones. This zonation pattern is well illustrated on the seaward side of the breakwater along the pool area (Figure 3.2-1).

The dynamics of sand movement and the instability of boulders and smaller rocks can significantly affect macroalgal and macrofaunal invertebrate communities occupying intertidal sites. Onshore movement and deposition of sand, often occurring during summer months, can result in the burial and abrasion of rock surfaces and attached organisms, and such disturbances can alter both the composition and abundances of species (Dailey et al. 1993). Shoreline habitats that are influenced by sand scour typically harbor opportunistic algae and invertebrates that readily colonize disturbed surfaces (e.g., *Enteromorpha*, *Ulva*, and *Ceramium* species). These species are able to colonize rapidly following the frequent mortality of organisms as a result of sand abrasion or burial.

The intertidal habitats of the Casa and South Casa Beaches include the lower portions of the sandy beach, the lower segments of the breakwater, various rocky outcrops within and around the pool, and stone dikes that extend seaward from under the base of the breakwater, and between the adjacent beaches to the south. The stone dikes also contain several small tidepools on the seaward side. All of these substrata support a wide variety of benthic marine invertebrates and algae.

The uppermost, rocky intertidal zones within the pool project area and adjacent pocket beaches support attached barnacles, coralline algal communities, and mobile, foraging faunal species. Invertebrate grazing is most abundant in this upper subzone, and communities are often not as dense as they are in the lower zones. Sand-loving (psammophytic) species are those that thrive in sand-fluctuating habitat, and algae and marine invertebrates that can tolerate abrasion and sand deposition often form sand-trapping turfs. These species are morphologically tough and the external layers of calcium carbonate are resistant to mechanical damage. Moreover, these perennial seaweeds and invertebrate colonies can easily recover via either the remaining basal crust (of certain algal species) or the primed substratum (for invertebrate attachment) that remains after mechanical abrasion. In the Children's Pool and South Casa Beach areas, this habitat includes both articulated and crustose coralline algae such as *Corallina*, *Ralfsia,* and *Lithothamnion* species, various tube worms (*Phragmatopoma* spp.), and numerous bivalve species (Appendix H, Tables 1-3).

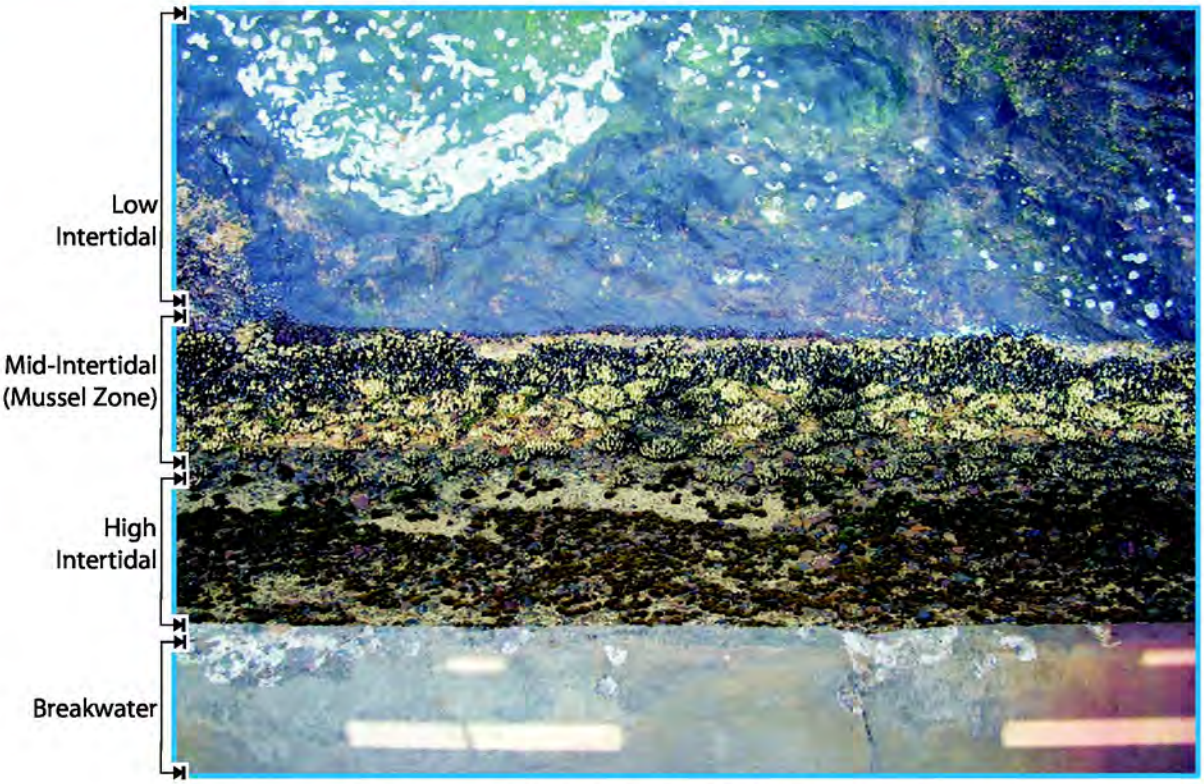


Figure 3.2-1 Intertidal Zone on the seaward side of the Children's Pool Breakwater



Figure 3.2-2 Sand Channel off South Casa Beach

Figure 3.2-1 and 3.2-2
Project Photographs- La Jolla Children's Pool Project

The mid-intertidal zone, often referred to as the mussel zone, is generally both submerged and exposed at least once a day with the tidal cycle, and supports somewhat larger and more foliar algae and surfgrass (*Phyllospadix* spp.) turfs, and their companion invertebrate species such as mussels, anemones, chitons, snails, limpets, and other crustaceans. Red algae and mussels are both most abundant in this mid zone, and predatory snails (*Nucella* spp.) may also be common. This zone also supports a rich epiphytic (attached to another plant) community, and many species are obligate epiphytes attached to host species in this zone.

The lower intertidal zone interfaces with the subtidal, and most species occupying this zone cannot withstand extended periods of desiccation and require the constant inundation of seawater for nutrients, life cycle completion, and other characteristics of their life history that are dependent upon their vertical position in the tidal zone. Algae are the predominant component, and species composition is partly reflective of the overall biogeography of the area. Laminarian kelps in the lower intertidal zone are not as well represented in southern California as they are along the somewhat colder, northern California coastlines. Typical, local representative species include the feather boa or strap kelp (*Egregia*) and southern sea palm (*Eisenia*), and these species can form extensive groves in some undisturbed areas (Abbott and Hollenberg 1976; MBC 2008). Representative marine invertebrates may include polycheates and tube worms (*Phragmatopoma*), sea hares (*Aplysia*), and sea stars (*Pisaster*).

Subtidal Habitats

The subtidal zone is characterized as being continually submerged by seawater; and organisms are usually distributed based upon substratum, depth, and/or exposure to underwater currents or other hydrological features, various photosynthetic requirements, and the various bottom substrata of rocky outcrop, boulders, cobbles, or sand. The nearshore subtidal habitat of the Children's Pool is comprised of a shallow, sandy bottom with relatively flat sandstone ledges that are indented with several sand channels. Rocky reef and boulders supporting benthic flora and fauna are scattered throughout the sand, and the breakwater that extends along the south side of the pool beach also supports a typical profile of subtidal organisms. Outside of the breakwater, the sandy bottom deepens and is characterized by sandstone ledges, rocky reef, and sand channels (Figure 3.2-2) with a swift current moving south around the seaward side of the breakwater.

Surfgrass (*Phyllospadix* sp.) beds form dense communities and patchy turfs that aggregate sand within the lower intertidal and shallow subtidal habitats of nearshore waters along areas of the southern California coastline. Although they appear as if they are growing within the sand, the plants are always attached to a rocky substratum beneath (saxicolous), and become ultimately, and seasonally, semi-buried. Sea grass beds (both surfgrasses and eelgrasses) represent a distinctive and unique marine habitat throughout the world and are well known and well studied for their role in providing sand stabilization, shelter for

innumerable small marine organisms that occupy the beds for feeding, spawning, and nursery habitat, and providing potential water quality remediation as a result of their ability to absorb nutrients through their root systems. Their role in providing a stable and secure habitat for smaller organisms is critical to the success of the overall food chain as well as the health of many species that may ultimately occupy deeper, subtidal habitats. These flowering plants also support a wide range of epiphytic organisms, and *Phyllospadix* in particular is well known as a specific epiphyte host for small, delicate members of the red algae (Rhodophyta). They are abundantly scattered throughout the pool, and constitute the primary plant species within the nearshore areas of the Children's Pool and South Casa Beaches (Appendix H, Table 1).

The subtidal giant kelp bed community, situated in deeper waters of approximately 20 to 80 feet, supports innumerable species that constitute the complex food chain within the marine ecosystem. According to Sea Grant (1992), kelp forests provide food and shelter to over 800 species. Kelp beds occur in all temperate oceans of the northern and southern hemispheres, but tend to favor areas between Baja California and San Mateo County. The La Jolla kelp bed is situated approximately 250 yards offshore of the pool area, and is approximately 5 miles long and 1 mile wide (City of San Diego 2006). The 1979 and 1980 ASBS reports stated that kelp beds along this area wax and wane with respect to their hardiness, but most of the changes in biomass and extent of the kelp beds are the result of cyclical and/or seasonal trends, storm patterns, and El Nino events. Although a few specimens of *Macrocystis* occur within the nearshore waters around the pool and pocket beach, the kelp bed habitat is situated, as noted above, off shore in deeper waters.

Marine Flora and Fauna in the Project Area

Algae

Macroalgae can generally be categorized into three major groups; the Phaeophyta (brown seaweeds and kelps), the Chlorophyta (green seaweeds), and the Rhodophyta (red seaweeds). While all are found within each of the marine habitats within the photosynthetic zone, their presence and absence, as well as the extent of their distribution, are determined largely by the substratum (epiphytic or saxicolous), their photosynthetic requirements, and ambient water temperatures. The composition of the macrophytic communities varies as a result of these biotic and abiotic factors (Dailey et al. 1993). The slightly warmer waters and the distinctive, subtidal topography south of California's Point Conception, provide the combination of oceanographic characteristics necessary to support a wider diversity of algal species compared to the colder, northern coastlines along central and northern California. In southern California, the seaweed communities have a smaller biomass and a larger diversity, and are often typified by smaller kelps and shorter, more densely branched red algae.

The marine flora within the pool and nearshore waters along the pocket beach exhibits the richness and diversity of the seaweed flora in southern California. Dawson (1945) published a checklist of the marine algae and sea grasses of San Diego County that included over 292 species, including 11 genera of green algae, 32 genera of brown algae, and over 110 genera of red algae. It is assumed that many more species have been recorded and identified since that time. The algal checklists that were compiled for the ASBS reports (SWRCB 1979 and 1980) include more than 37 genera, and La Jolla represents the type locality (the collection site for new species descriptions) for at least 6 species (Abbott and Hollenberg 1976). Algal species checklists recorded from the Scripps and Cabrillo Point locales (SANDAG 2005) reported more than 60 genera of intertidal algae. The reports concluded that the number of plant species occurring within the intertidal and subtidal zones is large, but all of the species are widely distributed and occur in similar habitats throughout southern California. None are apparently endemic to the project site and surrounding areas.

Although 15 common algal genera were recorded as occurring within the project site (see Table 3.2-1), additional, representative genera occurring in the intertidal and subtidal areas of the pool and pocket beaches, based on locale collection data from previous reports, are assumed to be present.

Table 3.2-1. Relative Abundance and Location of Common Plant and Algal Species Recorded along Subtidal Biological Transects

Common Name	Species	Pool Beach	South Casa Pocket Beach
Surfgrass	*Phyllospadix*	A	A
Sea lettuce	*Ulva spp*	U	U
Green alga	*Enteromorpha intestinalis*	U	U
Giant kelp	*Macrocystis pyrifera*	U	U
Sargassum	*Sargassum muticum*	U	U
Southern sea palm	*Eisenia arborea*	C	C
Strap/leather kelp	*Egregia menziesii*	U	U
Bladder kelp	*Cystoseira osmundacea*	U	U
Tar spot algae	*Ralfsia sp*	U	U
Spatulate algae	*Dicyota flabellata*	U	U
Brown leafy kelp	*Zonaria farlowii*	U	U
Bulb algae	*Colpomenia peregrina*	U	U
Coralline algae	*Corallinacea*	A	C
Encrusting red algae	*Lithothamnion sp*	U	U
Red turf algae	*Ceramium spp*	C	U

Notes:
(A) Abundant = >25% of area; (C) Common = 5–20% of area, (U) Uncommon = <5% of area
Source: MBC 2008.

Invertebrates

The interidal and shallow subtidal zones of the proposed project area support a multitude of invertebrate species. The intertidal zones are comprised of both rocky and sandy habitats, each with their own assemblages of invertebrates. The most common in the rocky high intertidal zone are isopods, barnacles, periwinkles, limpets, chitons, turban shells, and crabs (see Table 3.2-2). In the rocky, middle intertidal zone common inhabitants include mussels, barnacles, anemones, snails, sea slugs, boring clams, octopus, and sea stars. The rocky, low intertidal zone shares assemblages with the subtidal zone; and tube worms, sea hares, and sea urchins are common. Sandy areas harbor species that are typically more mobile than their rocky counterparts and include the isopod *Excirolana chiltoni*, beach hoppers, polychaetes, sand crabs, clams, and mollusks (Dixon et.al.1993).

The rocky subtidal invertebrates may include rock oysters, rock scallops, mussels urchins, crabs, sponges, bryozoans, and gorgonians. Although typically associated with deeper water, squid are an important local subtidal species as a

food source for predators. Amphipod crustaceans are the predominant invertebrate in subtidal sandy areas followed by polychaetes and mollusks (Dexter 1978).

California Spiny Lobster and Abalone

Other important subtidal and intertidal invertebrates potentially occurring in the project area include spiny lobster and abalone. The proposed project area provides prime habitat for the California spiny lobster *(Panulirus interruptus)*, an important, managed species for commercial and recreational fishing. Between 1994 and 1999 over 1 million pounds of lobster with a value of nearly $7 million were harvested by commercial fishermen in San Diego County, making it the most important species for area fishermen, and accounting for 45.2% of the value for all nearshore fisheries. The vast majority of these spiny lobsters were captured in the La Jolla Block and, although lobsters are found from the intertidal zone to a depth of 240 feet or more, most are caught in 10 to 50 feet of water (SANDAG 2000).

Nearshore surfgrass beds that characterize much of the project area provide vital habitat for juvenile lobsters, while adults utilize these and more offshore habitats (Engle 1979). Adult California lobsters are usually found in rocky habitats, although they will forage in sandy areas. They are nocturnal feeders and omnivorous, consuming algae, fish, and a wide variety of invertebrates. Lobsters are preyed upon by California sheephead, cabezon, kelp bass, octopus, moray eel, horn shark, leopard shark, rockfish, and giant sea bass (CDFG 2003). Spiny lobsters mate from November through May, and fertilized eggs are attached to the underside of the female's tail primarily in May and June. Egg-carrying females are usually found in water less than 30 feet deep. However, during winter months both male and females are often found at depths greater than 50 feet (CDFG 2003). California spiny lobster were abundant in all areas surveyed around the pool and pocket beach (Table 3.2-2; Appendix H).

The abalone population in the La Jolla area, and southern California as a whole, has experienced a precipitous drop since the 1970s, primarily as a result of overfishing and disease (withering syndrome). In the Southern California Bight (Point Conception to the Mexican border) black *(Haliotis cracherodii)*, green *(Haliotis fulgens)*, pink *(Haliotis corrugata)*, red *(Haliotis rufescens)*, pinto (*Haliotis kamtschatkana*), flat (*Haliotis walallensis*), and white *(Haliotis sorenseni)* abalone are all known to occur. Black abalone are usually the most prominent in the intertidal zone, while the others are predominant in successively deeper water; white abalone typically occur at depths of 80 to 150 feet. All exist on hard substrata and are algal feeders (CDFG 2005). White abalone was federally listed as endangered in 2001 under the Endangered Species Act (ESA). However, this is a deep water species (Hobday and Tegner 2000) and does not occur within the proposed project area.

Several of the shallower water species of abalone were once abundant around the proposed project area with a healthy population of green abalone observed in the shallow, boulder area of Devil's Slide corner in the San Diego-La Jolla Ecological Reserve in 1979 (SWRCB 1979). Black abalone were also observed during that survey. However, in more recent years, observations of any abalone species in the La Jolla area are rare. Because the abalone populations are so fragile, the commercial and recreational fisheries for all abalone species south of San Francisco were closed in 1997 by CDFG and remained so at the time of this report. As of February 13, 2009, black abalone has been listed as endangered under the ESA (NOAA January 14 2009) and considerations for designation of critical habitat are currently underway. Black abalone are extremely rare, particularly in southern California where populations have been decimated by withering syndrome and overharvesting. Population growth is negative in all areas of the U.S. south of Cayucos, California, except for two locations in the southern California Islands (NMFS 2008). Therefore, the existence of black abalone at the proposed project site is highly unlikely and none were observed in the recent survey (MBC 2008). Nevertheless, black abalone are intertidal and the La Jolla area (Point La Jolla to Bird Rock) has been identified as a key recovery location under the CDFG Abalone Recovery Plan (CDFG 2002).

The La Jolla area has also been identified as a key recovery location under the Plan for pink and green abalone, both of which are listed as species of concern under the ESA (Federal Register 2008; CDFG 2005). These species tend to be found in deeper water and are rare in the shallower habitats within the project area. The marine habitat survey conducted for the proposed project identified one individual green abalone and the shell of a recently deceased abalone within the nearshore Children's Pool area (Table 3.2-2; Appendix H).

Table 3.2-2. Macroinvertebrate Species and Relative Abundance along Subtidal Biological Transects

Common Name	Species	Pool Beach	South Casa Pocket Beach
California spiny lobster	*Panulirus interruptus*	A	A
Wavy top snail	*Megastraea undosa*	R	R
Sand worm	*Phragmatopoma fimbriatus*	NO	C
Green abalone	*Haliotis fulgens*	NO	R
Purple shore crab	*Pachygrapsis crassipis*	C	NO
Limpet	*Acmaea spp*	A	NO
Festive snail	*Pteropurpura festiva*	NO	C
Ocher sea star	*Pisaster ochraceus*	C	NO
Small acorn barnacle	*Cthamulus fissus*	A	NO
Acorn barnacle	*Balanus nubilus*	A	NO
Periwinkle	*Littorina spp*	A	NO
Black Turban snail	*Tegula funebralis*	C	R
Norris' kelp top snail	*Norrisia norrisi*	R	R
California mussel	*Mytilus californianus*	A	A
Giant sea star	*Pisaster giganteus*	U	U

Notes:
(A) Abundant = >20% of area; (C) Common = 10–20% of area; (U) Uncommon = 5–9% of area; (R) Rare = <5% individuals, NO = not observed.
Source: MBC 2008

Fishes

The Children's Pool, the South Casa Beach sand placement site, and the surrounding areas provide habitat for a large number of resident and transient fish species. Because the area is host to a range of habitats in close proximity to one another, species diversity is high and there is significant overlap in their habitat use as a result of ecosystem connectivity. The species noted are those most commonly associated with this environment, but other, rarer fishes may also have the potential to occur within the area at any given time.

Tidepools that form in the rocky intertidal zone provide a dynamic habitat characterized by turbulence, predation, and rapid changes in temperature, salinity, and oxygen levels. Although the tidepool habitats were not specifically surveyed in the 2008 study, fish species typically found in tidepool habitats in or near the project area include the wooly sculpin (*Clincottus analis)*, opaleye (*Girella nigricans*), California clingfish (*Gobiesox rhessodon),* spotted kelpfish (*Gibbonsia elegans)*, rockpool blenny (*Hypsoblennius gilberti),* and reef finspot (*Paraclinus integripinnis*). Other species may be found in the intertidal zone as

juveniles, inadvertently trapped by receding tides, or otherwise. (SWRCB 1979; Allen et al. 2006).

The volume of sand within these beaches is highly variable both by season and year, and the overall area supports a substantial number of fish species associated with the southern California surf zone. This high energy (waves, currents, tides) and nutrient-rich area provides nursery habitat while supporting both resident and migratory species. Species observed in this zone in 2008 include the walleye surfperch (*Hyperprosopon argenteum)*, ~~California grunion (Leuresthes tenuis),~~ topsmelt *(Atherinops affinis),* and dwarf perch *(Micrometrus minimus)*. (Table 3.2-3; Appendix H)

Additional species previously recorded as occurring in this area included shiner surfperch *(Cymatogaster aggregata)*, barred surfperch (*Amphisticus argenteus)*, California corbina *(Menticirrhus undulatus)*, spotfin croaker *(Roncador stearnsii)*, queenfish *(Seriphus politus)*, yellowfin croaker *(Umbrina roncador),* leopard shark *(Triakis semifasciata)*, and round stingray *(Urobatis halleri)*. (SWRCB 1979; Allen 1985).

Drift algal beds are an important subtidal habitat for fish and occur within and adjacent to the surf zone. These zones, where detached seaweed and other debris gather, are particularly prevalent within the proposed site and provide cover for white seabass *(Atractoscion nobilis)*, California halibut *(Paralichthys californicus)*, and kelp bass *(Paralabrax clathratus)*, all important commercial species. Drift beds also provide nursery areas for various surfperch and kelpfish, and are the primary habitat for the barcheek pipefish *(Syngnathus exilis*; Allen and Herbinson 1991).

The coastal pelagic (open water) zone supports several transitory fish species. Although their prevalence within and near the proposed project area is unknown, the regular or occasional occurrence of pelagic species associated with shallow water environments in southern California is likely. Species not previously mentioned that are common to this zone could include northern and deepbody anchovy *(Engraulis mordax* and *Anchoa compressa)*, Pacific pompano *(Peprilus simillimus)*, white croaker *(Genyonemus lineatus)*, and California barracuda *(Sphyraena argentea)* (Allen and DeMartini 1985).

Although all of the nearshore habitats mentioned above are important, the rocky reefs and kelp beds within and/or adjacent to the proposed project site host the greatest diversity of marine fish of the areas described above. It is estimated that rocky reefs and kelp beds support between 6 and 15 times the density of fishes compared to similar areas of soft substrate, and diversity is also greater (Bond et al. 1999). Because the proposed project is not likely to affect the deeper water environments, only those species more prevalent in shallower water reefs, surfgrass meadows, and kelp beds are identified here. Those not previously mentioned but observed in the 2008 study include senorita *(Oxyjulis californica)*, garibaldi *(Hypsypops rubicundus),* grass rockfish *(Sebastes rastrelliger)*, black and yellow rockfish *(Sebastes chrysomelas)*, black perch *(Embiotoca jacksoni)*,

sargo *(Anisotremus davidsonii)*, blacksmith *(Chromis punctipinnis)*, rock wrasse *(Halichoeres semicinctus)*, zebra perch *(Hermosilla azurea)*, half moon *(Medialuna californiensis)*, barred sandbass *(Paralabrax nebulifer)*, and California sheephead *(Semicossyphus pulcher)* (SWRCB 1979; DeMartini 1981; McCall 1990) (Table 3.2-3; Appendix H).

In addition, although not addressed in the recent study, some large, mobile, nocturnal species may occur within these habitats. Those not previously mentioned include the Pacific electric ray *(Torpedo californica)*, gray smoothhound *(Mustelus californicus)*, angel shark *(Squatina californica)*, brown smoothhound *(Mustelus henlei)*, bat ray *(Myliobatis californica)*, and swell shark *(Cephaloscylium ventriosum)* (Pondella and Allen 2000).

None of the fishes known to exist in or near the proposed project area are species of concern, listed as threatened, or endangered under the federal or state ESA. However, the garibaldi is designated as the California Official State Marine Fish and its take is prohibited by state law (1995).

California grunion, a silverside, are known to exist in the area and may use the pool and adjacent pocket beaches for spawning. Grunion are not a protected species, but are unique in that they leave the water to spawn on wet beach sand on evening high tides during full and new moons between March and August.

Table 3.2-3. Relative Abundance and Location of Fish Species Recorded along Biological Assessment Transects

Common Name	Species	Pool Beach	South Casa Pocket Beach
Senorita	*Oxyjulis californicus*	A	A
Half moon	*Medialuna californiensis*	NO	U
Kelp bass	*Paralabrax clathratus*	U	R
Garibaldi	*Hypsopops rubicundus*	C	C
Topsmelt	*Atherinops affinis*	C	C
Opaleye	*Girella nigricans*	A	A
Black perch	*Embiotoca jacksoni*	C	C
Barred sand bass	*Paralabrax nebulifer*	U	U
Blacksmith	*Chromis punctipinnis*	C	NO
Sheepshead	*Semicossyphus pulcher*	U	U
Salema	*Xenistius californiensis*	A	NO
Ginat kelp fish	*Heterostrichus rostratus*	R	U
California scorpionfish	*Scorpaena gutatta*	U	U
Rock wrasse	*Halichores semicinctus*	A	A
Dwarf surfperch	*Micrometrus minimus*	NO	R
Sargo	*Anisotremus davidsonii*	U	NO
Zebra perch	*Hermosilla azurea*	A	NO

Notes:
(A) Abundant = >20% of area; (C) Common = 10–20% of area; (U) Uncommon = 5–9% of area; (R) Rare = <5% individuals; NO = not observed.
Source: MBC 2008

Marine Mammals

Several species of both pinnipeds (seals and sea lions) and cetaceans (whales and dolphins) are known to occur in and around the Children's Pool and just offshore of the proposed sand receiver site. Some members of these marine mammal groups are regular residents in the area while others are infrequent visitors.

Although pinnipeds comprise the group of marine mammals of most concern to the proposed project, the occurrence of cetaceans should also be noted. The most prevalent cetacean species observed near the proposed project area is the bottlenose dolphin *(Tursiops truncates)*. The California coastal stock of bottlenose dolphins are common off San Diego (Defran and Weller 2006), and it is likely that one or more groups frequent nearshore La Jolla, as evidenced by the observation of a large pod just seaward of the pool breakwater on July 30, 2008 (ICF Jones & Stokes 2008). The long-beaked common dolphin (*Delphinus capensis)* and the Pacific white-sided dolphin *(Lagenorhynchus obliquidens)* also

have potential to occasionally occur within the area. Gray whales *(Eschrichtius robustus)* migrate past the La Jolla Peninsula but are rarely seen on the interior side of kelp beds, making their occurrence near the proposed project site unlikely. Although pilot *(Globicephala macrorhynchus)* and killer whales (*Orcinus orca*), both members of the dolphin family, are known to occur along San Diego's coast and have the potential to feed near shore, there are no known documented observations of them near the proposed project site.

Harbor seals *(Phoca vitulina)* are one of the most common marine mammals along the coast of California, and there are approximately 1,000 haul out sites distributed throughout the state. The minimum size of the California harbor seal population is 31,600. Their numbers have increased rapidly since the 1972 establishment of the Marine Mammal Protection Act (MMPA), and overall the population is considered healthy (Carretta et al. 2007). The species is not identified as depleted under the MMPA by the National Oceanographic and Atmospheric Administration (NOAA) Office of Protected Resources, and it is not listed as a threatened, endangered, or a candidate species under the ESA (the same applies to California sea lions and elephant seals).

The most common marine mammal in and around the pool project areas are harbor seals. Typically, harbor seals haul out (crawl onto land or low structures at the water's edge) at secluded sites to rest, molt, give birth, and nurse. Prior to 1990, their use of Casa Beach was sporadic. However, since 1990 a substantial number of harbor seals have used and continue to use Casa Beach as a haul out site (Yochem and Stewart 1994). More specifically, between October 2003 and April 2004 an observational study of all seals seen in the pool area (beach, rocks, breakwater toe) recorded a daily average of 78 seals utilizing the site. One immature elephant seal *(Mirounga angustirostris)*, and two immature California sea lions *(Zalophus californianus)* were also observed during this period. Harbor seal births during this study were estimated at 20, with 14 observed pups. Most pups are born and observed during the spring, and their numbers were included in the average noted above (Hanan 2004).

More recently, approximately 75 harbor seals were observed by MBC during the marine habitat assessment on September 16, 2008 (Appendix H), and approximately 95 seals were observed in and around the Casa Beach pool area on February 12, 2009 during a site visit by ICF Jones & Stokes staff. As these figures suggest, the number of harbor seals within the proposed project area is substantial; however, the number varies by year, season, and time of day. Nonetheless, the continued presence of the seals has caused concern about degraded water quality in the pool area and contaminated sand that has resulted as a consequence of the accumulation of seal feces in the area. Harbor seal scat has been identified as the primary source of fecal coliform (*E. coli)* contamination in the Children's Pool water column (SDMWD 1998; also see Section 3.6, "Hydrology and Water Quality").

Although harbor seals frequent the same haul out areas repeatedly, they are capable of occupying new sites, and long-range movements of up to 500 miles

have been documented (Herder 1986). The extent to which harbor seals travel changes seasonally and is likely dependent on prey resource abundance and/or dispersal (Thompson 1989). Research on harbor seal diet in southern California is limited. However, Yochem and Stewart (1994) found that harbor seals in the California Channel Islands, which share floral and faunal characteristics with the proposed project area, primarily feed on rockfish, spotted cusk-eel, octopus, plainfin midshipman, and shiner surfperch. As mentioned in the fish section, harbor seals in southern California have also been observed feeding on several other fishes and cephalopods (e.g., squid; Haaker et al. 1984). Although California spiny lobsters are common throughout the Channel Islands, remnants of spiny lobster were not observed in the 1,867 scats examined during that study (Yochem and Stewart 1994).

It should be noted that the Casa Beach area, as evidenced by the Hanan observations of seal pupping in 2004, could be considered a seal rookery since the seals use the beach for pupping and rearing juveniles. Rookeries are land areas used by species for nesting and breeding purposes. However, although the species that inhabit a rookery may be protected, rookeries are not given any particular protected status under the MMPA (NMFS, in City 2006) and are simply a specific habitat use designation, unless they occur within a larger preserve or are afforded special status by a regulating agency, or local or regional governing body. There are, however, guidelines that are applied to rookery areas when they are being used by protected species, but those guidelines generally refer to the animals rather than the land.

Special Status, Managed, and Listed Species

A number of species, known from the rocky coastal habitats occurring within the project area, maintain a sensitive and/or protected status under several different regulations including land use plans, conservation programs, and local, state, and federal laws that provide some measure of additional protection to their populations and habitats. All plant and animal wildlife species and natural communities in California that have special regulatory or management status were evaluated for the potential to occur within the study area.

For the terrestrial habitats and species, using a list comprised of the USGS 7.5-minute La Jolla Quadrangle map on which the study area appears (as well as the surrounding Del Mar and Point Loma Quadrangles), a check was performed for the California Natural Diversity Database (CNDDB 2008) and the California Native Plant Society's Electronic Inventory (CNPS 2007).

For marine habitats and species, using the checklists and ASBS reports previously cited, a check was made for any marine species in the study area region with special status, and species for both terrestrial and marine environments were also added as appropriate based on more recent, site-specific

reports, ICF Jones & Stokes internal databases, and published and unpublished references.

A review was performed of key publications on distribution for species relevant to the region, along with miscellaneous recent publications (e.g., Federal Register), agency announcements, popular and technical news sources, and frequent communications with other professionals. Those identified due to their currently known general range and for which suitable conditions may or do exist, or that otherwise may be affected by the proposed project, are summarized below.

Plants

The assessment of terrestrial habitats within the pool beach and adjacent pocket beaches did not identify any listed plant species and none are expected to occur as a result of the disturbed condition of the sandy beach and southern coastal bluff scrub habitats. The southern coastal bluff scrub, although a highly disturbed form, is a sensitive habitat and is regulated as a Tier 1 habitat under the Multiple Species Conservation Program (MSCP) by the City, and any project effects on southern coastal bluff scrub may require mitigation.

Animals

Invertebrates

The California spiny lobster, while not federally or state listed as endangered or threatened, is a species managed by CDFG. Spiny lobsters are dependent on suitable and sufficient nursery habitat, and those habitats are considered Essential Fish Habitat. In 1961, the State Legislature initiated a permit program for the commercial take of lobster and delegated authority to the Fish and Game (F&G) Commission to manage the fishery. In 1986 the Legislature authorized the Commission to limit the number of permits issued, and in 1994 the Commission placed a moratorium on new permits. A restricted access program (Fish and Game Code 7065) that regulates the number of operator permits began in 1996 and includes general attrition of the overall number of permits, but does not restrict the overall number of traps deployed (CDFG 2001).

White abalone was federally listed as endangered in 2001 under the ESA but is a deep water species and does not occur within the nearshore proposed project area. Black abalone has been recently proposed for listing as endangered under the ESA. As this species is extremely rare, particularly in Southern California, the occurrence of black abalone at the proposed project site is highly unlikely. Nevertheless, the La Jolla area has been identified as a key recovery location under the CDFG Abalone Recovery and Management Plan (CDFG 2005). The

green abalone, while not a listed species, is known to occur within the project area and is also included in the Plan.

Fishes

None of the fish known to exist in or near the proposed project area are listed as threatened, or endangered under the ESA. However, the garibaldi was designated as the California Official State Marine Fish in 1995 and its take is prohibited by state law.

Birds

The brown pelican (federal and state listed as endangered) and the western snowy plover (federally listed as threatened) could potentially occur as winter migratory visitors within the project area. However, the site does not support any suitable breeding habitat. All other avian species observed within the project area, with the exception of the rock pigeon, are protected by the MBTA, and the project site does support suitable nesting habitat for some of these species.

Marine Mammals

Harbor seals are protected under the MMPA and are currently considered to be a healthy population. The species is not identified as depleted under the MMPA by the NOAA Office of Protected Resources. It is not listed as a threatened, endangered, or candidate species under the ESA (the same applies to California sea lions and elephant seals).

Dolphins and whales are also protected under the MMPA and the ESA. Gray whales and killer whales are federally listed as endangered, but those species are unlikely to frequent areas around the project site.

Thresholds of Significance

Criteria for determining the significance of impacts related to biological resources were taken from the City of San Diego CEQA Significance Determination Thresholds (2007). The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project reduce the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals?
- Would the project result in a substantial change in the diversity of any species of animals or plants?

- Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors?
- Would the project result in an impact on City, state, or federally regulated wetlands (including, but not limited to, coastal salt marshes, vernal pools, lagoons, other coastal areas, etc.) through direct removal, filling, hydrological interruption, or other means?
- Would the project result in a conflict with the provisions of the City's Multiple Species Conservation Program (MSCP) Subarea Plan or other approved local, regional, or state habitat conservation plan?

Impacts and Mitigation Measures

Would the project reduce the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals?

Short-Term (Construction) Impacts

Terrestrial Vegetation and Wildlife. The small patches of southern coastal bluff scrub along the landward side of the sandy beaches, as addressed in the terrestrial section of the existing conditions of this chapter, are highly disturbed and have been impacted by nonnative vegetation, natural erosion, heavy foot traffic, and general encroachment from the developed areas around Coast Boulevard, which include the observation kiosk, the cement stairways, and the adjacent landscaping. However, potential further impacts on bluff scrub habitat could result from siting the staging areas at the bases or tops of the bluffs. Appropriate BMPs are incorporated in the construction plan and include elevating the sand chute above the promenade so that the ground vegetation on the cliff bordering South Casa Beach would not be disturbed by the apparatus. Any temporary stockpiling of sand on either the donor or receiver beach would occur away from any native vegetation areas to avoid any further degradation of this habitat.

The sandy beaches and the segments of disturbed southern coastal bluff habitat surrounding these beaches do not support any sensitive wildlife species, and, therefore, there would be no significant impact on sensitive terrestrial wildlife species as a result of the excavation and sand transport activities.

Marine Vegetation and Wildlife. The excavation activity has the potential to temporarily affect a number of sensitive marine species occupying the intertidal and subtidal areas if their habitats are directly affected by excavation. Potential impacts on these marine environments from the excavation activity could include: disturbance to sand-dwelling flora and fauna within the excavation zones; prolonged increases to the nutrient content in the immediate waters

resulting from nutrients leaching back into the water; sustained increases in turbidity in the surrounding waters as a result of suspension of sand and sediments; smothering of nearshore marine communities as a result of too much sand deposition in one area; and the inadvertent introduction of the invasive alga *Caulerpa* into the marine habitats.

An "invasive species" is defined as a species that is (1) nonnative (or nonindigenous) to the ecosystem under consideration, and (2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions. Although not currently known to occur within the project area (MBC 2008), the green alga *Caulerpa taxifolia* is an invasive species of concern.

Caulerpa is a large genus, containing over 80 species worldwide, and is usually more typically represented in subtropical and tropical waters. Unlike most algae that have unique life cycles, *Caulerpa* is also capable of reproducing through fragmentation and rhizomatous growth, and even very small, broken pieces can regenerate an entire meadow of algae that may out-compete and smother native species. Some species exhibit a wide distribution range and can colonize deeper waters as well as shallower bays and lagoons. Many species, but especially *C. taxifolia*, were widely sold as saltwater aquarium plants.

In Europe, the species was inadvertently released from an aquarium into the Mediterranean waters and by 1997 had spread to approximately 11,000 acres along the northern coastline, and has now been reported off northern Africa and Australia (Woodfield 2008). Invasion by this species has resulted in devastating ecological and socioeconomic effects as a result of damage to reefs, sea grass beds, lagoons and other habitats. As noted by many authors and natural resource agencies (SWRCB, CDFG), this alga poses a significant threat to all marine ecosystems, such that the importation of *C. taxifolia* was banned in the United States when it was designated as a prohibitive species in 1999 under the Federal Noxious Weed Act. However, sale of *Caulerpa* remains legal under federal law and it is still sold through aquarium trade.

California first reported the presence of *Caulerpa taxifolia* in San Diego County in 2000 when it was identified within Agua Hedionda lagoon. A second location of exotic introduction was subsequently recorded in Huntington Harbor in Orange County. CDFG, in conjunction with NMFS and the San Diego RWQCB, established the Southern California Caulerpa Action Team and has since implemented an extensive eradication program. In 2001, the San Diego City Council passed an ordinance banning the sale or possession of *Caulerpa* within the City. In 2001 Assembly Bill (AB) 1334 was also enacted by the State of California banning the sale, transport, and possession of nine potentially invasive species, including *C. taxifolia*.

Plants. The intertidal and subtidal algal communities within and adjacent to the excavation and sand transport areas are sensitive and could be affected by

construction. Although the marine plant communities are adapted to dynamic situations that include periodic scouring, shifting sand and turbidity, and minor, seasonal fluxes in nutrient concentrations, the current populations could be permanently affected by the construction activity. Moreover, if *Caulerpa* was accidentally introduced via the excavation equipment into the marine habitats and became established, resident communities could be outcompeted and smothered by this invasive species. Therefore, the proposed project could have a significant impact on these communities and mitigation is required.

The surfgrass beds are an important habitat for groundfish and the California spiny lobster. Potential impacts on surfgrass within the project area could include physical damage from the excavation equipment and smothering of surfgrass turfs and their inhabitants from large volumes of sand deposition. Therefore, the proposed project could have a significant impact on this habitat and mitigation is required. Potential effects on EFH will be addressed by the resource agencies during the permitting process.

The proposed excavation activity is not expected to have any direct effect on the offshore giant kelp beds, and no significant impacts would occur to this habitat.

Animals. Although the brown pelican and the western snowy plover are winter migratory residents within San Diego County and could potentially use the area, the terrestrial areas within the project site do not provide suitable breeding habitat and the construction activities would not affect these species. The other avian species identified during the terrestrial wildlife assessment (ICF Jones & Stokes 2008), notably the white pelican, cormorants, terns, and gulls, do use the surrounding cliff areas for roosting and the nearshore waters for foraging. However, these species are mobile and would likely vacate the area during the excavation disturbance and have the ability to forage within other nearby areas; therefore, the proposed project would not significantly impact any avian species protected under the MBTA.

The waters offshore of Casa and South Casa Beaches support a number of groundfish species. While the proposed excavation activity may temporarily increase the turbidity and nutrient concentration within the water column, these species are mobile and would vacate the area during disturbance. Impacts on any fish that use the area for spawning or nursery activities are addressed through avoidance and mitigation measures that would be implemented for the surfgrass beds. As the construction activities would not occur during the grunion season, there would be no impacts on that species. The garibaldi population within La Jolla and the state is healthy, and due to the fish's mobility the excavation of the pool sand would not result in any significant impact on the species (CDFG 2007).

Although lobsters are mobile and unlikely to be individually affected by the excavation activity, their surfgrass and shallow rocky outcrop habitats could be covered by the sand deposition. However, since all direct effects on surfgrass turfs would be avoided, and the sand would be moved in small increments and then naturally transported by the sediment cycle through the large sand channel at

the southernmost end of the pocket beach, impacts on lobsters would be less than significant. The juveniles and adults that occupy the area near the proposed project site are highly mobile and acclimated to the turbid conditions found near the surf zone. Spiny lobsters mate from November through May and egg-carrying females are usually found in water less than 30 feet deep during May and June. However, during winter months both male and females are often found at depths greater than 50 feet (CDFG 2003). Therefore, since the surfgrass beds that are used by this species would not be removed or damaged, and the construction activity would not occur during the spring, the proposed project would not result in significant impacts on lobsters.

The marine habitat assessment conducted by MBC (2008) concluded that there were very few (only one) abalone in the surrounding nearshore waters. The area is, however, designated as an abalone recovery area, and, as such, potential abalone habitat could be affected if the volume of sand movement is not carefully controlled. However, given the current absence of abalone within the nearshore waters of the pool and pocket beach, the proposed project would not significantly impact any abalone species.

Marine Mammals. The excavation activity would affect the sandy beach habitat used by harbor seals, sea lions, and elephant seals. The beach surface area would be reduced to approximately half its current size, and therefore the available surface area for seal haul out would be reduced. It is anticipated that creation of the sand berm prior to the excavation activity would dissuade the seals from coming ashore. Construction activity, and shooing methods (one alternative proposed by the City) such as non-invasive measures like clapping or arm-waving, if necessary, should be sufficient to flush the animals from the beach into the water. As discussed above in the Marine Faunal Section, the harbor seal population in southern California is healthy and there are numerous other beaches and rocky areas along southern California coastlines where seals can haul out and/or use such habitat for rookery purposes. It is likely that many of the seals dissuaded from hauling out on Casa Beach would haul out on nearby rock outcrops (e.g., Seal Rock) and/or pocket beaches (e.g., Shell Beach) where they have been observed in the past (Yochem and Stewart 1998). While the proposed project would result in dissuasion of seals at the Children's Pool, the project aims to eliminate any potential impacts on the reproduction of the animals by avoiding construction during the period harbor seals give birth (December to June).

The foraging areas within the surrounding subtidal waters would not be significantly affected by the excavation, as the fish are mobile; and while they may vacate the immediate area during minor periods of turbidity, they would return following any disturbance. Given the abundance of food for the seals, it is likely that individual seals would continue to forage in and around the Children's Pool even if prevented from occupying the Children's Pool beach, but they are unlikely to come ashore during active construction.

Because of the transitory nature of cetaceans, the temporary disturbance associated with construction activities would not have any significant impact on those species. Moreover, the potential increase in fish biomass that may result from fewer seals being present in the immediate surrounding waters around the pool may benefit other cetaceans that feed in the area (ACS 2008).

As noted in the Environmental Setting section above, the nature of the ecology within the marine habitats is dynamic, and scour and abrasion disturbances to substrata often occur on a seasonal and/or cyclical basis. A general biological assessment to address the effects of the excavation of the pool beach on the marine resources (Coastal Environments 2004) concluded that, although the excavation could result in temporary disturbance to the intertidal communities as a result of scour and abrasion, any species and habitats affected by the excavation would likely recover naturally over time, as they would under natural population cycles.

While the excavation and sand movement activities are expected to reduce the occurrence of seals frequenting the Children's Pool Beach and immediate surrounding waters, the construction activity itself is not expected to reduce any seal populations or incur any harm to individual seals or other marine mammals that may frequent the area. While it is also possible that some individuals would migrate to more distant areas if prevented access to the beach, reducing the overall size of the beach is unlikely to displace any seal populations geographically, and the resident seals are likely to continue foraging around the Casa Beach and South Casa Beach waters and would continue to haul out on Seal Rock and other potential haul out surfaces along the adjacent areas of coastline. The seal experts consulted for the proposed project, Dr. Hanan and Mr. Lecky, support the position that the proposed project would not have any significant impact on the harbor seal population (City 2006).

Impact Determination

Impact BIO-1.1: The impacts on unique, rare, endangered, sensitive, or fully protected species resulting from the construction activities associated with the excavation, transport, and recontouring of the sandy beach at the Children's Pool and adjacent pocket beach would be significant.

Mitigation Measures

Mitigation Measure BIO-1.1.a: A Biological Monitor shall conduct a pre-construction biological survey and shall be present throughout the construction process and shall monitor both the sand donor and receiver sites to ensure that sensitive areas and species are avoided and appropriate BMPs are implemented. If the monitor determines that sand is being dispersed too quickly and therefore causing negative impacts on the marine or terrestrial environment, construction

shall be slowed or halted to allow more gradual dispersal. Additional measures overseen by the monitor will include:

- Ensure that the sand excavation area is centralized and equipment will not directly scrape or scour the hard intertidal surfaces (the breakwater and rocky outcrops) that support sensitive species.
- Ensure that excavation and sand transfer activity in the lower pool beach area and on the lower pocket beach area avoids surfgrass turfs to the maximum extent practicable.
- Ensure that staging areas for the excavation and sand transfer equipment, and the sand transport route, are not sited within the bluff habitats.
- Ensure that transported sand is redistributed on the upper portions of the pocket beach above the high tide line and as far under the cliff base as feasible.
- Ensure that all excavation and sand transport equipment is checked for presence of *Caulerpa* fragments prior to use within the beach areas.
- Ensure that seals do not approach the construction equipment and, if so, halt construction until the seals are no longer within the active areas.

Mitigation Measure BIO-1.1.b: Grunion spawning occurs from March through August, and peak spawning is late March to early June (CDFG 2001). Excavation shall occur outside of the grunion spawning season unless a qualified biologist determines that the spawning season has concluded, or as determined by and in consultation with the resource agencies.

Mitigation Measure BIO-1.1.c: Spiny lobsters mate from November through May and egg-bearing females occur in shallower waters. Excavation shall occur outside of the lobster breeding season unless a qualified biologist determines that the reproductive season has concluded, or as determined by and in consultation with the resource agencies.

Mitigation Measure BIO-1.1.d: Seals may molt and pup anywhere from December to June. Excavation activity shall occur outside of the seal pupping season unless a qualified biologist determines that the pupping season has concluded, or as determined by and in consultation with the resource agencies.

Implementation of Mitigation Measures BIO-1.1.a–d would reduce significant impacts to below a level of significance.

Long-Term Impacts

The proposed project also includes a smaller maintenance sand removal program every two to five years, as appropriate, to maintain the newly configured beach and pool. Under this scenario, the City would perform a routine maintenance

operation to remove and transport approximately 200 cy of sand. This would potentially necessitate a certain amount of periodic disturbance to all the terrestrial and marine communities addressed in this report, as described under Short-Term (Construction) Impacts above, but to a smaller degree and for a shorter duration.

Terrestrial Vegetation and Wildlife. As summarized above, maintenance impacts on terrestrial habitats and species would be potentially significant. Implementation of mitigation measure MM BIO-1.1.a would reduce impacts to less-than-significant levels.

Marine Vegetation and Wildlife. As summarized above, maintenance impacts on marine habitats and species would be potentially significant. Implementation of mitigation measure MM BIO-1.1.a would reduce impacts to less-than-significant levels.

Impact Determination

Impact BIO-1.2: Although maintenance impacts on sensitive habitats and species would be much smaller in scope and of a shorter duration than those identified for initial project construction, they would still be significant.

Mitigation Measures

Implementation of Mitigation Measures BIO-1.1.a–d will ensure that subsequent maintenance activity will not reduce the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals.

Would the project result in a substantial change in the diversity of any species of animals or plants?

Short-Term (Construction) Impacts

Artificial disturbance to any highly diverse, natural population always has the potential to result in subtle changes to the population dynamics such that re-colonization (re-establishment) occurs first by more opportunistic, often weedy, species that can ultimately outcompete a more diverse assemblage. Recolonization of habitats (both marine and terrestrial) following disturbance is a well studied, if less well understood, ecological progression. In some instances, while the pioneer species that first reappear are the same, the succeeding populations that comprise the eventual climax community may have a different composition than the original populations.

Terrestrial Vegetation and Wildlife Species. The sandy beaches and disturbed southern coastal bluff habitats, as previously described, are already disturbed and do not support a high diversity of species, or a large number of sensitive species. The vegetated portions of the bluffs are not expected to significantly change with respect to diversity as a result of the sand excavation and transport, and mitigation measures will be implemented to ensure that the vestiges of existing, native bluff scrub vegetation are protected and preserved.

Marine Vegetation and Wildlife Species. In part, the quality of the Children's Pool marine habitats, particularly with respect to the highly valuable functions and services that these habitats provide (food, nursery habitat, camouflage, sand stability), is a reflection of the fact that the intertidal and subtidal habitats contain a high diversity of species per relatively small area.

As discussed above in Marine Habitats, many marine organisms are specifically adapted to particular regimes of attachment to substrata, periods of light and nutrient exchange, cycles of scour and burial, and ambient nutrient levels in the water. If the regimes in these microzones are altered, the complement of species may also change.

Plants. Examples that highlight these more subtle parameters may be seen in the effects of stormwater runoff on adjacent marine communities. Areas receiving freshwater outfall are often exclusively recolonized by the green algae *Ulva* and *Enteromorpha*, some species of which are considered to be accurate indicators of high disturbance (changes in nutrient levels) and the presence of freshwater. Rocky substrata that are constantly abraded, or experience persistent trampling, will ultimately support only the tough, corralline crusts that reestablish, and these habitats often do not evolve further to support larger, more foliose algal species. In the absence of further habitat community development, the habitat then loses its former capacity for supporting the complex network of small invertebrates and foragers that would otherwise occupy that intertidal zone. Other habitats and zones may then experience the ripple effects of such a change in species composition.

While the current marine habitat assessment (MBC 2008) has reported no presence of *Caulerpa* within the pool or adjacent pocket beach areas, the proposed sand excavation and sand distribution have the potential to inadvertently introduce *C. taxifolia* and spread the occurrence of this invasive exotic species. Accidental introduction of *Caulerpa* to this coastal area could have devastating results on the species diversity within the marine environment. Appropriate examination of all equipment to be used within the beach areas will ensure that this invasive species is not inadvertently introduced during the excavation and sand transfer activities.

Overall water quality is expected to improve over time, and the excavation and sand transfer activities will not result in negative or significant changes to ambient nutrient levels, or freshwater influx. While the tidal mixing and wave action occurring naturally within the pool area may be sufficient to restore the

water to its ambient nutrient levels, prolonged and sustained increases in nutrient levels in and around the pool could affect populations that are not directly within the scour areas. Prolonged changes in nutrient levels could result in potentially significant impacts on benthic species. Mitigation measures, including the use of a silt curtain on the seaward side of the berm, will control leaching of residual nutrients from the sand into the shallows, and will diminish any increases in turbidity resulting from sand movement. Moreover, avoidance measures will ensure that the intertidal species currently occupying these habitats are not physically disturbed. Therefore, the proposed project will not have a significant effect on plant species diversity within the marine environment.

Animals. As discussed above, artificial disturbance to highly diverse populations can result in subtle changes to community composition. Provided appropriate avoidance measures as referenced in MM-BIO 1.1.a–d are implemented, and the basic benthic complement of subtidal species remains the same, the proposed project will not have any significant effect on the marine invertebrate or groundfish populations. As the reconfiguration of the Children's Pool Beach is expected to result in fewer occurrences of seals hauling out, and seals possibly foraging more in other areas of the La Jolla coastline, the diversity of foraging animal species within the offshore areas could increase if more cetaceans came nearshore to feed.

Impact Determination

Impact BIO-2.1: Construction of the project could result in a substantial change in the diversity of animal or plant species, resulting in a significant impact.

Mitigation Measures

Implementation of Mitigation Measures BIO-1.1.a–d would reduce potential impacts on diversity as a result of excavation activity.

Additionally the following mitigation measure shall be implemented:

Mitigation Measure BIO-2.1: During excavation, a silt curtain on the seaward side of the berm shall be used to minimize changes to ambient turbidity and nutrient levels within the immediate waters that could contribute to changes in species composition. These measures would reduce impacts to a level below significance.

Long-Term Impacts

Terrestrial Vegetation and Wildlife. As summarized under Short-Term (Construction) Impacts above, periodic maintenance impacts on the diversity of

terrestrial habitats and species could be significant; therefore, mitigation is required.

Marine Vegetation and Wildlife. As summarized under Short-Term (Construction) Impacts above, periodic maintenance impacts on the diversity of marine habitats and species could be significant, thus mitigation is required.

Impact Determination

Impact BIO-2.2: Periodic maintenance impacts on the diversity of terrestrial and marine species could be significant; therefore, mitigation is required.

Mitigation Measures

Implementation of Mitigation Measures BIO-1.1.a–d and BIO-2.1 would reduce significant impacts to below a level of significance.

Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors?

Short-Term (Construction) Impacts

Terrestrial Wildlife. Although the brown pelican and the western snowy plover are winter migratory residents within San Diego County and could potentially use the area, the terrestrial areas within the project site do not provide suitable breeding habitat for these species and the construction activities will not affect their movement or migratory corridors. The other avian species identified during the terrestrial wildlife assessment (ICF Jones & Stokes 2008), notably the white pelican, cormorants, terns, and gulls, do use the surrounding cliff areas for roosting and the nearshore waters for foraging. However, these species are mobile and would likely vacate the area during the excavation disturbance; the proposed project would not significantly affect any avian species protected under the MBTA.

Marine Wildlife. Migratory marine species with the potential to be affected by the excavation activity may include some species of groundfish and crustaceans. The spiny lobster moves from the shallows into deeper waters during various developmental phases of its life cycle. Although this species is mobile and may not be directly affected by the excavation itself, the habitats upon which they rely for food, protection, and breeding may be directly affected, resulting in those species moving to other areas along the coastline. Nourishment of the adjacent pocket beach with the decontaminated sand from the Children's Pool will not affect any wildlife corridors as the sand will be deposited carefully in small

increments and the design avoids any direct deposit to areas below the high tide line. In particular, any areas that support surfgrass turfs are also wildlife corridors for lobster and small invertebrates, and design plans specify locations within the upper beach area for sand deposition on the pocket beach.

Fish species in the intertidal and nearshore subtidal zones of this area may be affected by increased turbidity resulting from the temporary construction activities. As noted in the Marine Flora and Fauna section above, several fish species are known to occupy and forage around the drift algal beds directly offshore. However, these fish are well adapted to turbidity as a result of wave action (SANDAG 2005; Reish 1982). Churning sand, seaweed, and other debris is a common attribute of this environment and construction activities would mimic this type of disturbance for fish in the area. Furthermore, these fish species are mobile and able to move away from areas of discomfort. Therefore, impacts on fish would be less than significant. Summarily, although any increase in fish abundance may be minimal, there is not likely to be any significant impact on fish migration as a result of the construction activities.

Several of the fish identified as occurring within the pool and nearby waters are preyed upon by harbor seals. In relation to the excavation operations, it is possible that fish diversity and abundance would increase slightly in the area if the harbor seals ultimately relocate away from the Children's Pool Beach. Although studies on harbor seal diet are limited, predation on surfperch, blacksmith, rockfish, anchovy, croaker, and smelt has been observed, and it is likely that they consume a broad range of other fish species (Haaker et al. 1984; Stewart and Yochem 1994). However, because this area provides prime foraging habitat for harbor seals, they would likely haul out nearby if access to the Children's Pool Beach is prevented, and therefore continue to hunt in and around the pool.

Seals will be prevented from moving onto the beach during the construction phase, using potential dissuasion techniques as allowed under Section 109h of the MMPA (SDCC 2004). However, local observations show that most individuals flushed from the pool beach by human disturbances return within a short period of time (i.e., within 15 minutes; ICF Jones & Stokes 2008; Hanan 2004). This may be due to the seals at the pool beach being habituated to human presence and regular disturbances (Hanan 2004). Evidence of permanent abandonment of seal haul outs as a result of human disturbance is rare, but has been documented at the San Francisco-Oakland Bay Bridge (Risebrough et al. 1979). Preventing seals from accessing foraging areas with high fish densities is rarely successful as evidenced by the failure of hazing measures to prevent sea lions from feeding at the Bonneville Dam on the Columbia River (USACE 2008).

While the construction activity will temporarily inhibit seal movement within the pool area, the proposed project will not substantially impact seal migration or wildlife corridors. As noted above, should the seals ultimately shift their foraging and haul out behaviors to other beaches and areas of coastline along southern California, there would be no significant impact on either their

migratory patterns or foraging corridors as a result of the reconfiguration of the Children's Pool Beach.

Impact Determination

Impact BIO 3.1: Construction impacts on the movement of native residents or wildlife species, or migratory wildlife corridors could be significant.

Mitigation Measures

Implementation of Mitigation Measures BIO-1.1.a–d would reduce significant impacts to below a level of significance.

Long-Term Impacts

Terrestrial Wildlife. As summarized under Short-Term (Construction) Impacts above, periodic maintenance activities on terrestrial habitats and species would not result in potential significant impacts on migratory species or wildlife corridors.

Marine Wildlife. As summarized Short-Term (Construction) Impacts above, periodic maintenance activities on the movement of marine wildlife invertebrate species, or their migratory wildlife corridors could be significant. Therefore, mitigation is required.

Impact Determination

Impact BIO-3.2: Periodic maintenance impacts on the movement of native residents or wildlife species, or migratory wildlife corridors could be significant.

Mitigation Measures

Implementation of Mitigation Measures BIO-1.1.a–d would reduce impacts to below a level of significance.

Would the project result in an impact on City, state, or federally regulated wetlands (including, but not limited to, coastal salt marshes, vernal pools, lagoons, other coastal areas, etc.) through direct removal, filling, hydrological interruption, or other means?

Short-Term (Construction) Impacts

Terrestrial Habitats. As noted in Chapter 2, "Project Description," the southern coastal bluff scrub, the sandy beach, and all areas that fall within the tidal lines are variously regulated at the local, state, and federal levels; and excavation activities within these areas will require compliance with those agencies. As the proposed project will result in potential impacts on regulated coastal areas, the City will submit applications with all regulating agencies and entities, as appropriate, for permits authorizing the proposed activity.

The movement and distribution of the excavated and cleaned sand has the potential to incur impacts on the coastal bluff scrub. As noted in the Terrestrial Habitats section above, and as addressed in Section 3.3, "Geology and Soils," both the pool beach and pocket beach are situated at the very southern end of the sand cell to the north (Oceanside Cell) and at the very northern end of the sand cell to the south (Mission Beach and San Diego Bay Cells). As a result, both Casa and South Casa Beaches receive a diminished amount of sand compared to other beaches within these sand cells, as a majority of the sand is already deposited on beaches to the north or is lost into the La Jolla underwater canyons north of the pool beach. Casa Beach, as a result of the breakwater, is less depleted than South Casa Beach since the breakwater traps sand that would otherwise travel south. However, the sand capture within the Casa Beach pool exacerbates the depletion of sand at South Casa Beach as the natural migration of any remaining sand from the northern cell to the South Casa Beach is interrupted. Transferring sand from Casa Beach to South Casa Beach would offset the breakwater's effect on the natural migration sand pattern, and the replenishment would benefit the pocket beach.

In addition, the disturbed coastal bluffs that line South Casa Beach are heavily eroded. Under the proposed plan, the transported sand would be deposited along the uppermost area of South Casa Beach and would be positioned towards the base of the bluff bordering this segment of sandy beach. Careful deposition of sand along the bases of the bluffs would help reinforce these friable, sandstone areas and would act as a temporary, natural barrier to further erosion and undercutting at the bluff bases.

Marine Habitats. The proposed project would include the excavation and recontouring of the Children's Pool Beach, and the replenishment of sand on the adjacent South Casa pocket beach. As addressed under previous sections, potential significant impacts on these regulated coastal areas and the marine habitats within them could include scouring, increases in turbidity and nutrient

levels, disturbance to sand dwelling species, smothering of surfgrass turfs, and inadvertent introduction of noxious species.

Impact Determination

Impact BIO-4.1: The distribution and release of large volumes of sand over short periods of time could permanently impact regulated areas and species within the intertidal and subtidal zones. This impact would be significant.

Mitigation Measures

Implementation of Mitigation Measures BIO-1.1.a–d and BIO-2.1 would reduce significant impacts to below a level of significance.

Long-Term Impacts

Terrestrial Habitats. As summarized under Short-Term (Construction) Impacts above, periodic maintenance involving the movement and distribution of the excavated and decontaminated sand has the potential to incur impacts on the coastal bluff scrub.

Marine Habitats. As summarized under Short-Term (Construction Impacts above, and as addressed under previous sections, potential significant impacts on these regulated coastal areas and the marine habitats within them could include scouring, increases in turbidity and nutrient levels, disturbance to sand dwelling species, smothering of surfgrass turfs, and inadvertent introduction of noxious species.

Impact Determination

Impact BIO-4.2: The distribution and release of even the smaller volumes of sand over shorter periods of time could impact regulated areas and species within the intertidal and subtidal zones. This impact would be significant.

Mitigation Measures

Implementation of Mitigation Measures BIO-1.1.a–d and BIO-2.1 would reduce significant impacts to below a level of significance.

Would the project result in a conflict with the provisions of the City's Multiple Species Conservation Program (MSCP) Subarea Plan or other approved local, regional, or state habitat conservation plan?

Short-Term (Construction) Impacts

Terrestrial Habitats. The project site is not situated within any MSCP or Multiple Habitat Planning Area (MHPA) and therefore the project will not conflict with any provisions related to the MSCP.

Marine Habitats. Neither the intertidal nor the subtidal habitats occur within the City's MSCP area and, therefore, the proposed construction activity within these habitats would not present any conflict with approved local, regional or state habitat conservation plans.

Impact Determination

The project would not result in any significant impact to habitats within any approved habitat conservation plan.

Long-Term Impacts

The project site is not situated within any MSCP or Multiple Habitat Planning Area (MHPA) and therefore any periodic maintenance involving the movement and distribution of sand will not conflict with any provisions related to the MSCP.

Impact Determination

The project would not result in any significant impact to habitats within any approved habitat conservation plan.

Section 3.3
Geology and Soils

Section 3.3
Geology and Soils

Introduction

This section discusses the geological hazards and effects associated with construction and operation of the proposed Children's Pool project. A limited geotechnical investigation prepared by TerraCosta Consulting Group, Inc., entitled *Geology and Hydrology (Erosion) Study—Children's Pool Sand Excavation EIR, March 2009,* describes the geologic, soil, groundwater, and coastal conditions of the project site and evaluates potential impacts of the proposed project on these features. The findings of this report are summarized in this section, and the entire report is provided as Appendix K of this EIR.

Existing Conditions

Regional Geology

Children's Pool is located in the western portion of the Peninsular Ranges geomorphic province of southern California. This geomorphic province ranges in width from 30 to 100 miles and covers an area that extends approximately 790 miles, from the Transverse Ranges and the Los Angeles Basin to the tip of Baja California. Most of this geomorphic province is characterized by northwest-trending mountain ranges separated by subparallel fault zones. In general, the Peninsular Ranges are underlain by Jurassic-age metavolcanic and metasedimentary rocks and by Cretaceous-age igneous rocks of the southern California batholiths. The westernmost portion of the province in San Diego County generally consists of Tertiary- and Quaternary-age sedimentary rocks.

The Peninsular Ranges are traversed by several major active faults. The Whittier-Elsinore, San Jacinto, and San Andreas Faults are major active faults located northeast of San Diego. The Agua Blanco-Coronado Bank and San Clemente Faults are active faults located to the west-southwest. The Rose Canyon Fault Zone is also a major active fault system located in the San Diego area with portions that have been included in the State of California Earthquake Fault Zones. Right-lateral strike-slip movement is the major tectonic activity associated with these and other faults within this regional tectonic framework,

which also have the potential for generating strong ground motions (earthquakes) at the Children's Pool (PBS&J 2004).

Faulting and Seismicity

The project site is located within a seismically active area of Southern California and therefore is subject to ground shaking conditions common to the region. Point La Jolla is a significant promontory formed by northerly movement of the land mass on the west side of the Rose Canyon Fault. The Rose Canyon Fault is part of the San Andreas Fault system, which roughly defines the intersection of the Pacific Plate and the North American Plate. The Pacific Plate is moving northerly at a rate of about 2.2 inches per year relative to the North American Plate. This movement has been ongoing for about the last 5.5 million years and is responsible for the opening and spreading of the Gulf of California. It is also the driving force behind most California earthquakes (TerraCosta 2009:2).

The Point La Jolla coastline has been affected by regional tectonic forces associated with movement along the Rose Canyon Fault Zone, and by tectonic regimes that pre-date the Rose Canyon Fault. Coastal warping associated with the current tectonic regime has gently tilted the bedding and shore platform (locally) approximately 5 to 25 degrees to the south. Episodes of faulting and long-continued tectonic stresses have resulted in literally thousands of visible joints, fractures, and shear zones having both micro- and large-scale variations in erosion potential.

These structural features are primarily confined to the Point Loma Formation and are exposed in the lower bluffs. Bedding in the Point Loma Formation dips approximately 5 degrees to the southeast in the vicinity of the Children's Pool. Numerous near-vertical, northeast to southwest-trending faults and joint sets can be observed within the Point Loma Formation. These faults and other strain features are likely related to local strain and movement along the Rose Canyon Fault Zone located north and east of the study area (see Figure 2 in Appendix K). Sea caves and surge channels typically form along these weakened areas within the Point Loma Formation where they intersect the bluff. Where the joints and faults are sub-parallel to the bluff, blockfalls may occur and a more linear coastline typically forms (TerraCosta 2009:6).

Groundwater and Liquefaction

A contributor to the erosion of coastal bluffs is the flow of groundwater along the contact between the relatively pervious, moderately consolidated coastal terrace deposits, and the well-consolidated, less pervious Cretaceous-age formations that form the lower sea cliffs. Although not noted in the vicinity of the Children's Pool, localized seepage was observed adjacent to the study area in both fractures and sea caves. Groundwater typically migrates through the permeable terrace

deposits where it eventually encounters and enters the joints and fractures within the Point Loma Formation. As the water migrates through these joints and fractures, the cementing agents within the rock are partially dissolved, further weakening the rock along the joint or fracture locally, increasing the rock's susceptibility to erosion and aiding in the formation of sea caves.

The likely sources of this groundwater are natural migration from highland areas to the east of the terrace, and infiltration of the terrace surface by rainfall and irrigation water. Typically, the volume of groundwater exiting the bluff faces in the Children's Cove area varies from location to location and between seasons, even during drought years.

Liquefaction is a process that occurs when soil grains in saturated sand or silt deposits lose contact due to ground shaking, causing the soil to temporarily behave as a liquid. Liquefaction usually occurs in loosely packed (low- to medium-density), cohesionless (not clayey), saturated soils (relatively shallow groundwater) when ground shaking of sufficient intensity occurs to function as a trigger mechanism. Although a significant concern affecting San Diego's North County Eocene-age coastal sediments, groundwater typically does not play a significant role in destabilizing the Cretaceous-age coastal sediments located in the Children's Pool area (TerraCosta 2009:6-7).

Soils and Geologic Formations

Soils and geologic formations that occur in the vicinity of Children's Pool are described below (TerraCosta 2009:4-6):

Point Loma Formation (Kp)

The Cretaceous-age Point Loma Formation is an approximately 900-foot-thick sedimentary rock layer that discontinuously crops out in coastal areas of northern Baja California and as far north as Carlsbad. In La Jolla, it forms the lower, more resistant parts of the sea cliff with elevations at the site on the order of 20 feet above mean sea level (MSL), dipping to the south about 5 degrees. Deep water deposits are represented by the erosion-resistant, thick-bedded mudstone and sandstone exposed at the base of the cliffs.

Bay Point Formation (Qbp)

The Pleistocene-age Bay Point Formation, deposited on the coastal terraces on which Coast Boulevard is built, ranges up to approximately 40 feet in thickness, and forms the upper part of the bluff in the site vicinity above elevation 20± feet, MSL. The Bay Point Formation consists of marine and non-marine, silty to

clayey sandstones, and hard, sandy clays, which form moderate slopes on the coastal terraces, which are exposed in the bluffs of the project area

Alluvial and Colluvial (Qcol/Qal)

Geologically recent alluvial and colluvial soils and the topsoils developed on them are present over most of the terrace in the area and on the slopes above and to the east. Typically less than 2 feet in thickness, these soils consist of porous, loose to medium dense, silty to clayey sands with occasional gravel.

Artificial Fill

Artificial fill soils, predominantly consisting of silty to clayey sands with gravel, exist locally as a result of the numerous bluff-top improvements. Several relatively extensive debris fills in the vicinity of the Children's Pool beach have been placed along the coastal bluff to arrest marine erosion that appears to have primarily advanced along faults and/or joints in the cliff-forming Point Loma Formation.

Recent Beach Deposits

Recent beach deposits, predominantly derived from erosion of the local bluffs, cover approximately 80 percent of the Children's Pool area. Deposits range from zero to an estimated eleven feet in thickness.

Topography

La Jolla coastal bluffs are bordered by a narrow wave-cut Quaternary-age terrace or bench, with elevations ranging from 30 to 80 feet above MSL along the top of the bluffs. Wave impact erosion has etched out the less-resistant rock along faults and fractures in the coastal bluff resulting in the shallow coves and sea caves, which punctuate the La Jolla coastline. The more resistant rocks of the Point Loma Formation form the lower cliffed section of the coastal bluff and shore platform, which extends seaward. The relatively flat surface of the modern-day abrasion platform is interrupted by isolated erosion-resistant rock, which forms sea stacks and topographic highs. Farther seaward, the abrasion platform becomes progressively steeper, and is locally incised by surge channels that have formed along the trends of major joint sets or faults, which affect the erosion resistance of the rock (TerraCosta 2009:3).

Coastal Processes and Erosion

Wave Climate

Since wave attack is the predominant process in coastal erosion, a review of the historic local wave climate may allow estimates of future erosion trends. Records indicate that waves along the San Diego County shorelines generally range in height from 2 to 5 feet; however, large waves ranging from 6 to 10 feet in height are not uncommon. These large waves can arrive at almost any time during the year and may continue for 3 to 4 days. These high-wave episodes frequently occur without notable changes in wind conditions. Breakers with estimated heights of 15 to 20 feet have been observed off the coastline within the study area.

Continued coastal erosion can be expected along the La Jolla shoreline. More energetic wave activity in the past 20 years, compared with the previous 40 or 50 years, has subjected the La Jolla coastline to progressively increased wave energy and accelerated erosion.

Shoreline Erosion

Erosion of the Point La Jolla coastal bluffs has produced a typical bluff profile. The lower 20± feet of the bluff in the vicinity of the Children's Pool are typically highly resistant to erosion, forming a vertical or near-vertical cliffed section. The upper portion of the bluff has relatively low erosion resistance and typically forms more gently inclined slopes.

Sea Cliff Erosion

The erosion of the Point Loma Formation along the lower cliffed section of the coastal bluff is due predominantly to marine erosion. Direct wave impact acting on joints and fissures tends to wedge and cleave sections of rock out of the lower sea cliff. Where fractures and joints are more prevalent, or where shear zones have significantly weakened the rock, surge channels and caves have developed.

Upper-Bluff Erosion

The upper bluffs, comprised of the less resistant Bay Point Formation sands, are subject to both marine and subaerial processes, including:

- wave spray and wave splash during high seas or storm events;
- undermining of the underlying cliff-forming Point Loma Formation, and carving of the resultant oversteepened slopes;

- wind, rain, irrigation, and uncontrolled surface runoff, as well as animal burrowing; and
- human-induced erosion, including cave digging, climbing on the bluffs, and channelized pedestrian traffic across the coastal terrace.

Human activity has affected erosion on the upper bluff, most notably in the vicinity and south of South Casa Beach. Hikers along the top of the bluff have created footpaths down to the top of the Point Loma shelf rock just south of South Casa Beach, with less human activity on the slopes backing South Casa Beach adjacent to the Casa Beach lifeguard tower (Terra Costa 2009:7–10).

Thresholds of Significance

Criteria for determining the significance of impacts related to geology and soils were taken from the City of San Diego CEQA Significance Determination Thresholds (2007). The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project?
- Would the project result in a substantial increase in wind or water erosion of soils, either on or off the site?

Impacts and Mitigation

Would the project be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project?

Short-Term (Construction) Impacts

The project site is underlain by two geologic formations—the Point Loma and Bay Point Formations—and two soil deposits—alluvial and colluvial soils—as well as artificial fill soils.

Findings identified in the geologic study conducted by the TerraCosta Consulting Group, Inc., indicate that, excluding past surface erosion within the unimproved Children's Pool and Children's Pool access, and the recompacted subgrade soils, the underlying materials supporting the access roadway are comprised of the highly competent Point Loma Formation bedrock. In addition to providing excellent subgrade support, the formation should not in any way be affected by the proposed construction activities for this project.

As mentioned in the Environmental Setting section above, the presence of groundwater combined with significant ground shaking events could result in

unstable soil conditions through the process of liquefaction. The geologic study also found that, although there is a potential for strong ground shaking activities throughout southern California, groundwater typically does not play a significant role in destabilizing the Cretaceous-age sediments present on the project site.

Impact Determination

The project site would not be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project. Impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

Operational activities associated with the project would entail the removal and transfer of 200 cy of sand from Children's Pool to South Casa Beach once every two to five years as appropriate to maintain the beach configuration. These activities would occur on the same site as the original construction activities, but would be significantly smaller in size and scope than the original project construction. Since the existing geologic formations and soils present on the project site are not anticipated to change in any significant manner, and maintenance activities would be minimal compared to original construction activities, impacts would be less than significant.

Impact Determination

Operation of the project would not be located on a geologic unit or soil that is unstable or that would become unstable as a result of this project. Impacts would less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in a substantial increase in wind or water erosion of soils, either on or off the site?

Short-Term (Construction) Impacts

The project proposes to excavate and decontaminate 3,000 cy of sand from Casa Beach and transfer that sand to South Casa Beach. A geologic study conducted by TerraCosta Consulting Group for the project found that the removal of sand from Children's Pool and its subsequent size reduction would not result in additional coastal erosion associated with the project's construction activities. The combination of the breakwater and remaining beach would protect the shoreline from erosion, and impacts on the site are only anticipated to occur from rare storm surf conditions, which would occur with or without the proposed project. The infrequent storm surf, including the even less frequent breaking of waves over the breakwater, causes the Children's Pool area to experience less accelerated marine erosion than is experienced at South Casa Beach.

According to the geologic study, the project would also result in a positive effect on erosion impacts on the beach, bluffs, and shoreline surrounding South Casa Beach. Since sand at this beach is at volumes lower than previous years, and the existing breakwater may contribute to the blockage of normal north to south sand migration, sand transfer from Children's Pool to South Casa Beach would increase sand volumes and help to better protect the beach from wave energy that causes erosion.

Impact Determination

Implementation of the project would not result in a substantial increase in wind or water erosion of soils on or off the project site. As such, no significant impacts would occur. Further, sand placement at South Casa Beach would result in beneficial impacts.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

In order to maintain the 1941 configuration that this project aims to attain, maintenance activities will have to be conducted once every two to five years as appropriate. This maintenance would involve the removal and transfer of approximately 200 cy of sand from Children's Pool to South Casa Beach. This ongoing maintenance would not result in increased wind or water coastal erosion

on or off the site. The existing breakwater would continue to provide shoreline erosion protection to Children's Pool, this area is not as prone to erosion as the surrounding shoreline, and erosion impacts are only anticipated to result from rare storm surf conditions. These rare events and their associated impacts would occur with or without the proposed project.

The operational activities would also have a beneficial impact on erosion to beach, bluffs, and shoreline surrounding South Casa Beach. With an increase in sand volumes at South Casa Beach, the shoreline surrounding the beach would be better protected from wave energy that causes erosion.

Impact Determination

Ongoing maintenance activities would not result in a substantial increase in wind or water erosion of soils on or off the site. Impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Section 3.4
Historical Resources

Section 3.4
Historical Resources

Introduction

This section describes the affected environment for historical resources including archaeological resources (both prehistoric and historic) and the built environment. Established criteria under CEQA define the significance of historical resources. Impacts on archaeological resources generally occur during the construction period, with impacts on the built environment being generally short term during construction, although there can be long-term impacts over the life of the project. This section describes the impacts on historical resources that would result from implementation of the project and mitigation measures that would reduce these impacts. Note that State CEQA Guidelines Section 15120(d) prohibits an EIR from disclosing the location of archaeological sites or sacred lands.

Existing Conditions

Landform

The landform on which the project area is situated is geologically designated the La Jolla Terrace that exists in the Coastal Geomorphic Province. Standing between 50 feet and 70 feet above MSL, the La Jolla Terrace is marine in origin (McArthur 2004:19). From a geological perspective, the project area can be characterized as consisting of rocks derived from the Bay Point Formation, which is widespread and well-exposed along the modern coastline. The Bay Point Formation consists of marine and nonmarine fossiliferous sandstones that are poorly consolidated, fine- and medium-grained, and pale brown in color (Kennedy 1975:29). Soils within the vicinity of the project area are covered and disturbed by development, and consequently are recorded as Urban Land (Bowman 1973:81).

Cultural Setting

Prehistory

When Juan Rodriguez Cabrillo landed in San Diego Bay in 1542, he was met by native peoples who had lived in the area for millennia. The earliest documented occupation of the San Diego County region is the Paleoindian culture of the San Dieguito Complex (ca. 8500–6000 BC). The artifactual repertoire of this complex suggests a nomadic hunting culture as evidenced by the variety of scrapers, choppers, bifaces, large projectile points, and crescentics found. The San Dieguito culture evolved into, or was replaced by, a new cultural pattern in which the emphasis seems to shift to the collection of plant resources with less dependence on hunting game. In coastal areas this is referred to as the La Jolla Complex (ca. 6000–1 BC) and is characterized by grinding tools for processing food, extensive utilization of littoral resources, and simple cobble-based lithic technology, with the treatment of the dead being in flexed human burials. A coeval inland Pauma Complex has been defined based on similar ground stone technology, the presence of Elko Series projectile points, and the absence of artifacts associated with later cultures. The artifacts that distinguish the later Cuyamaca Complex (ca. AD 1–1769) from the La Jolla and Pauma Complexes include smaller projectile points associated with bow-and-arrow technology, the addition of bedrock milling technology, a shift from inhumation to cremation mortuary practices, and sometime after roughly AD 800, and the addition of ceramic technology. The Cuyamaca Complex is the material manifestation of the Kumeyaay culture that persists today, although in a highly modified form.

History

The Kumeyaay people appear to have been little affected neither by Cabrillo's visit, nor by Vizcaino's in 1602. However, the subsequent Spanish colonization of Alta California, beginning in 1769, resulted in massive native population displacement and decline. The Spanish sphere of control spread outward from the Royal Presidio and the Mission San Diego de Alcalá along the Camino Real as well as inland up the major river valleys. By the early 1820s the threat of native resistance along the coast was nonexistent and the Presidio commandant had granted small house and garden plots to both retired and active duty soldiers, forming the settlement now known as Old Town. Upon Mexico gaining her independence in 1822, foreign policy was changed to allow and encourage trade with other countries. The principal exports were cowhides and tallow that in turn fueled a demand by local citizens for land grants upon which to raise cattle. Secularization of mission lands in 1835 made tracts available for redistribution as land grants while new grants were made from inland territories still occupied by the Kumeyaay, forcing them to acculturate or move away. Typically the holders of the grants maintained a residence in the settlement below the Presidio, and these increased in number and elaboration as the rancho system generated wealth and power. Conversely, the Presidio declined throughout the 1820s and was

abandoned by the mid-1830s. In 1835 the Mexican government granted Pueblo status to the settlement of San Diego that included a large grant of land, some of which is still owned by the modern municipality.

The Hispanic era of San Diego ended with the Mexican-American War of 1846–1848. The transfer to American control under the Treaty of Guadalupe-Hidalgo had little immediate effect on San Diego. However, in 1869 Alonzo Horton began his New Town development by the bay with the expectation that a railroad would soon connect San Diego to the rest of the nation. By 1871 the municipal offices were relocated to Horton's New Town, signaling the beginning of the decline of Old Town.

La Jolla History

The scenic La Jolla coastline had attracted day visitors from San Diego for decades prior to the boom of the late 1880s. However, the absence of fresh water, either from streams or from springs or wells, seemed to present an insurmountable obstacle to a series of land speculators from the first buyer in 1871, Charles Griffin, until it was purchased by Frank Botsford in 1886. Botsford sold interests in his holdings to raise the capital necessary to ensure a supply of fresh water. In April of 1887, his preparations for a La Jolla Park development bore fruit; an auction of lots sold over $55,000.00 worth of property the first day with an additional $100,000.00 sold over the next year. Immediately, a number of cottages were built above the cove, and, as was customary of every development of the time, a large hotel was constructed to attract more visitors who would hopefully become buyers (La Jolla Historical Society 1987). Despite the economic collapse in the spring of 1888, the La Jolla community continued to grow at a slow but steady pace. By the turn of the century, the San Diego, Pacific Beach & La Jolla Railway Company was providing service to La Jolla that stimulated new growth (Fickewirth 1992:125). Equally auspicious for the development of the community was the arrival in 1897 of Ellen Browning Scripps and her brother, newspaper tycoon E. W. Scripps. Their civic awareness and philanthropy, as exemplified by their support of projects like Scripps Cottage, Scripps Metabolic Clinic, Scripps Hospital, La Jolla Library, La Jolla Woman's Club, and Scripps Institution of Oceanography, transformed the community from an artist's colony to a center of the arts and sciences.

The Children's Pool is another excellent example of Ellen Browning Scripps' philanthropy. She hired the best hydraulic engineer (Hiram Savage) and architect (William Templeton Johnson) of the era to construct a breakwater that would protect bathers, especially children, from the dangerous crosscurrent and undertow of the open ocean. Although plans were started in 1921, construction did not begin until September 1930, and the breakwater was completed on April 4, 1931. At the dedication held on May 31, 1931, Judge John Kean called the Children's Pool "the most valuable of all Miss Scripps' benefits to La Jolla" (Hollins 2005).

A pattern of steady growth characterized La Jolla, and even the Great Depression was felt less severely there than in other parts of the county or state (La Jolla Historical Society 1987:48, 226). The outbreak of World War II saw the creation of military camps Callan and Matthews in the undeveloped lands to the north; following the war much of Camp Matthews became the University of California, San Diego campus.

Thresholds of Significance

CEQA statutes and the CEQA Guidelines, direct lead agencies to first determine whether an archaeological site is a "historically significant" cultural resource. Generally, a cultural resource would be considered by the lead state agency to be historically significant if the resource meets any of the following criteria for listing in the California Register of Historical Resources:

(a) is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

(b) is associated with the lives of persons important in our past;

(c) embodies the distinctive characteristics of a type, period, region, or method of construction or represents the work of an important creative individual or possesses high artistic values; or

(d) has yielded, or may be likely to yield, information important in prehistory or history.

For the purposes of this EIR, criteria for determining the significance of impacts related to historical resources were taken from the City of San Diego CEQA Significance Determination Thresholds (2007). The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project result in any adverse physical or aesthetic effects on a prehistoric or historic building, structure, object, or site?
- Would the project result in any adverse physical or aesthetic effects on an architecturally significant building, structure, or object?

Impacts and Mitigation Measures

Would the project result in any adverse physical or aesthetic effects on a prehistoric or historic building, structure, object, or site?

Short-Term (Construction) Impacts

A site records and literature search was conducted at the South Coastal Information Center (SCIC), a branch of the California Historical Resources

Information System, on June 26, 2008, for the purpose of determining whether historic resources had been previously recorded on or within a ¼-mile radius of the project area of potential effect (APE). Four resources have been recorded within this zone including one in close proximity to the Children's Pool. Review of the individual site records indicates that they are sparse marine shell and lithic scatters; this type of resource is common along the accessible portions of San Diego's coastline. The absence of burnt shell, bone, or fire-affected rock in these site records suggests that food preparation/consumption typical of temporary campsites was not being performed. Instead these sites appear to be simple resource procurement and processing locales where a very restricted set of activities took place.

Impact Determination

Impact CUL-1.1: The presence of a recorded site in close proximity to the project, coupled with the fact that the shoreline has fluctuated back and forth over the last 10,000 years, indicates a potential for unexpected cultural resources to be present. Given that there is no clear delineation between the sand that has accumulated within the pool over the last 70 to 80 years and sand that has been present for hundreds of years, it must be assumed that deeper sands potentially containing cultural resources could be affected, thus leading to a finding that significant impacts on archaeological resources could result.

Mitigation Measures

Mitigation Measure CUL-1.1: A qualified archaeologist shall monitor all construction activity that disturbs native soils. The monitoring shall involve both archaeological and Native American Monitors. If human remains are discovered, work will halt in that area and the following procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) will be undertaken:

I. Prior to Permit Issuance or Bid Opening/Bid Award

A. Entitlements Plan Check

1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. Prior to Bid Award, the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as

defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training with certification documentation.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.

3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (¼ mile radius) has been completed. Verification includes, but is not limited to, a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American monitor shall attend any grading/excavation–related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.

   a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM, or BI, if appropriate, prior to the start of any work that requires monitoring.

2. Acknowledgement of Responsibility for Curation (Capital Improvement Program [CIP] or Other Public Projects)

   a. The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.

3. Identify Areas to be Monitored

   a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC for approval identifying the areas to be monitored, including the delineation of grading/excavation limits.

   b. The AME shall be based on the results of a site-specific records search as well as information regarding the age of existing pipelines, laterals, and associated appurtenances and/or any known soil conditions (native or formation).

   c. MMC shall notify the PI that the AME has been approved.

4. When Monitoring Will Occur

   a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.

   b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents that indicate conditions such as age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

5. Approval of AME and Construction Schedule

   a. After approval of the AME by MMC, the PI shall submit to MMC written authorization of the AME and Construction Schedule from the CM.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The Archaeological monitor shall be present fulltime during grading/excavation/trenching activities including, but not limited to, mainline, laterals, jacking and receiving pits, services, and all other appurtenances associated with underground utilities as identified on the AME and as authorized by the CM. The Native American monitor shall determine the extent of their presence during construction-related activities based on the AME and provide that information to the PI and MMC. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**

2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVRs shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly

(Notification of Monitoring Completion), and in the case of ANY discoveries. The RE shall forward copies to MMC.

3. The PI may submit a detailed letter to the CM and/or RE for concurrence and forwarding to MMC during construction requesting a modification to the monitoring program when a field condition (such as modern disturbance post-dating the previous trenching activities, presence of fossil formations, or encountering of native soils) may reduce or increase the potential for the presence of resources.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.

2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.

3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI and Native American monitor shall evaluate the significance of the resource. If Human Remains are involved, the protocol in Section IV below shall be followed.

a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.

b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval of the program from MMC, CM, and RE. ADRP and any mitigation must be approved by MMC, RE, and/or CM before ground-disturbing activities in the area of discovery will be allowed to resume.

(1) Note: For pipeline trenching projects only, the PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "III-D."

c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

(1) Note: For pipeline trenching projects only, if the deposit is limited in size, both in length and depth, the information value is limited and is not associated with any other

resource, and there are no unique features/artifacts associated with the deposit, the discovery should be considered Not Significant.

(2) Note: For pipeline trenching projects only, if significance cannot be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.

D. Discovery Process for Significant Resources—Pipeline Trenching Projects

1. The following procedures for documentation, curation, and reporting constitute adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:

a. One hundred percent of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench, and profiles of side walls, recovered, photographed after cleaning, and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.

b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.

c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms—DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.

d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area, and the following procedures as set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).

2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.

2. The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.

3. If a field examination is not warranted, the Medical Examiner shall determine, with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains **ARE** determined to be Native American

1. The Medical Examiner shall notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.

2. NAHC shall immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.

3. The MLD shall contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with the California Public Resource and Health & Safety Codes.

4. The MLD shall have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity of the human remains and associated grave goods.

5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, IF:

a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR

b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.

c. To protect these sites, the landowner shall do one or more of the following:

(1) record the site with the NAHC;

(2) record an open space or conservation easement; or

(3) record a document with the County.

d. Upon the discovery of multiple Native American human remains during a ground-disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5-c., above.

D. If Human Remains are **NOT** Native American

1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.

2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).

3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant department and/or Real Estate Assets Department (READ), and the Museum of Man.

V. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the Precon Meeting.

2. The following procedures shall be followed:

a. **No Discoveries:** In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSVR and submit to MMC via fax by 8 a.m. of the next business day.

b. **Discoveries:** All discoveries shall be processed and documented using the existing procedures detailed in Sections III—During Construction, and IV—Discovery of Human Remains.

c. **Potentially Significant Discoveries:** If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III—During Construction shall be followed.

d. The PI shall immediately contact the RE and MMC, or by 8 a.m. of the next business day, to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night and/or weekend work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.

2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring:

a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.

b. **Recording Sites with State of California Department of Parks and Recreation:** The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.

2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or for preparation of the Final Report.

3. The PI shall submit revised Draft Monitoring Report to MMC via the RE for approval.

4. MMC shall provide written verification to the PI of the approved report.

5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area, that faunal material is identified as to species, and that specialty studies are completed, as appropriate.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing, and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall submit the Accession Agreement and catalogue record(s) to the RE or BI, as appropriate for donor signature with a copy submitted to MMC.
3. The RE or BI, as appropriate, shall obtain signature on the Accession Agreement and shall return to PI with copy submitted to MMC.
4. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI, as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC of the approved report.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC, which includes the Acceptance Verification from the curation institution.

Implementation of Mitigation Measure CUL-1.1 would reduce impacts on a prehistoric or historic building, structure, object, or site to less than significant.

Long-Term Impacts

Long-term operational impacts on cultural resources may result from the implementation of the proposed project. Specifically, periodic maintenance is proposed for every two to five years as appropriate to maintain the beach configuration that would remove newly accumulated sand from the pool using the same work plan described above. Strict adherence to the work plan including

having appropriate monitors present will ensure that maintenance impacts are less than significant.

Impact Determination

Impact CUL-1.2: Dredging and removing newly accumulated sands every two to five years constitutes a potential adverse effect on cultural resources due to the possibility that overexcavation might penetrate undisturbed layers of sand. Given the presence of a previously recorded resource in close proximity to the project APE, the proposed periodic maintenance represents a significant adverse impact.

Mitigation Measures

Mitigation Measure CUL-1.1 above will be implemented during each successive maintenance program. Monitors shall be present during the excavation and treatment of sand from the Children's Pool to ensure that any cultural resources encountered are properly handled. Implementation of Mitigation Measure CUL-1.1 would reduce impacts to less than significant.

Would the project result in any adverse physical or aesthetic effects on an architecturally significant building, structure, or object?

Short-Term (Construction) Impacts

Based on the official records search, there are a number of historic addresses within the ¼-mile radius of the project APE but none in close proximity. The Children's Pool breakwater and associated stairs have never been formally evaluated and thus are not included in the archival data obtained from SCIC. Regardless, the association of these structures with some of the most eminent San Diegans of the 1920s and 1930s (hydraulic engineer Hiram Savage, architect William Templeton Johnson, and, most significantly, philanthropist Ellen Browning Scripps) would qualify the Children's Pool breakwater and stairs for the California Register of Historical Resources under criteria (b) and (c). Therefore, for purposes of this EIR, the Children's Pool breakwater and associated stairs are considered to be a California Register–eligible historic resource.

The intent of the proposed project is to remove approximately 3,000 cy of sand that have accumulated inside the breakwater since the late 1930s. The work plan proposes to use a front loader with a bucket, with work being performed during low tide. Construction plans will identify sensitive resources, such as the breakwater, to indicate where construction activities would be prohibited to assure that sensitive resources are not affected during construction and future maintenance. All work immediately adjacent to the breakwater would be done

by hand. Access into and out of the Pool would be via the ramp. No work will take place on the breakwater or the stairs.

Impact Determination

Impacts on historic resources in general, and the Children's Pool breakwater and stairs in particular, are temporary and less than significant. Assuming that the avoidance required by the work plan is observed, no direct or indirect impacts on the breakwater or the stairs are anticipated. Therefore, no significant impacts will occur.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

No long-term operational impacts related to adverse physical or aesthetic effects on an architecturally significant building, structure, or object are anticipated from the implementation of the proposed project. The project will not change the physical or aesthetic characteristics of the Children's Pool breakwater and stairs nor effect the way this resource is used. Periodic maintenance is proposed for every two to five years as appropriate to maintain the beach configuration that would remove newly accumulated sand from the pool using the same work plan described above. Strict adherence to the work plan will ensure that maintenance impacts are less than significant.

Impact Determination

Project operation would not result in any adverse physical or aesthetic effects on an architecturally significant building, structure, or object. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Section 3.5
Human Health, Public Safety, and Hazardous Materials

Section 3.5

Human Health, Public Safety, and Hazardous Materials

Introduction

This section describes the effected environment for human health, public safety, and hazardous materials. It also describes the potential impacts on human health, public safety, and hazardous materials that would result from implementation of the project. As discussed below, the impacts of activities associated with the proposed project and their cumulative effects would be less than significant.

Existing Conditions

The following discussion addresses the existing conditions for human health, public safety, and hazardous materials within and near the proposed project area. Several factors have the potential to affect human health, public safety, and hazardous materials at the proposed project area. Due the location of the proposed project, this analysis will focus on hazards associated with the marine environment.

Waves and Currents

As discussed in Section 3.6, "Hydrology and Water Quality," the proposed project area is exposed to substantial waves and currents that create hazardous swimming conditions. This was the primary reason for the construction of the Children's Pool in 1931: to provide a sheltered swimming area, particularly for children. Since the construction of the breakwater, Casa Beach and Children's Pool have been protected from all but the largest surf events, which typically only occur during winter. The waters off of the sand receiver site, South Casa Beach, are exposed to waves and currents and can be hazardous for swimming. The waters between Casa and South Casa beach (off the breakwater) are characterized by a large area of rocky reef that creates a hazard to swimmers and boaters. The breakwater itself has a public walkway along the top. Although handrails line both sides, waves do wash over the breakwater during high tides and surf causing a hazard.

Longshore and rip currents are common throughout the proposed project area, and strongest during periods of high surf and/or wind. Rip currents are most prevalent in areas of deeper water adjacent to shallow water surf zones. A reoccurring rip current forms at the mouth of the Children's Pool adjacent to the tip of the breakwater. As the size of Casa Beach has increased, the size of the Children's Pool has subsequently decreased. This puts swimmers in the pool in closer proximity to this rip current, creating a greater level of danger than in previous years when the beach was smaller and the pool larger.

Lifeguards are on duty at the Casa Beach lifeguard tower throughout the year from 9 a.m. (sometimes 10 a.m. during winter) to dusk (City of San Diego 2008). In the years prior to significant harbor seal colonization, rescues of swimmers from the rip current at the mouth of the Children's Pool were frequent. However, in more recent years, rescues here are infrequent due to limited number of swimmers using Children's Pool (due to seal presence and health warnings) (Tom Thayer pers. comm.).

Rocky Shoreline and Marine Life

The marine environment surrounding the proposed project area is home to a diverse range of species and habitats (see Section 3.2, "Biological Resources"). Some of these can pose a hazard to human health and public safety. The rocky areas throughout the project area can be both sharp and slippery, particularly areas exposed at low tide, creating a hazard to public safety.

Marine life is abundant and diverse in the project area. Although encounters with hazardous marine life are rare, several species pose some threat to public health and safety. Barnacles, mussels, and other organisms on rocky areas are very sharp, while urchins in these areas have spines that can easily puncture and break off in the skin. Jellyfish and stingrays are an infrequent concern throughout Southern California coastal waters, and rarely cause serious concern if encountered unless the victim is struck in a sensitive area or has an allergic reaction. Seals have been known to nip or bite, but this is rare. Sharks that regularly occur in the area, such as nurse and leopard sharks, do not pose any risk to humans. Adult great white sharks are rare in Southern California coastal waters (more frequent at offshore islands), but do occur. The last shark attack in San Diego County was by a great white and was recent and fatal, occurring off Solana Beach in April 2008 (SignonSanDiego 2008). The only fatal attack reported as having occurred off La Jolla took place in 1959.

Lifeguards are on duty year-round and provide emergency response to hazards associated with the rocky shoreline and marine life, as well as waves and currents, as previously discussed.

Contaminants

Contaminants in the sand and water are one of the primary hazards to human health and safety in the proposed project area. Contaminants in the water column at or near the proposed project site can originate from a number of sources. Wastewater discharges, stormwater runoff, groundwater leaching, petroleum or waste spills, and resuspension of contaminated bottom sediments can all contribute to water contamination. Throughout San Diego County, contaminants in the water column are most frequently associated with rainfall events and surface runoff of non-point source pollution. Waste spills have also been a concern, but more so in bays and lagoons than the La Jolla area. However, in the case of the Children's Pool, the primary source of contaminants is seal excrement.

Marine Contaminants

The waters of the Children's Pool are heavily contaminated by fecal coliform (*E. Coli*). *E. Coli*, total coliform, and Enterococcus (both also present in the Pool) are indicators of possible disease producing pathogens (bacteria, viruses, and protozoa). In September 1997 the San Diego Department of Environmental Health (DEH) deemed the Children's Pool unsafe for human contact due to high concentrations of *E. Coli* and closed the pool to the public. In 2003, the DEH notified the City that the Children's Pool designation had changed from closed to advisory per state policy changes. This change states that advisories are to be posted to warn the public of the health risks of swimming because bacterial levels exceed state safety standards while beaches are only closed when sewage spills create hazards.

The last testing done by DEH on October 14, 2004, showed fecal coliforms numbering 3,000 organisms per 100 milliliters (ml), 15 times the California Ocean Plan standard of 200 organisms per 100 ml. Prior DEH tests from 1999 to 2004 show results that consistently and substantially exceed this standard. (see Table 2 in Appendix D, page 7). Since this area has continually tested with high bacteria levels due to the presence of the seals, no new samplings have taken place as of 2004 given that the seals are still at Children's Pool (Mark McPherson pers. comm.). Furthermore, an in depth 1998 analysis of Children's Pool water quality had similar results. This study also established a direct link between *E. Coli* and the feces of the seals via DNA testing of 83 isolates (Appendix D, page 13). Therefore, it has been concluded that the concentration of harbor seals in the area has degraded the water quality to levels unsafe for human contact.

Although there is no standard for bacterial concentration of sediment as there is for bacteria in water, the sand at Casa Beach and at the bottom of the Children's Pool has become contaminated due to seal feces. It is likely that as seal feces settles onto and into the sediment, interaction with wave and tidal energy breaks it down and causes releases of coliforms into the water column. A 2003 study

conducted by Coastal Environments showed that fecal coliform levels in the sediment at the surface near the water line exceeded 1,600 organisms per 100 ml. Bottom sediment (~3 feet below the surface) had levels as high as 929 organisms per 100 ml. According to the DEH, these levels are unsafe. Even if the seals were not present, tides and wave action would likely transfer contaminants from the sand into the water for an extended period of time.

Terrestrial Contaminants

There are no sewage outfalls near the proposed project area, and sewage spills only account for 10% of health advisories and closings of San Diego City beaches. Most advisories are associated with urban runoff.

Two storm drains outfall onto South Casa Beach from Coast Boulevard. These drain a small area of surrounding streets and residential and commercial developments, and may cause contamination of nearshore waters, particularly during periods of rain. Small petroleum spills from vehicles or waste spills from developments or individuals combined with rainfall may account for potential contamination from these drains. However, this is a rare and temporary occurrence.

A search of the California Department of Toxic Substances Control's Envirostor Database revealed that no federal superfund sites, state response sites, voluntary cleanup sites, permitted sites, or corrective action sites are located in the proximity of the proposed project site (0.5 miles radius) (Envirostor 2007).

Thresholds of Significance

Criteria for determining the significance of impacts related to human health, public safety, and hazardous materials were taken from the City of San Diego CEQA Significance Determination Thresholds (2007).. The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project create any known health hazard (excluding mental health)?
- Would the project expose the public or the environment to a significant hazard through the routine transport, use, or disposal of hazardous materials?
- Would the project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?

- Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Impacts and Mitigation Measures

Would the project create any known health hazard (excluding mental health)?

Short-Term (Construction) Impacts

The project proposes excavating 3,000 cy of sand from upper Casa Beach and transferring it to South Casa Beach. Sand from lower Casa Beach would then be decontaminated on upper Casa Beach, and the beach and pool contoured to their 1941 condition.

The construction areas will be cordoned off to prevent public access during construction thereby limiting the possibility of accidents associated with moving equipment and bystanders. Construction BMPs will be implemented for worker safety and to help prevent spills associated with heavy equipment (e.g., petroleum products). During the early stages of construction a sand berm will be created at the low water line. This berm will help prevent seals from hauling out onto the beach during construction while also creating a barrier between the construction area and the ocean. As a result, potential construction period impacts on Casa Beach and the Children's Pool will be reduced to less-than-significant levels.

Seals (cause of contamination) typically only haul out on lower Casa Beach. Therefore, sand from upper Casa Beach is unlikely to be contaminated. Sand from upper Casa Beach, including the decontaminated sand from lower Casa Beach, will be transferred to South Casa Beach. However, this sand will be tested prior to transfer to ensure it is safe for human contact. If results show it is not safe, onsite decontamination measures will be implemented. Following decontamination the sand will be re-tested, and if deemed safe, transferred to South Casa Beach.

Impact Determination

Project construction would not create any known health hazards. Impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

The primary health hazard associated with the proposed project is the high concentration of fecal coliforms and other contaminates in the sediment and water at Casa Beach and the Children's Pool. Levels consistently exceed standards (Ocean Plan) considered safe for human contact, and Casa Beach is subsequently under constant health advisory status by the DEH. A study initiated by the City of San Diego Metropolitan Wastewater Department and the County of San Diego DEH in 1998 determined that the source of the coliform *E. Coli* in the water of the pool was seal scat. The project would decontaminate sand from lower Casa Beach and the Children's Pool. Therefore, the operation of the proposed project would have a positive impact on health hazards at Casa Beach and the Children's Pool.

Impact Determination

Operational impacts associated with the proposed project would not result in substantial health hazards. Impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project expose the public or the environment to a significant hazard through the routine transport, use, or disposal of hazardous materials?

Short-Term (Construction) Impacts

The project does not propose the routine transport, use, or disposal of hazardous materials. Fuel and lubricants for construction equipment would be contained within the equipment, and spill prevention measures will be implemented as part of established BMPs. The project proposes excavating contaminated sand, but this would be decontaminated on the excavation site prior to being transported to the receiver site. Therefore, impacts associated with routine transport, use, or disposal of hazardous materials would be less than significant.

Impact Determination

Project construction would not expose people or the environment to a significant hazard through the routine transport, use, or disposal of hazardous materials. Impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

The project does not propose the routine transport, use, or disposal of hazardous materials in either the near or long term. Maintenance activities to ensure the continuance of a 1941 configuration are expected to occur once every two to five years as appropriate to maintain the beach configuration, and require the excavation and transfer of approximately 200 cy of sand. It is anticipated that the number of seals hauling out on Children's Pool beach could decrease over time as a result of the diminished beach area and an anticipated increase in the number of human beach users. Therefore, contamination of this sand prior to transfer is not anticipated. Fuel and lubricants for maintenance equipment would be contained within the equipment, and spill prevention measures will be implemented as part of established BMPs. Maintenance activities would take less than one week, and typically one day.

Impact Determination

Operational impacts associated with the proposed project would not result in substantial health hazards. Impacts would less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?

Short-Term (Construction) Impacts

A search of the California Department of Toxic Substances Control's Envirostor Database revealed that no federal superfund sites, state response sites, voluntary cleanup sites, permitted sites, or corrective action sites are located in the proximity of the proposed project site (0.5-mile radius).

Impact Determination

Project construction would not create a significant hazard to the public or environment as it would not be located on or near a hazardous materials site. No impacts would occur.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

A search of the California Department of Toxic Substances Control's Envirostor Database revealed that no federal superfund sites, state response sites, voluntary cleanup sites, permitted sites, or corrective action sites are located in the proximity of the proposed project site (0.5-mile radius).

Impact Determination

Project operations would not be located on or near a hazardous materials site. No impacts would occur.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Short-Term (Construction) Impacts

Fuel and lubricants for construction equipment would be contained within the equipment, and spill prevention measures will be implemented as part of established BMPs. During the early stages of construction a sand berm will be created at the low water line. This berm will help prevent seals from hauling out onto the beach during construction while also creating a barrier between the construction area and the ocean. As a result, potential construction period impacts such as increased turbidity and accidental hazardous materials leakage from equipment into the water column will be reduced. Therefore, impacts associated with upset and accident conditions involving the release of hazardous materials into the environment would be less than significant.

Impact Determination

Project construction would not result in upset and accident conditions involving the release of hazardous materials into the environment. Impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

Maintenance is expected to occur approximately once every two to five years and would typically take one day to complete. Fuel and lubricants for maintenance equipment would be contained within the equipment, and spill prevention measures will be implemented as part of established BMPs. Therefore, impacts associated with upset and accident conditions involving the release of hazardous materials into the environment would be less than significant.

Impact Determination

Project operations would not cause upset or accidental conditions involving the release of hazardous materials into the environment. Impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Section 3.6
Hydrology and Water Quality

Section 3.6
Hydrology and Water Quality

Introduction

This section describes the existing environmental for hydrology and water quality. It also describes the impacts on hydrology and water quality that would result from implementation of the project. Hydrology is analyzed from a physical perspective, focusing on oceanographic processes including tides and water levels, currents, waves, and littoral cell interactions. Terrestrial drainage patterns will also be reviewed. Water quality is discussed in terms of temperature, salinity, dissolved oxygen, pH, turbidity, and contaminants. Contaminants resulting from seal feces are discussed in this section, but covered in more detail in Section 3.5, "Human Health, Public Safety, and Hazardous Materials."

Existing Conditions

Hydrology

Tides and Water Levels

All of southern California has a mixed semidiurnal tide with two high tides and two low tides every 24 hours and 50 minutes. Each tide varies in magnitude from the previous respective high or low. Tides are measured from sea level, or 0 feet elevation, and in San Diego can range from approximately +7.5 to -1.9 (largest change in San Diego for 2008; new moon) with the greatest change occurring during full and new moons. The mean high water line is the total average of all high tides. The mean high-high water line is the total average of the higher of the two daily high tides reaches. The mean low water line is the total average of all low tides reaches. The mean low-low water line is the total average of the lower of the two daily low tides reaches.

The distance between the mean high tide line and the lifeguard tower and bluffs at Casa Beach (aka Children's Pool Beach) varies in conjunction with seasonal changes in the amount of sand on the beach. However, it appears that overall annual change in beach width or elevation has been minimal in the last decade as indicated by Coastal Environments surveys taken in April 1998 and November

2003 (see Appendix E, page 4), in comparison with existing conditions observed by ICF Jones and Stokes in August 2008.

Tides in the proposed project area are an important facilitator of water exchange in the Children's Pool, as are currents and waves.

Currents

Oceanic circulation off the San Diego coast, and California as a whole, is dominated by the California Current System (CCS), which extends up to 620 miles offshore from Oregon to Baja California (Miller 1999). The CCS encompasses a southward meandering surface current, a poleward undercurrent, and surface countercurrents. The southern California segment of the CCS divides into a southward extension and a recirculating counterclockwise eddy present most of the year. An inshore countercurrent (Davidson Current) is also present from October to April moving north from Baja California. Furthermore, coastal upwelling (wind moves surface water away from the coast allowing deep water to well up) is common, particularly during spring, bringing cold, nutrient-rich water to the area.

Nearshore currents vary in response to coastal orientation, bottom topography, tides, waves, and even the prevalence of kelp forests, which may slow ocean currents to ⅓ of their normal rate. The proposed project area is most influenced by rip currents and long shore currents driven by wave energy and bottom topography. Rip currents often form in channels where water is deeper than surrounding areas and are strongest during periods of high surf. A rip current is consistently present at the mouth of the Children's Pool adjacent to the breakwater moving toward open water (northwest), and at the north and south ends of the proposed sand receiver beach (South Casa Beach) moving toward open water (west). Longshore currents can run north or south depending on wind and wave direction (see below).

Waves

Although the Children's Pool is largely protected from waves, the surrounding areas are very exposed to wave action. This influences the currents in and near the pool, as well as the movement of sand. Before a wave crests it is a swell, and swells are generated by wind. Records indicate that waves along the San Diego County shoreline generally range in height from 2 to 5 feet; however, large waves ranging from 6 to 10 feet in height are not uncommon. Typically, the largest waves in the proposed project area occur during the winter months (November to March) from swells generated by storms in the North Pacific. Large north to west swells during this time can make even the protected Children's Pool unsafe for swimming as waves wash in from Seal Rock and over/off the break wall. Southerly swells generated by storms in the southern

hemisphere are infrequent but can be powerful and occur any time, with the most size and frequency between May and September. The Children's Pool is fairly protected from this swell direction and the waves it produces. However, rip currents are prevalent and strong during these events, primarily forming in the areas outlined above in "Currents." Also, the oblique angle at which waves from the south strike the coastline can create a longshore current moving in a northerly direction.

Westerly and northwesterly locally generated wind swell also affects the proposed project area throughout the year, with the most frequency during spring months (March to June). These swells and the waves they create are typically smaller than the long-range 'ground' swells discussed, with fewer intervals between waves creating a rough sea surface.

Waves and currents induce suspension and transport of bottom sediments such as sand, and are therefore very important factors in beach replenishment. However, they are also the primary contributor to coastal erosion.

Littoral Processes

The seasonal processes of sand movement driven by waves and currents, and composed of sediments from watersheds and coastal erosion, contribute to an annual sedimentation cycle. A coastal segment with a complete sedimentation cycle is defined as a littoral cell. These cells are characterized by the interaction between ocean and land. They cycle sand on and off the beaches and are replenished by sediments carried to the sea by inland watersheds. In the San Diego region, beach sand loss and replenishment varies depending on local conditions (e.g., geography of the coastline, bottom topography, proximity to rivermouths, etc.). These natural processes have been hindered by various human activities including the development of wetlands, sand mining, and dam construction. These activities limit natural sand flows from inland sources and exacerbate coastal erosion because area shorelines have become sand deprived, thus lacking protective beaches (Griggs and Patsch 2006).

There are three littoral cells along the San Diego coast, all of which interact with each other to some extent. The proposed project site is located at the northern edge of the Mission Bay littoral cell at the border with the Oceanside littoral cell (to the north). The proposed project area is adjacent to La Jolla Canyon, a submarine trench. This bottom feature represents the border between the Mission Bay and Oceanside littoral cells The canyon serves as a sand vacuum, eliminating as much as 220,000 cy of sand from littoral cells (too deep once entering the canyon to contribute to the sedimentation cycle) as littoral drift deposits sand there (SANDAG 2000). Most of this loss occurs from north to south sand movement in the Oceanside cell. The canyon inhibits interaction between the Mission Bay and Oceanside cells, and it is therefore unlikely that any significant north to south sand movement from the Oceanside Cell contributes to La Jolla peninsula pocket beaches, including Casa Beach. Much of

the sand on La Jolla pocket beaches is locally derived from cliff and terrace erosion (Appendix K, page 13). However, the proposed project area is part of the northernmost portion of the Mission Bay cell, and sand from this cell plays a role in the build up or loss of sand in the sand patches and channels that are interspersed between rocky reefs throughout the La Jolla area.

Littoral cells interact with coastal land features in building or scouring sand. For Casa Beach, sand buildup typically occurs in the winter due to large storms and waves that push sand in from deposits to the north located between La Jolla Canyon and the shoreline (part of the Mission Bay Littoral Cell). Southerly swells that would typically contribute to sand loss at Casa Beach by moving sand south to north are blocked by the breakwater, and therefore this part of the cycle is limited. This is the primary cause of the overall sand buildup that has occurred at Casa Beach following the construction of the breakwater in 1931. Although sand continues to migrate around the breakwater, this movement has been inhibited by its presence as a sediment trap.

Terrestrial Drainages

La Jolla is categorized as part of the Peñasquitos Watershed or Los Peñasquitos Hydrologic Unit. However, other than eastern Mount Soledad, its drainages do not flow into the larger creeks of this watershed. Much of the La Jolla peninsula is urbanized with street gutters and storm drains conveying runoff from precipitation and landscape irrigation to the coast where it spills onto area shorelines. These storm drains are numerous and relatively small, creating a dispersed runoff pattern into the ocean.

In the direct vicinity of the proposed project area there are two storm drains that outfall onto South Casa Beach from Coast Boulevard (TerraCosta 2008). Most of the drains in La Jolla are designed to avoid bluff erosion by using pipe extensions that allow drainage beyond the bluffs directly into tide lands/waters. In sum, drainages in the proposed project area are small and localized with runoff volume and quality being variable, but largest and of poorest quality during winter heavy rain events.

Water Quality

Temperature

The ocean water temperature at and near the proposed project site reflects seasonal and spatial variations. Seasonal thermoclines that represent barriers to mixing between surface and bottom waters stratify the water column. Surface temperatures are highest during summer months between June and September and lowest during winter months from November through February, although spring upwelling events also create low surface temperatures. Temperatures near

the bottom are generally highest from October through January and lowest from April to June. Oceanographic conditions such as El Niño and La Niña also affect water temperature with temperatures higher and lower than average, respectively. Historically, nearshore surface temperatures range between 57°F and 75°F (NASA 2008).

Salinity

Salinity levels vary depending on stormwater runoff, waste discharges, rainfall, and evaporation. They remain fairly uniform in the proposed project area between 32 and 34 parts per thousand (ppt). The average level of 33 ppt remains homogenous throughout the water column. Salinity levels tend to be highest from April to August and lowest in winter during periods of high rainfall (SANDAG 2000).

Dissolved Oxygen

Dissolved oxygen (DO) is one of the principal indicators of water quality because organisms are dependent on specific levels for survival while contaminants can alter its natural level. The EPA has established a DO concentration of 5 milligrams per liter (mg/l) as the minimum allowable concentration for aquatic habitats. Historically, average surface DO levels in the proposed project area have ranged from 6.0 to 10 mg/l while bottom DO levels average around 8.6 mg/l. DO concentrations are generally higher in surface and nearshore waters due to wave action and atmospheric mixing. Concentrations may vary based on the following:

- Respiration of plants and other organisms
- Waste discharges
- Surface water mixing through wave action
- Diffusion rates at the water surface
- Water depth
- Disturbance of bottom sediments that contain oxidizable material

Algal blooms associated with increased nutrient levels (e.g., high runoff levels, especially combined with sun light) decrease DO levels, but in the proposed project area this is a rare and temporary occurrence. It is not known whether the large concentration of seals have caused reduced DO levels from their feces as water quality sampling has focused on other attributes (e.g., coliforms; see "Contaminates," below). Disturbances of sediments (e.g., dredging activities) can also result in decreased DO levels due to resuspension of high DO-demanding materials. However, this tends to be temporary (SANDAG 2000).

pH

Various factors contribute to hydrogen ion concentration (pH) in marine waters including plant and animal metabolism mixing with water with different pH values from external sources, water disturbances (e.g., waves), and resuspension of bottom sediments. The California Ocean Plan effluent limitations consider 6 to 9 as safe levels. Open ocean pH typically ranges from 8.0 to 8.3 while those of nearshore waters can range from 7.7 to 8.4. Higher water temperatures tend to correspond with higher pH values.

Turbidity

Particles suspended in the water column result in turbidity. Turbidity is generally caused by one or a combination of the following: suspended sediment from runoff, plankton, vessel disturbances, wave action, currents, and dredging activities. Increases in turbidity can affect light levels in the water and thus reduce photosysnthesis and plant growth. Turbidity can also impair the feeding and respiration of fish and invertebrates.

Suspended silt particles will increase turbidity, but the level at which they do so is related to particle size. Larger sand particles settle rapidly (greater than 63 microns or 0.063 millimeters). Sediment grain size at the proposed project site averaged between 0.661 and 0.726 (Appendix E, page 12) and therefore will settle quickly after being suspended. Generally, the proposed project area is turbid due to wave energy and currents. Visibility improves as you move seaward from the beach and can range between 5 and 20 feet.

Contaminants

Contaminants in the water column at or near the proposed project site can originate from a number of sources. Wastewater discharges, stormwater runoff, groundwater leaching, petroleum or waste spills, and resuspension of contaminated bottom sediments can all contribute to water contamination. In the case of the Children's Pool, the primary source of contaminants is excrement from the harbor seal colony inhabiting the area.

The waters of the Children's Pool are heavily contaminated by fecal coliforms *(Escherichia coli* or *E. coli),* and the San Diego DEH has the area under constant advisory status. Advisories are posted to warn the public of the health risks of swimming because bacterial levels exceed state safety standards. Beaches are only closed when sewage spills create hazards.

The last testing done by DEH on October 14, 2004, showed fecal coliforms numbering 3,000 per ml, exceeding the California Ocean Plan standard of 200 by 15 times. Prior DEH tests from 1999 to 2004 show results that consistently and

substantially exceed this standard. Furthermore, an indepth 1998 analysis of Children's Pool water quality had similar results. This study also established a direct link between *E.coli* and the feces of the seals via DNA testing of 82 isolates (Appendix D). Therefore, it has been concluded that the concentration of harbor seals in the area has degraded the water quality to levels unsafe for human contact. A July 2009 test conducted by the City of San Diego Stormwater Department indicated enterococcus levels just below the State standard. This single test result is not conclusive in determining water contamination levels at Children's Pool, which remain a concern.

This contamination is caused by seals defecating both directly in the water and on the beach. This is important to note because the beach sand at Casa Beach and in the Children's Pool is likely to be hazardous. Even if the seals were not present, tides and wave action would likely transfer contaminants from the sand into the water for an extended period of time. Therefore, the project proposes excavating and decontaminating the sand at Casa Beach before transferring it to South Casa Beach to restore the 1941 Children's Pool configuration.

Nutrients

Two storm drains outfall onto South Casa Beach from Coast Boulevard. These drain a small area of surrounding streets and residential and commercial developments, and may cause nutrient loading of nearshore waters, particularly during periods of rain. Groundwater seepage may also contribute to nutrient loading. Nutrients from landscape runoff (fertilizers, etc.) and other sources can cause algal blooms and DO deficiencies. However, given the small area that drains into the project area and the dynamic ocean environment (versus bays and lagoons with less exchange), it is unlikely that highly concentrated nutrient loading would occur.

Thresholds of Significance

Criteria for determining the significance of impacts related to hydrology and water quality were taken from the City of San Diego CEQA Significance Determination Thresholds (2007). The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project result in erosion of public beaches or an adverse impact on local shoreline sand supply?
- Would the project result in changes in deposition or erosion that may be deposited in sensitive marine habitats?
- Would the project result in substantial alteration to on- and offsite drainage patterns due to changes in runoff flow rates or volumes?

- Would the project result in an increase in pollutant discharges, including downstream sedimentation, to receiving waters during or following construction?
- Would the project result in discharge into surface water or an alteration in surface water quality?

Impacts and Mitigation Measures

Would the project result in erosion of public beaches or an adverse impact on local shoreline sand supply?

Short-Term (Construction) Impacts

The project proposes excavating 3,000 cy of sand from upper Casa Beach and transferring it to South Casa Beach. Sand from lower Casa Beach would then be decontaminated on upper Casa Beach, and the beach and pool contoured to their 1941 condition.

The effect of excavation the Children's Pool has been analyzed by both a geologic study conducted by TerraCosta Consulting Group in October 2008 (see Appendix K) and an excavation technical report by Coastal Environments in June 2004 (Appendix G). Findings from both reports indicated that the removal of sand from Casa Beach with its attendant reduction in size would not result in any significant geologic impact or in any way contribute to additional coastal erosion associated with the proposed construction activities. Because of the existing breakwater, this area is not as prone to erosion as the surrounding shoreline, and erosion impacts are only anticipated to result from rare storm surf conditions. These rare events and their associated impacts would occur with or without the proposed project.

These studies also concluded that the proposed project would have a beneficial erosion impact on the beach, bluffs, and shoreline surrounding South Casa Beach where beach sand is currently at volumes lower than in previous years. The existence of the breakwater may be contributing to this reduction because normal north to south sand migration is blocked and trapped at Casa Beach. Therefore, the sand transfer from the proposed project and ongoing maintenance activities would help restore sand blocked from natural migration. With an increase in sand volumes at South Casa Beach, the shoreline surrounding the beach would be better protected from wave energy that causes erosion.

As mentioned, local shoreline sand supply would be affected in its location but not in its supply. No sand would be removed from the nearshore hydrologic system. Following a previous Children's Pool excavation proposal, Dr. Inman of Scripps Institute of Oceanography stated that sand from one littoral cell should not be transported to another cell (e.g., from Casa Beach to La Jolla Shores),

especially when the donor area is as sand-starved as the La Jolla Pocket Beaches. Dr. Inman suggested that sand from the Children's Pool excavation should remain nearby (see Appendix K, page 13). The proposed project has been designed in accordance with this expert advice. Sand would be transferred from one beach to a neighboring beach within the same littoral zone and therefore would not impact overall sand supply.

Impact Determination

The proposed project would not result in any substantial erosion of public beaches or adversely impact local shoreline sand supply. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

The proposed project would not result in any change in sand supply. Sand would be moved from Casa Beach to neighboring South Casa Beach, remaining in the same vicinity and littoral cell.

Findings from the geology study (Appendix K, page 12) indicated that the removal of sand from Casa Beach with its attendant reduction in size would not result in any significant geologic impact or in any way contribute to additional coastal erosion associated with the proposed project. Because of the existing breakwater, this area is not as prone to erosion as the surrounding shoreline, and erosion impacts are only anticipated to result from rare storm surf conditions. These rare events and their associated impacts would occur with or without the proposed project.

This study also concluded that the proposed project would have a positive erosion impact on the beach, bluffs, and shoreline surrounding South Casa Beach. With an increase in sand volumes at South Casa Beach, the shoreline surrounding the beach would be better protected from wave energy that causes erosion.

Impact Determination

No sand would be permanently removed from the local shoreline sand supply. Excavation of sand at Casa Beach would not result in any significant erosion

impacts as the combination of the breakwater and remaining beach would protect the shoreline from erosion. Sand replenishment at South Casa Beach would provide better protection from erosion than preexisting conditions. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in changes in deposition or erosion that may be deposited in sensitive marine habitats?

Short-Term (Construction) Impacts

Deposition is the geological process by which material is added to a landform or land mass. Sand migration and buildup on beaches can be considered deposition. The construction of the proposed project would transfer sand from Casa Beach to neighboring South Casa Beach, but in no way interfere with natural geologic processes such as sand migration. No permanent structures that would have the potential to cause this type of impact are being proposed.

As mentioned in the discussion above, a recent geologic study completed by TerraCosta Consulting Group indicated that no significant erosion impacts would occur as a result of the proposed construction (Appendix K, page 12). The excavation of Casa Beach would result in greater exposure of clayey fine fill that composes part of the preexisting maintenance ramp located between the southwest corner of the beach and the northwest side of the lifeguard tower. However, this clayey soil is resistant to surface erosion, whether by runoff from rainfall or the proposed construction activities.

Issues pertaining to sand buildup resulting from replenishment are addressed below.

Impact Determination

The proposed project would not interfere with natural geological processes such as deposition. Expert analysis has determined that no significant erosion would result from construction of the proposed project. Therefore, impacts from changes in deposition, or erosion being deposited in sensitive marine habitats, would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

Deposition is the geological process by which material is added to a landform or land mass. Sand migration and buildup on beaches can be considered deposition. The long-term operation of the proposed project would in no way alter deposition because no construction or alteration of permanent structures is part of the proposed project.

The geological analysis of TerraCosta Consulting Group indicated that no significant erosion impacts would occur as a result of the proposed project. Long-term geologic processes would be in no way affected. Although use of the preexisting maintenance ramp located between the southwest corner of the beach and the northwest side of the lifeguard tower would result in greater exposure of clayey fine fill that composes part of the ramp, this clayey soil is resistant to surface erosion.

Impact Determination

The proposed project would in no way affect long-term deposition. Furthermore, long-term deposits or erosion in sensitive marine habitats as a result of the project could only result from the clayey soils of the preexisting maintenance ramp. This would be minimal. Therefore, potential impacts from deposition and erosion deposits would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in substantial alteration to on- and offsite drainage patterns due to changes in runoff flow rates or volumes?

Short-Term (Construction) Impacts

The proposed project does not include any measures that will affect drainage patterns or runoff flow rates or volumes. No construction of impervious surfaces that may cause increased runoff would occur. The proposed project areas of

Casa Beach and South Casa Beach are located below existing drainages and are sandy areas within or just above the intertidal zone.

Impact Determination

Transferring sand from Casa Beach to South Casa Beach would not change runoff flow rates or volumes, nor would it alter drainage patterns in any way. Therefore, no impact would occur.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

The proposed project would not alter drainage patterns in any way. No construction of impervious surfaces would occur. Runoff flow rates and volumes would be unaffected.

Impact Determination

In the long-term, the project would have no affect on drainage patterns or runoff flow rates or volumes. Therefore, there would be no impact.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in an increase in pollutant discharges, including downstream sedimentation, to receiving waters during or following construction?

Short-Term (Construction) Impacts

An excavator and wheel loader would be utilized for construction of the proposed project. Therefore, pollutants of concern include toxic chemicals from heavy equipment such as gasoline, oils, grease, solvents, lubricants, or other petroleum products. To minimize potential pollutant discharge from the presence of this equipment, standard operational procedures (SOPs) and BMPs would be

implemented (Appendix E, page 19). These BMPS will include, but may not be limited to:

- maintain a berm in front of the Children's Pool during excavation to prevent seals from entering construction area;
- maintain silt curtains near valuable habitat during placement of the excavated sand on the beach;
- ensure no damage of the cliffs or vegetation covering the face of the cliffs by using a conveyor to transport the excavated sand from the top of the cliffs to the receiver beach;
- place drip pans where the equipment will be staged to contain any spills;
- during sand placement on the beach maintain a construction corridor with a construction worker on site who would stay on the beach to ensure public safety and facilitate access for the public; and
- sweep the Promenade daily.

These measures would also include stringent offsite equipment maintenance, consistent onsite equipment monitoring, and an emergency response plan.

Downstream sedimentation does not have the potential to occur in the traditional sense of watershed impacts from construction. However, the marine environment constitutes receiving waters for the proposed project site. The excavation of sand at Casa Beach would create downstream sedimentation to these receiving waters in the form of increased turbidity. Any potential impacts associated with this scenario would be limited by the construction of the sand berm at the mean low tide line. This berm would serve as a barrier between the excavation area and receiving waters.

Sand from upper Casa Beach is unlikely to be contaminated and will be tested to ensure that it is safe for human contact before being placed above the high tide line at South Casa Beach (see Section 3.5, "Human Health, Public Safety, and Hazardous Materials"). The natural processes of gravity, tides, wave action, and currents will cause the gradual dispersal of this sand through existing sand channels. This could be perceived as downstream sedimentation to receiving waters. The surrounding marine habitat is sensitive (see Section 3.2, "Biological Resources") but well exposed and adapted to sand buildup, scouring, and general migration. Furthermore, near-shore sand deposits and channels just off the beach are located between rocky reefs throughout the proposed project area, and therefore the environment is characterized by a mix of reef and sand. The level of sand in these areas is highly variable depending on oceanographic conditions. Therefore, the existence of an increased volume of sand on the beach would not present an unnatural scenario.

The selection of South Casa Beach as a receiver site, with the majority of the sand placed at the south end of South Casa Beach, was made in an effort to minimize potential impacts on the marine environment and maximize geologic

benefits (erosion prevention). The 3,000 cy of sand to be deposited on South Casa Beach is compatible with the sand found on neighboring Casa Beach and would not exceed volumes that have existed there previously (see also Section 3.3, "Geology and Soils"). Also, the consistent wave and tidal action of the site is coupled with a large sand channel extending from the south end of the beach to the southwest. This helps to minimize potential impacts of sand on existing reef structures and their associated habitats. However, because the placement of sand onto South Casa Beach would occur relatively quickly (in 300 cubic yard increments), it is important to monitor its migration during construction. This would be done to ensure that the pace of placement allows dispersion through natural sand channels by wave action and currents to occur gradually and not suffocate marine habitats (e.g., rocky reefs and associated surfgrass).

Impact Determination

At Casa Beach, preexisting conditions of regular periods of turbidity are similar to those that would be invoked by the project. Nonetheless, a protective berm would be constructed to separate receiving waters from the excavation area. Implementation of SOPs and BMPs will greatly reduce the potential for any pollutant discharge to occur as a result of construction activities (e.g., leakages from equipment). Also, the proposed project requires obtaining a Coastal Development Permit from the CCC and a CWA Section 401 Permit from the RWQCB. Compliance with the strict requirements of these permits further ensures that potential impacts from pollutants or downstream sedimentation would be minimal. Due to the nature of the project in combination with all of the above measures, impacts would be less than significant.

At South Casa Beach, sand would be decontaminated before transfer so no pollution discharge would occur. Preexisting conditions of regular periods of turbidity at this site are also similar to those that would be invoked by the project. Consistent wave and tidal action at the site are coupled with a large sand channel extending from the south end of the beach to the southwest. This will help to disperse replenished sand in a gradual, natural fashion that would minimize impacts on adjacent areas of rocky reef and surfgrass habitat. Also, a CWA Section 404 Permit from the USACE is required for the proposed project. The strict requirements of this permit for dredging, or in this case excavation, help to ensure minimal impacts would be associated with the sand replenishment. Therefore, potential impacts of pollution discharge and increased sedimentation at South Casa Beach would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

In the long-term, the proposed project would not result in an increase in pollutant discharges or downstream sedimentation. After construction is complete, there would no longer be the potential for pollution discharges from heavy equipment or sand placement, nor levels of turbidity higher than preexisting conditions. Downstream sedimentation to receiving waters associated with sand replenishment at South Casa Beach will be monitored during construction (see Mitigation Measure BIO-2.1 in Section 3.2, "Biological Resources") to ensure gradual sand dispersal that does not significantly impact the marine environment. It is anticipated that long-term sand dispersal and migration would follow the same pattern (i.e. gradual and without significant impact).

The proposed project is actually designed to decrease the long-term level of pollutant discharge in the project area. Sand would be decontaminated and transferred. Therefore, water quality would improve because wave action on the beach results in the passage of contaminants from sand to seawater. The subsequent decrease in the amount of seal feces would result in a decrease in contaminant loading.

Impact Determination

No long-term increase in pollutant discharge would occur as result of the proposed project. The increase in downstream sedimentation to receiving waters associated with sand replenishment at South Casa Beach would be gradual and dispersed by natural processes (tide, waves, currents, sand channels). Furthermore, compliance with standards required for CDP, CWA Section 401, and CWA 404, would ensure limited long-term pollutant discharge or downstream sedimentation impacts. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in discharge into surface water or an alteration in surface water quality?

Short-Term (Construction) Impacts

The Water Quality Control Plan for San Diego associates surface waters with streams and impoundment areas (e.g., reservoirs) and classifies areas such as that of the proposed project area separately under coastal waters. However, construction equipment would have to be transported to and from the project

area. This has some, though limited, potential to affect surface water due to leakages or spills of chemicals associated with heavy equipment. However, any potential impacts on surface water would be reduced by construction SOPs and BMPs that limit the potential for spills associated with construction equipment to occur. The proposed project does not have the potential to lead to any other discharges or alterations to surface water. In addition, water quality within the project area would improve as a result of the sand excavation and reduction of seals onsite; i.e. seal feces which have degraded the water quality to date.

Impact Determination

The implementation of construction SOPs and BMPs would reduce the potential impacts of discharge into surface waters or alteration of surface water quality to less than significant levels.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

After the construction period, the proposed project would not include any elements that would introduce pollution into the surface water. Therefore, the proposed project would not result in any long-term discharge into surface water.

Impact Determination

There would be no discharge into surface water, or degradation of surface water quality, as a result of the proposed project. Therefore, there would be no impact.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Section 3.7
Land Use

Section 3.7
Land Use

Introduction

This section discusses existing land uses and the impacts that would be associated with the construction and operation of the La Jolla Children's Pool project. It provides an analysis of the proposed project's consistency with the City of San Diego Progress Guide and General Plan, the La Jolla Community Plan and Local Coastal Program Land Use Plan (LCP), and the San Diego Association of Government's (SANDAG's) Shoreline Preservation Strategy, as well as City of San Diego Municipal Code zoning designations.

This section describes the potential land use impacts that could result from implementation of the beach restoration project, designed to restore the beach and associated breakwater to its 1941 configuration. It also discusses the project's consistency with local land use regulations. Information has been obtained from the applicable land use plans and ordinances published by the City of San Diego and SANDAG.

Existing Conditions

The project area is within the La Jolla community planning area. Surrounding land uses are the Ellen Browning Scripps Park to the north and developed land uses, primarily multi-family residential and hotel/commercial uses, to the east and southeast.

The La Jolla Community Plan designates Children's Pool as an "Identified Public Vantage Point", as shown in Figure 3.1-8. Furthermore, as shown in Appendix F, Subarea E of the LCP, Children's Pool is within the "City Parks & Beaches" boundary. Children's Pool is listed as a designated physical access point to the coast, and provides recreational opportunities of regional and statewide significance.

Thresholds of Significance

Criteria for determining the significance of impacts related to land use were taken from the City of San Diego CEQA Significance Determination Thresholds (2007). The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project conflict with the goals, objectives, and recommendations of the City of San Diego Progress Guide and General Plan, the La Jolla Community Plan and Local Coastal Program and Land Use Plan, and the State of California Coastal Commission? Is the project consistent with the land use designations, intensity of development, and environmental goals of these plans?

Impacts and Mitigation Measures

Would the project conflict with the goals, objectives, and recommendations of the City of San Diego Progress Guide and General Plan, the La Jolla Community Plan and Local Coastal Program Land Use Plan, and the State of California Coastal Commission? Is the project consistent with the land use designations, intensity of development, and environmental goals of these plans?

Short-Term (Construction) Impacts

City of San Diego General Plan. The proposed project improvements would be consistent with the City of San Diego General Plan. Specifically the proposed project is consistent with the following elements: Land Use and Community Planning; Public Facilities, Services and Safety; Recreation; Conservation; and Historic Preservation.

The proposed project implements the stated Land Use and Community Planning goals and policies of the General Plan as it preserves and enhances La Jolla's coastal, natural, and cultural resources while providing consistency with the La Jolla Community Plan and Local Coastal Program.

The proposed project implements the stated Public Facilities, Services and Safety goals and policies of the General Plan as the Casa Beach lifeguard tower allows the City to maintain fire-rescue service levels for residents and tourists in this highly visited coastal recreational destination.

The proposed project implements the stated Recreation goals and policies of the General Plan in many ways. One of its main goals is to support recreational uses which serve residents and a larger visitor population. Per the General Plan the proposed project will take advantage of recreational opportunities presented by the natural environment, in particular beach/ocean access. Preservation of

beaches for public-only purposes, including preservation of sensitive habitat and species, is a stated goal. The project would improve Children's Pool, Casa Beach, and South Casa Beach for public recreational use for residents and visitors. One of the principal project objectives is to keep Children's Pool safe for public swimming and recreation. The project would reduce levels of water contamination to safe levels. Also, the reconstructed site maintenance would remove sand from Casa Beach and Children's Pool once every two to five years as appropriate to maintain the beach configuration and maintain safe levels of contamination.

The proposed project implements the stated Conservation goals and policies of the General Plan as it preserves public access to coastal resources and enhances use of the shoreline and coast. A stated conservation goal is the long-term preservation and management of those land forms and open space that make San Diego a unique environment. Also, key conservation goals are to protect coastal vistas and overlook areas from obstructions and visual clutter; integrate coastal resources into recreational opportunities; and ensure all City beaches and shorelines are available for public use. Beachgoers have highly utilized the Children's Pool and Casa Beach since it opened in 1931. The proposed project will enable residents and visitors to continue utilizing this significant local recreational resource. The project would allow continued public access to the beach and would preserve coastal views from Coast Boulevard and the park.

The City of San Diego's General Plan requires the assurance that the community plans contain policies to implement CCA policies. Chapter 3 of the Coastal Act and the Land Development Code contains provisions to fully implement these policies. Consistency is addressed as follows: prior to City Council adoption, The La Jolla Community Plan and Local Coastal Program Land Use Plan was evaluated by the CCC, and several issues that required further analysis were identified in the context and process of rewriting and reformatting the Land Development Code. On January 1, 2000, the City of San Diego put into effect the new, revised Land Development Code, and the 2002 La Jolla Community Plan and Local Coastal Program Land Use Plan addresses all issues raised by the CCC. Any subsequent changes to the Coastal Zone regulations will not take effect until approved by the CCC as a LCP amendment. The CCC will determine, based on a review of conformance with the goals, policies, and recommendations of the La Jolla Community Plan, whether an amendment to the LCP land use plan is also needed.

La Jolla Community Plan and Local Coastal Program Land Use Plan. The proposed project is an "Identified Public Vantage Point" in the LCP. Furthermore, as shown in Appendix F, Subarea E of the LCP, Children's Pool is within the "City Parks & Beaches" boundary. The LCP recognizes the importance of maintaining safe and adequate public access to the shoreline as well as the provision of park and recreation areas. The project would provide a safer swimming and diving environment. The proposed project is visually compatible with the natural environment and would preserve and protect the shoreline views of La Jolla. Therefore, the proposed improvements would not

result in a substantial impact on scenic resource views. Impacts on water quality from construction would be minimized by the application of BMPs during construction. Based on this analysis, the proposed project meets the intent of the Natural Resources and Open Space, Community Facilities, Parks and Services, Heritage Resources and Local Coastal Program Elements of the LCP.

California Coastal Act. The CCA requires cities and counties to prepare LCPs to implement its conservation, development, and regulatory policies at the local level in areas of the coastal zone. The La Jolla Community Plan and Local Coastal Program Land Use Plan have been implemented by the City of San Diego to meet this regulatory requirement.

Table 3.7-1 below provides a comparison of the proposed project's consistency with local plans and policies.

Impact Determination

Based on applicable thresholds, the proposed project would not result in any conflicts with the goals, objectives, and recommendations of the City of San Diego Process Guide and General Plan, the La Jolla Community Plan and Local Coastal Program Land Use Plan, and the State of California Coastal Commission. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

Operational activities would not conflict with surrounding land uses and would allow the continued public use of the site as a swimming and diving location. Although maintenance activities involving noise and construction equipment may conflict with nearby residents, visitors, commercial uses, and recreational activities, impacts would be temporary.

Impact Determination

Project operation would not implement or result in any conflicts with the goals, objectives, and recommendations of the City of San Diego Process Guide and General Plan, the La Jolla Community Plan and Local Coastal Program Land Use Plan, and the State of California Coastal Commission. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Table 3.7-1. Comparison of the Proposed Project with Local Plans

Objectives and Policies	Finding	Discussion
California Coastal Act	Consistent with this policy	Policies identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan are consistent with the required California Coastal Act policies for areas located within the coastal zone.
City of San Diego General Plan		
LU-C.1.a. Rely on community plans for site specific land use and density designations and recommendations.	Consistent with this policy	The proposed project improvements would be consistent with the La Jolla Community Plan and Local Coastal Program Land Use Plan.
LU-C.2. Prepare community plans to address aspects of development that are specific to the community, including: distribution of land uses; the local street and transit network; location, prioritization, and provision of public facilities; community and site-specific urban design guidelines; urban design guidelines addressing the public realm; community and site-specific recommendations to preserve and enhance natural and cultural resources; and coastal resource policies (when within Coastal Zone)	Consistent with this policy	The proposed project improvements would be consistent with the existing La Jolla Community Plan and Local Coastal Program Land Use Plan.
LU-E.3. Ensure that the community plans contain policies to implement Chapter 3 of the Coastal Act and the Land Development Code contains provisions to fully implement these policies.	Consistent with this policy	Any changes to Coastal Zone regulations will not take effect until approved by the CCC as a Local Coastal Program Land Use Plan amendment.
PF-D.1. Locate, staff, and equip fire stations (emergency response staff) to meet established response times	Policy not applicable	The proposed project would not affect established response times or require additional fire stations as it does not propose any new development.
PF-D.3. Adopt, monitor, and maintain service delivery objectives based on time standards for all fire, rescue, and emergency response, and lifeguard services	Policy not applicable	The proposed project would not affect service delivery objectives for the area as new development is proposed.

Objectives and Policies	Finding	Discussion
PF-D.5. Maintain service levels to meet the demands of continued growth and development, tourism, and other events requiring fire-rescue services	Policy not applicable	The proposed project would not affect fire-rescue service levels.
RE-A.3. Take advantage of the recreational opportunities presented by the natural environment, in particular beach/ocean access and open space	Consistent with this policy	The proposed project would improve recreational opportunities at Children's Pool by making the beach area suitable for human use.
RE-A.5. Improve distribution of the most specialized recreation facilities, such as water play areas…	Consistent with this policy	The proposed project would improve recreational opportunities at Children's Pool by making the beach area suitable for human use.
RE-C.4. Preserve all beaches for public-only purposes, including the protection of sensitive habitat and species	Consistent with this policy	The proposed project would preserve and improve public use at Children's Pool beach.
RE-C.5. Design parks to preserve, enhance, and incorporate items of natural, cultural, or historic importance	Policy not applicable	The proposed project does not propose any changes to the project area's existing parks.
RE-D.3. Provide recreation programs and services specifically designed to meet the needs of children…	Policy not applicable	The proposed project would not eliminate existing recreational programs nor would it deter the City from achieving its recreational goals.
RE-D.7. Provide public access to open space for recreation purposes	Consistent with this policy	The proposed project would improve public access to Children's Pool by making the beach area suitable for human use.
RE-D.7.c. Provide new, and preserve and enhance existing public beach access where appropriate	Consistent with this policy	The proposed project would preserve existing public access to Children's Pool and would provide additional access to the shoreline.
RE-F.2. Provide for sensitive development of recreation uses within and adjacent to City-owned open space lands	Consistent with this policy	The proposed project would retain the existing recreation uses of the project area.
RE-F.2.a. Include only those development features and amenities that do not encroach upon or harm the feature or resource that inspires the open space or resource-based park	Consistent with this policy	The proposed project would not encroach upon or harm natural resources in the project area. Construction and operation is limited to working with beach sand.
RE-F.2.c. Preserve designated public open space view corridors, such as views to the Pacific Ocean, other bodies of water, and significant topographic features	Consistent with this policy	The proposed project would not negatively affect open space view corridors to the Pacific Ocean or significant topographic features.

Objectives and Policies	Finding	Discussion
RE-F.5. Utilize open space lands for outdoor recreation purposes, when doing so is compatible with cultural, historic preservation and MSCP conservation goals and surrounding land uses, including but not limited to sites particularly suited for park and recreation purposes, such as areas adjacent to and providing access to beaches, lakeshores, rivers and streams	Consistent with this policy	The proposed project would conform to the existing La Jolla Community Plan and Local Coastal Program Land Use Plan, which is consistent with the conservation goals identified in this policy.
CE-B.2. Apply the appropriate zoning and Environmentally Sensitive Lands (ESL) regulations to limit development of floodplains, sensitive biological areas including wetlands, steep hillsides, canyons, and coastal lands	Policy not applicable	The project does not propose any structural development nor would it result in a land use change.
CE-B.2.a. Manage watersheds and regulate floodplains to reduce disruption of natural systems, including the flow of sand to beaches. Where possible and practical, restore water filtration, flood and erosion control, biodiversity and sand replenishment benefits	Policy not applicable	The proposed project does not involve activity within floodplains or watersheds that could disrupt natural systems.
CE-B.2.b. Limit grading and alterations of steep hillsides, cliffs and shoreline to prevent increased erosion and landform impacts	Consistent with this policy	The proposed project's excavation activities would improve shoreline erosion at Children's Pool. See Section 3.6, "Hydrology and Water Quality."
CE-B.4. Limit and control runoff, sedimentation, and erosion both during and after construction activity	Consistent with this policy	The proposed project would implement BMPs to satisfy this policy. See Section 3.6, "Hydrology and Water Quality."
CE-C.1. Protect, preserve, restore and enhance important coastal wetlands and habitat (tide pools, lagoons and marine canyons) for conservation, research and limited recreational purposes	Consistent with this policy	The proposed project would implement BMPs to satisfy this policy. See Section 3.2, "Biological Resources."
CE-C.3. Minimize alterations of cliffs and shorelines to limit downstream erosion and to ensure that sand flow naturally replenishes beaches	Consistent with this policy	The proposed project would alter the shoreline in a manner that would improve shoreline erosion and natural sand flow.
CE-C.5. Limit the use of beaches and shorelines to appropriate coastal dependent and ocean-oriented recreational/educational uses as identified in local coastal/community plans	Consistent with this policy	The proposed project improvements would be consistent with the La Jolla Community Plan and Local Coastal Program Land Use Plan.

Objectives and Policies	Finding	Discussion
CE-C.8. Protect coastal vistas and overlook areas from obstructions and visual clutter where it would negatively affect the public's reasonable use and enjoyment of the resource	Consistent with this policy	The proposed project would not create obstructions or visual clutter to overlook areas or coastal vistas in the project area.
CE-C.11. Integrate the many coastal resources and recreational opportunities into the City's proposed Parks Master Plan (see also Recreation Element, Policy RE-A.1.)	Policy not applicable	The proposed project would not affect the existing coastal resources in the project area.
CE-C.12. Ensure that all City beaches and shorelines are accessible and available for appropriate public use for all users	Consistent with this policy	The proposed project would improve accessibility to Children's Pool by making the beach area suitable for human use.
CE-C.13. Acquire remaining beach and shoreline areas for public use	Consistent with this policy	The proposed project would maintain the project area's current status as a public-use beach.
UD-A.1. Preserve and protect natural landforms and features	Consistent with this policy	The proposed project would not affect existing natural landforms.
UD-A.1.a. Protect the integrity of the community plan designated open spaces	Consistent with this policy	The proposed project would protect the open space designation of Children's Pool.
UD-A.1.b. Preserve and encourage preservation of physical connectivity and access to open space	Consistent with this policy	The proposed project would improve public access to Children's Pool by making the beach area suitable for human use.
UD-A.3.l. Protect views from public roadways and parklands to natural canyons, resource areas, and scenic vistas	Consistent with this policy	The proposed project would not negatively affect public views from public roadways, resource areas, or scenic vistas.
La Jolla Community Plan and Local Coastal Program Land Use Plan		
Conserve and enhance the natural amenities of the community such as its views from identified public vantage points, open spaces, hillsides, canyons, ocean, beaches, water quality, bluffs, wildlife and natural vegetation, and achieve a desirable relationship between the natural and developed components of the community.	Consistent with this policy	The proposed project would conserve the existing natural amenities of the project area, including views, beaches, and bluffs.

Objectives and Policies	Finding	Discussion
Provide adequate public facilities necessary to support the educational, recreational, safety and health related needs of La Jolla residents including children, families and the elderly as well as providing for the need of visitors.	Policy not applicable	The project does not propose development that would necessitate additional public facilities.
Enhance existing public access to the ocean, beach and park areas…along the shoreline in order to be of greatest benefit to neighborhood residents and visitors to the community.	Consistent with this policy	The proposed project would preserve existing access to Children's Pool.
Enhance existing public access to La Jolla's beaches and coastline areas (for example La Jolla Shores Beach and Children's Pool areas) in order to facilitate greater public use and enjoyments of these and other coastal resources.	Consistent with this policy	The proposed project would not affect existing public access areas at Children's Pool, but would increase opportunities for recreation.
Provide adequate park and recreational facilities…and parking to meet the needs of the community residents and visitors, including children, families and the elderly	Consistent with this policy	The proposed project would improve recreational facilities and would not increase or decrease parking availability in the project area.
Encourage the maximum use of all existing community facilities, in particular, the public parks, beaches, recreational areas, bikeways, museums, and public schools in order to enhance the recreational opportunities for all visitors and residents of La Jolla.	Consistent with this policy	The proposed project would allow humans to safely use Children's Pool beach, thus improving recreational opportunities in La Jolla.
Preserve the heritage of La Jolla by identifying structures or natural features within the community that are important local landmarks or that hold community-wide significance and by designating them as historic sites.	Policy not applicable	The proposed project does not propose structural development that would destroy the heritage of La Jolla. Changes to existing historical landmarks or sites are not proposed.
San Diego Municipal Code/Land Development Code	Consistent with this policy	The proposed project would comply with the requirements of the San Diego Municipal Code/Land Development Code.
SANDAG Shoreline Preservation Strategy		
Policy A: The Strategy should provide a cooperative, coordinated, and long-rage preservation program for the region's shoreline.	Consistent with this policy	The proposed project established a coordinated, long-range management plan for the project area's shoreline.

Objectives and Policies	Finding	Discussion
Policy B: The Strategy should consider the full range of shoreline management tactics to preserve and enhance the environmental quality, recreation capacity, and property protection benefits of the region's shoreline.	Consistent with this policy	The proposed project aims to enhance the environmental quality as well as restore the recreational capacity of Children's Pool by making the beach area suitable for human use.
Policy C: Structural and mechanical management tactics to stabilize beaches, reduce sand losses and redistribute sand along the shoreline should be evaluated as complements to the regional beachfilling program and implemented where they have a positive impact on cost-effectiveness. Tactics which mimic natural processes should be preferred when they are equal in cost-effectiveness to other approaches.	Consistent with this policy	The proposed project would transfer sand from one beach to an adjacent pocket beach within the same littoral zone, which would help restore sand blocked from natural migration.
Policy F: The Strategy should provide technical information to assist coordinated and consistent approaches to local level management tactics, including regulation of shoreline land use and development, and property protection measure such as artificial dunes, seawalls, and revetments.	Consistent with this policy	The project does not propose any new development on the shoreline nor would it eliminate the existing breakwater located on the project site.

Section 3.8
Recreational Resources

Section 3.8
Recreational Resources

Introduction

This section describes the affected environment for recreational facilities. It also describes the impacts on local recreation that would result from implementation of the project. The analysis provided in this section is primarily based on review of existing public service documents and City of San Diego planning documents.

Existing Conditions

Existing recreational opportunities and public access points in the project area are identified below, followed by an evaluation of the potential impacts on recreational resources due to construction and operation of the proposed project. This recreational resource analysis will focus on beaches and beach access, as these are the most pertinent issues for the proposed project.

Public Parks and Open Space

The City of San Diego's La Jolla shoreline provides recreational opportunities of regional and state-wide significance for local residents and visitors alike. The City owns and manages the recreational resources that are located in the vicinity of the proposed project. Access to these beach areas includes stairways, pathways, and parking areas. Access ways within or adjacent to dedicated City parks are maintained by the Parks and Recreation Department.

Public access points to recreational resources in the project area are identified in Subarea E of the La Jolla Local Community Plan and Local Coastal Program Land Use Plan. Views of the shore can be seen from the pedestrian walkway along the bluff top from Ellen Browning Scripps Park to the end of Coast Boulevard Park. From this walkway, several stairs and trails lead down to Wipeout Beach, Shell Beach, the Children's Pool area, and South Casa Beach. Below the bluffs, lateral access along the shoreline is limited. Prospect Street and Coast Boulevard are the major streets that provide vehicular access to the coastline; public parking is limited to Coast Boulevard and adjacent local streets (City of San Diego 2004).

This analysis of recreational resources focuses on Children's Pool (Casa Beach), the adjacent South Casa Beach, Ellen Browning Scripps Park, Shell Beach, Boomer Beach, and the La Jolla Underwater Park as these are the only recreational resources that may be affected by the construction and operation of the proposed project (see Figure 2-2).

Children's Pool (Casa Beach)

Originally constructed in 1931, Children's Pool offers excellent viewpoints to the sandy beach and coastal waters that define the La Jolla shoreline. Access to Children's Pool beach is available through the 800 block of Coast Boulevard in the downtown La Jolla community.

The beach area is currently occupied by seals that have taken refuge on the sand. The breakwater that borders Children's Pool to the south and west offers a walkway vantage point that people can use in order to walk out onto the breaking Pacific Ocean waves. The breakwater, although originally intended to provide a sheltered swimming area for children, has led to the slow overtaking of the beach area by seals. Due to the concentration of these marine species and their excrement activities on or near the Children's Pool area, serious health concerns have been identified on the project site. Today, because of sand and water contamination, Children's Pool has been deemed unfit for human use by the San Diego County Environmental Health Department.

South Casa Beach

South Casa beach is a small pocket beach, located directly south of Children's Pool, that is utilized by sunbathers and swimmers for recreational purposes. Access to this site is also provided through the 800 block of Coast Boulevard.

Ellen Browning Scripps Park

Ellen Browning Scripps Parks is a grassy bluff top park located on the La Jolla shoreline northeast of the Children's Pool project site. The park is a resource based park that is heavily used by both tourists and residents of San Diego. The park is also one of the most photographed spots in San Diego according to *AAA Magazine* and is a very popular spot for weddings (City of San Diego 2008b). The park offers grassy areas for picnicking and a coast walk for viewing the La Jolla Cove, coastline, and seals at Children's Pool. Access to the park is available via the 1100 block of Coast Boulevard and the 1100 block of Prospect Street. Off-street parking is not available.

Shell Beach

Shell Beach is a small sandy beach located north of Children's Pool and south of Ellen Browning Scripps Park. Shell Beach provides a recreational beach area and seaside walking trail, which is accessible via a staircase along Coast Boulevard near Children's Pool.

Boomer Beach

Boomer Beach, a small sandy beach located along the coast just west of Ellen Browning Scripps Park is a popular attraction for sunbathers and body surfers. A ramp down the bluff of the park provides access to Boomer Beach.

La Jolla Underwater Park

The La Jolla Underwater Park is a 6,000-acre preserve that includes both the San Diego Marine Refuge (SDMR) and the San Diego-La Jolla Ecological Reserve (SD-LJ Reserve). This underwater park extends from La Jolla Cove to the northern boundary of the Torrey Pines State Reserve and provides snorkelers, scuba divers, and kayakers with rocky reefs, sandy flats, kelp beds, and two underwater canyons to explore. One access point to the preserve is available through Coast Boulevard at Children's Pool Beach (Bike and Kayak Tours, Inc. 2008).

Thresholds of Significance

Criteria for determining the significance of impacts related to recreational resources were taken from the City of San Diego CEQA Significance Determination Thresholds (2007). The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project affect recreational activities?

Impacts and Mitigation Measures

Would the project affect recreational activities?

Short-Term (Construction) Impacts

The proposed project aims to restore the La Jolla Children's Pool to its 1941 configuration so that humans may once again safely use the beach and bathing

areas. This will be accomplished by excavating and decontaminating 3,000 cy of sand from Children's Pool and transferring that sand to South Casa Beach. This would restore Children's Pool to its 1941 configuration while replenishing the sand at South Casa Beach to near 1941 levels.

The construction activities of this project will have temporary negative effects on public access to the Children's Pool and the Children' Pool breakwater. The Children's Pool and breakwater will be inaccessible to the public during the entirety of the construction period. Construction activities are expected to last between eight and ten weeks and will be contained on the project site so as not to affect access to surrounding recreational resources.

The effect on public access to South Casa Beach during construction is unknown at this time. Construction equipment may be present on this beach, and the public will not be allowed near any construction operations. Thus, public access to South Casa Beach may be limited during the entirety of the construction period.

Construction activities for the proposed project will affect access to the La Jolla Underwater Park in terms of the entrance and exit point located at Children's Pool Beach. Although entering and exiting the water at this beach is strongly discouraged because of water quality, some snorkelers and divers still utilize the site. However, access to the preserve would be limited at the Children's Pool entryway for the duration of project construction.

Public access to Ellen Browning Scripps Park and the adjacent Boomer and Shell Beaches will not be affected by the proposed project's construction activities. The Children's Pool construction site is located approximately 0.2 to 0.33 of a mile southwest of these recreational areas and all construction activities would be contained on site. Therefore, these recreational resources would be available for use throughout the extent of the construction period.

Impact Determination

Project construction would not result in substantial adverse effects on recreational activities. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

In order to maintain the 1941 beach configuration sought out by this project, approximately 200 cy of sand will need to be removed and relocated from the Children's Pool to South Casa Beach once every two to five years as appropriate to maintain the beach configuration. This sand relocation will be minimal as compared to the original project construction activities.

Public access to the Children's Pool, Children's Pool breakwater, and South Casa Beach would be temporarily unavailable because of the proposed maintenance activities.

Once the proposed project is complete, the entryway to the La Jolla Underwater Park from Children's Pool beach will be fully operational. Access to the Preserve from Children's Pool will likely be limited during the entirety of maintenance activities for the project.

Operational activities would not affect access to recreational resources available at Ellen Browning Scripps Park or the adjacent Shell and Boomer Beaches. These recreational areas are located far enough away from the proposed site maintenance activities to not be affected.

Overall, operational impacts would be beneficial for the following reasons: 'new' beach space will be made available to the public, the reconfigured pool area will provide a secure swimming area, and the ocean will be easily accessible to snorkelers and divers entering and exiting the water.

Impact Determination

Project operation would not result in substantial adverse effects on recreational activities. Therefore, impacts would be less than significant. Overall impacts would be beneficial.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Section 3.9
Transportation and Circulation

Section 3.9
Transportation and Circulation

Introduction

This section describes the existing transportation infrastructure and parking supply in the project area, and the potential impacts on traffic and parking conditions that could result from the proposed project. A traffic memorandum for the proposed project was prepared by Linscott, Law and Greenspan Engineers (LLG) and is included in this EIR as Appendix L. Results from the traffic memorandum are summarized in the analysis below.

Existing Conditions

The following discussion describes the existing transportation and parking conditions in the project area. This includes information on the existing street system and available on-street parking in the project area.

Roadway Network

The project site is located on Coast Boulevard with Prospect Street, Torrey Pines Road, and La Jolla Boulevard providing regional access to and from the project area. To the east of the project site, Jenner Street provides access between Prospect Street and Coast Boulevard. To the south of the site, Cuvier Street provides access between La Jolla Boulevard and Coast Boulevard. Girard Avenue, Ocean Lane, Eads Avenue, and Cuvier Street also provide access between Coast Boulevard and Prospect Avenue.

The streets listed above are generally two-lane roads with parking on both curbs except Ocean Lane, which is a fire lane and on-street parking is prohibited. The capacities of these streets are observed to be generally adequate.

On-Street Parking

Available on-street parking supply in the project vicinity was recorded in the field by LLG and is summarized below. A complete inventory of on-street parking and subsequent parking restrictions is included in Table 1 of the traffic memorandum (Appendix L).

- **Girard Avenue/Coast Boulevard**, Prospect Street to the end of the street—86 spaces
- **Coast Boulevard**, Girard Avenue and Coast Boulevard South—201 spaces
- **Coast Boulevard South**, Girard Avenue to Coast Boulevard—128 spaces
- **Cuvier Street**, Coast Boulevard to Prospect Street—19 spaces
- **Eads Avenue,** Coast Boulevard to Prospect Street—11 spaces
- **Ocean Lane,** Coast Boulevard to Prospect Street—Fire lane, no parking

The total available on-street parking supply is 445 spaces. Of these spaces, 280 spaces have restrictions as follows:

- Handicapped parking—8 spaces
- Lifeguard parking only—3 spaces
- Emergency Vehicle—3 spaces
- 3-Minute passenger loading—4 spaces
- 15-Minute—1 space
- 20-Minute commercial loading—7 spaces
- 20-Minute—3 spaces
- 30-Minute—3 spaces
- 2-Hour—5 spaces
- 2-Hour, 8 a.m. to 6 p.m., Saturday and Sunday except holidays—64 spaces
- 3-Hour—30 spaces
- 3-Hour, 8 a.m. to 6 p.m., Saturday and Sunday except holidays—147 spaces
- No parking, 7 a.m. to 5 p.m., Monday through Friday—5 spaces

Thresholds of Significance

Criteria for determining the significance of impacts related to transportation and circulation were taken from the City of San Diego CEQA Significance Determination Thresholds (2007). The impact discussions below are organized around the issue questions identified during the scoping process.

- Would the project result in an increased demand for off-site parking?
- Would the project result in effects on existing parking?
- Would the project result in alterations to present circulation movements including effects on existing public access to beaches, parks, or other open spaces areas?

Impacts and Mitigation Measures

Would the project result in an increased demand for off-site parking?

Short-Term (Construction) Impacts

During construction, the proposed project may result in a temporary increased demand for off-site parking. Currently there are a total of 25 public parking spaces provided on the street adjacent to the Children's Pool. Construction-related traffic is anticipated to utilize no more than five spaces during construction work hours, and these spaces would be available again as public parking during non-work hours. The remaining 20 spaces near the Children's Pool would be available throughout the day for the public during construction.

Considering that the demand for parking would remain constant, the parking supply would be temporarily reduced by up to five spaces during construction hours. However, the Children's Pool would be closed during the construction period of the project, and it is anticipated that this may reduce demand for parking within the project area. Regardless, the temporary loss of approximately five parking spaces would be considered a less-than-significant impact on off-site parking.

Impact Determination

The temporary loss of approximately five parking spaces would not have a significant impact on off-site parking. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

Seal viewing at Children's Pool generates traffic and creates parking demand under existing conditions. The project may result in a decrease in vehicle trips, as use of Children's Pool for bathing purposes would likely generate fewer trips on a regular basis than it does under existing conditions. However, because the project isn't anticipated to result in a considerable geographical relocation of the seals, seal viewers may still travel to the area to view seals on adjacent beaches after the project is implemented. The project would not result in an increase in vehicle trips on a permanent basis; therefore, it would not result in a regular increase in parking demand, and this impact would be less than significant.

Operational activities associated with the maintenance of the project are proposed to occur once every two to five years as appropriate to maintain the beach configuration. These activities would occur on the same site as the original construction activities, but would be significantly smaller in size and scope than the original project construction. Due to the smaller size and scope of the maintenance activities, the construction period would take less time than the original project, and the temporary loss of parking spaces for construction workers would occur over a lesser amount of time than the original project. Therefore, impacts on off-site parking over the long-term would be less than significant.

Impact Determination

Due to the smaller size and scope of the project's long-term maintenance, the construction period for these activities would be less than the original project. Thus, construction workers would utilize the public parking spaces for a shorter time than the original project. Impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in effects on existing parking?

Short-Term (Construction) Impacts

As discussed above, the proposed project is anticipated to utilize no more than five parking spaces during work, and the other 20 parking spaces would remain available all day for public use. Due to the short duration of the construction period, this reduction of existing parking supply would be less than significant.

Impact Determination

The temporary loss of approximately five parking spaces over the short duration of the project's construction period would not have a significant impact on existing parking. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

As discussed above, the project would not result in an increase in vehicle trips on a regular basis; therefore, it would not result in a permanent increase in parking demand, and this impact would be less than significant.

As explained above, once every two to five years as appropriate to maintain the beach configuration, maintenance of the proposed project would occur. These activities would be significantly smaller in size and scope than the original project construction resulting in a construction period that would take less time than the original project. Therefore, the temporary loss of parking spaces for construction workers would occur over a shorter time period than the original project resulting in a less-than-significant impact on existing parking over the long-term.

Impact Determination

The temporary loss of public parking spaces for construction workers would occur over a smaller time period than the original project resulting in a less-than-significant impact on existing parking over the long-term. Therefore, impacts would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Would the project result in alterations to present circulation movements including effects on existing public access to beaches, parks, or other open spaces areas?

Short-Term (Construction) Impacts

The proposed project would not result in alterations to present circulation movements within the project area since all construction activities would occur off-street. Construction equipment would be brought to the site during the first phase of construction and would be staged on the Children's Pool Beach for the duration of construction. The sand excavated from the Children's Pool Beach would be placed south of the Children's Pool Beach without the use of the adjacent streets for transportation of sand. Since all construction activities are proposed off-street, no changes to the circulation movements are anticipated. Access to the beach would be impacted since the beach would be closed for the duration of construction, however this would not be significant due to the fact that closure of the beach would be temporary. Therefore, the project would have less than significant impacts on present circulation movements and access to beaches in the short-term.

Impact Determination

Since all construction activities would occur off-street and access to the beach would be impacted temporarily during the construction scenario, impacts on present circulation movements within the project area would be less than significant.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Long-Term Impacts

As with the short-term construction impacts, the maintenance activities that are proposed to occur once every two to five years as appropriate to maintain the beach configuration would not result in alterations to present circulation movements within the project area. Although access to the beach during maintenance activities would be temporarily restricted, maintenance activities associated with the project would not result in a significant impact on parking, circulation, and public access to beaches, parks, or other open space areas over the long-term.

Impact Determination

Since all long-term maintenance activities would be contained on-site and because public access to the beach would only be temporarily impacted during the maintenance activities, there would be a less-than-significant impact on present circulation movements within the project area.

Mitigation Measures

As no significant impacts have been identified, no mitigation measures are required.

Chapter 4
Cumulative Impacts

Chapter 4
Cumulative Impacts

Introduction

According to Section 15355 of the CEQA Guidelines, "cumulative impacts" refers to:

> Two or more individual effects that, when considered together, are considerable or that compound or increase other environmental effects. The individual effects may be changes resulting from a single project or a number of separate projects. The cumulative impact from several projects is the change in the environment that results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Furthermore, Section 15130 of the CEQA Guidelines states that:

> An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3). When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of mitigation measure or measures designed to alleviate the cumulative impact. The Lead Agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

The provisions of the CEQA Guidelines, Section 15130(b), subdivisions (b)(1) through (b)(3), list the "necessary elements" that define "an adequate discussion of significant cumulative impacts". According to Section 15130(b)(1), either a list of past, present, and probable future projects producing related or cumulative impacts or a summary of growth projections in an adopted general plan or related planning document may be used as the basis for the cumulative impacts discussion.

Per Section 15130 of the CEQA Guidelines, the discussion of cumulative effects need not provide as much detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness. Reasonable mitigation measures must be discussed; however, CEQA acknowledges that with some projects the only feasible mitigation measures for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

There is only one other related project in proximity to the Children's Pool project area that has potential to contribute to cumulative effects. This project, reconstruction of the Casa Beach Lifeguard Tower (project #154844), would include demolition of the existing lifeguard tower and construction of a new lifeguard tower and new public restrooms.

The cumulative impacts for each environmental focus of the proposed project are discussed below.

Aesthetics and Neighborhood Character

Potential cumulative visual impacts could occur if other projects, when combined with the proposed project, cumulatively contribute to the degradation or deterioration of the visual setting or damage scenic views or vistas. As discussed in Section 3.1, the proposed project would not result in significant impacts on aesthetics and neighborhood character. The only other proposed project in the area is the reconstruction of the Casa Beach Lifeguard Tower. This project is not expected to significantly alter the aesthetic quality of the area, as it would not encroach into the existing view corridor identified in the La Jolla Community Plan. Additionally, the new tower would enhance public access on the beach side of the tower by providing a public walkway in front of the tower. Therefore, cumulative impacts on aesthetics and neighborhood character would not occur.

Biological Resources

As documented in Section 3.2, the proposed project would not result in any adverse impacts on biological resources. With the incorporation of mitigation, the project would have less-than-significant impacts on the movement of resident and migratory fish, wildlife, and wildlife corridors, and on protected species of plants and animals. The only other project identified, Casa Beach Lifeguard Tower reconstruction, is likewise not anticipated to result in adverse impacts on biological resources. Therefore, cumulative impacts on biological resources would not occur.

Geology and Soils

Potential cumulative geology and soil impacts could occur if other projects, when combined with the proposed project, would result in geologic hazards or an increase in soil erosion. As documented in Section 3.3, the project would not result in any significant impacts on geology or soils. The only other proposed project in the area, reconstruction of Casa Beach Lifeguard Tower, is not expected to result in impacts on geology or soils. Therefore, no cumulative impacts on geologic hazards or soil erosion would occur.

Historical Resources

As documented in Section 3.4, the project would not result in any significant impacts to historical resources and potential impacts to archeological resources would be mitigated to less-than-significant levels. The only other project identified, Casa Beach Lifeguard Tower reconstruction, would likewise not result in adverse impacts to historical or archeological resources. Therefore, no cumulative impacts to historical or archeological resources would occur.

Human Health, Public Safety, and Hazardous Materials

The project would not result in any significant impacts on human health, public safety, and hazardous materials. As demonstrated in Section 3.5, beneficial effects on sand and water quality would result from implementation of the project. Similarly, reconstruction of the Casa Beach Lifeguard Tower would not result in significant impacts on human health, public safety, and hazardous materials. That project is specifically being proposed to improve public safety in the project area. Therefore, no cumulative impacts on human health, public safety, and hazardous materials would occur.

Hydrology and Water Quality

The project would not result in any significant impacts on hydrology and water quality. As documented in Section 3.6, the project would have beneficial effects on hydrology and water quality through decontamination of polluted sand and improvements to erosion conditions. Similarly, the Casa Beach Lifeguard Tower reconstruction would not result in significant impacts on hydrology and water quality. Therefore, no cumulative impacts on hydrology and water quality would occur.

Land Use

As documented in Section 3.7, the project would not result in any significant impacts on land use. The only other project identified, Casa Beach Lifeguard Tower reconstruction, would likewise not result in significant land use conflicts. Therefore, no cumulative land use impacts would occur.

Recreational Resources

As documented in Section 3.8, the project would not result in any significant impacts on recreational resources. The only other project identified, Casa Beach Lifeguard Tower reconstruction, would likewise not result in significant impacts on recreational resources. Therefore, no cumulative impacts on recreational resources would occur.

Transportation and Circulation

As documented in Section 3.9, construction of the proposed project, as well as long-term maintenance, would not have significant impacts on the existing transportation network or parking supply within the project area. The only other project identified, Casa Beach Lifeguard Tower reconstruction, would likewise not result in significant impacts on traffic circulation and parking supply. Therefore, no cumulative impacts on transportation and parking would occur.

Growth Inducement

Section 15126.2(d) of the CEQA Guidelines requires that an EIR discuss the ways in which a proposed project could foster growth-inducing effects. Growth inducement refers to economic or population growth, the construction of additional housing, or removal of obstacles to population growth. Direct growth inducement may result from the provision of public services and infrastructure (e.g., utility lines and roads) to a previously undeveloped area. Such a provision can foster additional growth by reducing development constraints for nearby areas, thereby inducing other landowners in the area to convert their property to other uses. Direct impacts can also result from a development's population placing strain on existing public services, or a particular development increasing the pace of density of existing surrounding developments. Indirect growth-inducing impacts include the additional demand for housing, commodities, and services that new development attracts by increasing population and/or services in an area.

The proposed project does not contain any elements that could reasonably be expected to foster growth. The project includes sand removal, sand decontamination, and reconfiguration of an existing pocket beach, sand placement at an adjacent pocket beach, and long-term maintenance of the reconfigured beach. The project contains no extension of infrastructure, and no housing or physical development of any kind, and as such would not result in growth inducement.

Irreversible Environmental Changes

Implementation of the proposed project, including sand removal, sand decontamination, and reconfiguration of an existing pocket beach, sand placement at an adjacent pocket beach, and long-term maintenance of the reconfigured beach would not result in any irreversible environmental changes. Just as the project would physically reconfigure the present beach to look as it did in 1941, it could be re-engineered in the future to return it to its present condition. Therefore, the project is reversible, and so too are the impacts associated with it. Irreversible environmental changes would not occur.

Chapter 5
Alternatives

Chapter 5
Alternatives

Purpose

In accordance with Section 15126.6 of the State CEQA Guidelines, an EIR must describe a range of reasonable alternatives to the project or project location that could feasibly attain a majority of the basic objectives of the project while avoiding or substantially lessening any of the significant effects assessed to be associated with the project. An EIR should also provide a comparative analysis of merits of the identified alternatives to allow for meaningful evaluation, analysis, and comparison with the proposed project. This chapter describes potential alternatives to the proposed project that were considered, identifies alternatives that were eliminated from further consideration and reasons for elimination, and analyzes several alternatives in comparison to the potential environmental impacts associated with the proposed project.

The following are key provisions of the CEQA Guidelines pertaining to the alternatives analysis:

- The discussion of alternative will focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project, even if those alternatives would impede to some degree the attainment of the project objectives or be more costly.
- The No Project Alternative will be evaluated along with its impacts. The No Project analysis will discuss the existing conditions at the time the Notice of Preparation was published as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community plans.
- The range of alternatives required in an EIR is governed by a "rule of reason"; therefore, the EIR must evaluate only those alternatives necessary to permit a reasoned choice. Alternatives will be limited to those that would avoid or substantially lessen any of the significant effects of the project.
- An EIR need not consider an alternative with effects that cannot be reasonably ascertained, when implementation is remote and speculative, and if its selection would not achieve the basic project objectives.

Proposed Project Goals and Objectives

The primary objective of the project is to reclaim Children's Pool for human use as a sheltered swimming area. The project proposes to excavate approximately 3,000 cubic yards of beach sand and place the excavated sand just to the west of the breakwall to return the Children's Pool to its 1941 configuration. In order to return the Children's Pool for human use, the following objectives must be met:

- comply with the California Superior Court decision that orders returning and maintaining the Children's Pool back to its 1941 condition (excavation of approximately 3,000 cubic yards (cy) of sand);
- keep the Children's Pool safe and accessible for public swimming and recreation;
- reduce sand contaminants to achieve a quality deemed safe for public use of the beach; and
- meet requirements for water pollutant removal as set forth by the San Diego County Health Department Standards and any other resource agency water quality requirements.

Alternatives Considered

The proposed project is designed to meet the requirements set forth by order of the Superior Court of California to restore the Children's Pool to its 1941 condition. This would require the removal of roughly 3,000 cubic yards of sand from Casa Beach. The primary objective of the proposed project is to remove this volume of sand from Casa Beach.

Any physical alternative with equal or lesser impacts would not meet the Court order. Therefore, the only potential alternatives are those that would achieve the same physical reconfiguration of Children's Pool, albeit by different means, and in a manner that would reduce the impacts identified in this EIR.

The City of San Diego and its consultants have contemplated numerous potential alternatives over the past several years. After much consideration, practicable alternatives were deemed not to exist. However, as the spirit of CEQA is disclosure of information to the public and decision makers, five of these alternatives (in addition to the CEQA-mandated No Project Alternative) are discussed below, none of which meet the criteria described above.

Alternative 1 (No Project)

The No Project Alternative is required to be analyzed in every EIR. For this project, the No Project alternative would maintain the site in its current state. No

sand excavation or beach replenishment would occur, nor would sand be cleaned of pollutants. This Alternative would not meet the requirements of the court-ordered reconfiguration of the Children's Pool and therefore is deemed infeasible.

Aesthetics and Neighborhood Character

The proposed project would result in less-than-significant impacts on aesthetics and neighborhood character. Alternative 1 would have no impact on aesthetics and neighborhood character since it would maintain Children's Pool beach in its current state. Therefore, the level of impact of Alternative 1 is potentially less than that of the proposed project.

Biological Resources

The proposed project would result in less-than-significant impacts on biological resources. Alternative 1 would have no impacts on biological resources since construction and maintenance activities would not occur at Children's Pool beach. Therefore, the level of impact of Alternative 1 is potentially less than that of the proposed project.

Geology and Soils

The proposed project would result in less-than-significant impacts on geology and soils. Furthermore, beneficial effects would result from implementation of the proposed project through improvements to erosion conditions at the adjacent pocket beach. Alternative 1 would potentially have significant impacts on geology and soils since no erosion improvements would occur. Therefore, the level of impact of Alternative 1 is potentially greater than that of the proposed project.

Historical Resources

After mitigation, the proposed project would result in less-than-significant impacts on historical resources. Alternative 1 would have no impact on historical resources since no earthwork would occur. Therefore, the level of impact of Alternative 1 is potentially less than that of the proposed project.

Human Health, Public Safety, and Hazardous Materials

The proposed project would result in less-than-significant impacts on human health, public safety, and hazardous materials. Furthermore, beneficial effects would result from implementation of the project since the project is specifically being proposed to improve public safety in the project area. Alternative 1 would potentially have significant impacts on human health, public safety, and hazardous materials since the improvements to the sand and water quality would not occur. Therefore, Alternative 1 would potentially result in a greater degree of impact compared to the proposed project.

Hydrology and Water Quality

The proposed project would result in less-than-significant impacts on hydrology and water quality. Furthermore, beneficial effects would result from implementation of the project through decontamination of polluted sand and improvements to erosion conditions. Alternative 1 would potentially have significant impacts on hydrology and water quality since the decontamination of sand and erosion improvements would not occur. Therefore, Alternative 1 would potentially result in a greater degree of impact compared to the proposed project.

Land Use

The proposed project would result in less-than-significant impacts on land use during project construction and maintenance because those activities would only be temporarily incompatible with the surrounding beach use. Alternative 1 would have no impact on land use since it would not involve construction or maintenance activities that would be incompatible with surrounding beach use. Therefore, the level of impact of Alternative 1 is potentially less than that of the proposed project.

Recreational Resources

The proposed project would result in less-than-significant impacts on recreational resources. Furthermore, beneficial effects would result from implementation of the project since more beach space will be made available to the public, the reconfigured pool area will provide a secure swimming area, and the ocean will be easily accessible to snorkelers and divers entering and exiting the water. Alternative 1would potentially have a significant impact on recreational resources since increased access to recreational resources would not occur. Therefore, Alternative 1 would potentially result in a greater degree of impact compared to the proposed project.

Transportation and Circulation

The proposed project would result in less-than-significant impacts related to short-term construction period loss of approximately five parking spaces, and no long-term impacts on traffic or parking. Alternative 1 would have no impact on existing parking or traffic as no construction activities would occur. Therefore, Alternative 1 would potentially result in a lesser degree of impact compared to the proposed project.

Alternative 2 (Year-Round Joint Use)

Under year-round joint use, seals and humans would both utilize Casa Beach and Children's Pool at will. To reduce disturbance to the seals, a dedicated path would be provided for swimmers, divers, etc. to access the water.

This alternative poses potential risks to both seal and human health and safety. Seals may be harassed or harmed by humans. Humans may be endangered by aggressive or curious seals (seal bites to humans have been documented). Furthermore, this alternative has occurred in the past and has resulted in many of the conflicts of interest surrounding the area today.

If successful joint use occurs, the problems associated with sand and water contamination from fecal coliforms that would be addressed by the proposed project may or may not occur. If seals return to the beach and pool in large numbers, recontamination is likely. If seals return to the beach and pool in small numbers, recontamination is less likely, but still possible.

Alternative 2 would not reconfigure the Children's Pool and therefore is deemed infeasible due to non-compliance with the court order.

Aesthetics and Neighborhood Character

The proposed project would result in less-than-significant impacts on aesthetics and neighborhood character. Alternative 2 would have no impact on aesthetics and neighborhood character since it would not reconfigure the Children's Pool beach. Therefore, the level of impact of Alternative 2 is potentially less than that of the proposed project.

Biological Resources

The proposed project would result in less-than-significant impacts on biological resources. Alternative 2 would have no impact on biological resources since

construction and maintenance activities would not occur. Therefore, the level of impact of Alternative 2 is potentially less than that of the proposed project.

Geology and Soils

The proposed project would result in less-than-significant impacts on geology and soils. Furthermore, beneficial effects would result from implementation of the project through improvements to erosion conditions. Alternative 2 would potentially have significant impacts on geology and soils since erosion improvements would not occur. Therefore, Alternative 2 would potentially result in a greater degree of impact compared to the proposed project.

Historical Resources

The proposed project would result in significant impacts on historical resources that would be mitigated to a less-than-significant level. Alternative 2 would have no impact on historical resources since earthwork would not occur. Therefore, the level of impact of Alternative 2 is potentially less than that of the proposed project.

Human Health, Public Safety, and Hazardous Materials

The proposed project would result in less-than-significant impacts on human health, public safety, and hazardous materials. Furthermore, beneficial effects would result from implementation of the project since the project is specifically being proposed to improve public safety in the project area. Alternative 2 would potentially have significant impacts on human health, public safety, and hazardous materials since the improvements to the sand and water quality would not occur. In addition, as discussed above, this alternative poses potential risks to human health and safety since humans may be endangered by seal encounters and exposure to sand and water contamination. Therefore, Alternative 2 would potentially result in a greater degree of impact compared to the proposed project.

Hydrology and Water Quality

The proposed project would result in less-than-significant impacts on hydrology and water quality. Furthermore, beneficial effects would result from implementation of the project through decontamination of polluted sand and improvements to erosion conditions. Alternative 2 would potentially have significant impacts on hydrology and water quality since the decontamination of sand and erosion improvements would not occur. Therefore, Alternative 2 would potentially result in a greater degree of impact compared to the proposed project.

Land Use

The proposed project would result in less-than-significant impacts on land use during project construction and maintenance since those activities would only be temporarily incompatible with the surrounding beach use. Alternative 2 would have no impact on land use since it would not involve construction or maintenance activities that would be incompatible with the surrounding beach use. Therefore, the level of impact of Alternative 2 is potentially less than that of the proposed project.

Recreational Resources

The proposed project would result in less-than-significant impacts on recreational resources. Furthermore, beneficial effects would result from implementation of the project since more beach space will be made available to the public, the reconfigured pool area will provide a secure swimming area, and the ocean will be easily accessible by the dedicated path for snorkelers, divers, etc. entering and exiting the water. Alternative 2 would also have a less-than-significant impact on recreational resources since utilization of these resources would occur year-round. Therefore, the level of impact is similar between the proposed project and Alternative 2.

Transportation and Circulation

The proposed project would result in less-than-significant impacts related to short-term construction period loss of approximately five parking spaces, and no long-term impacts on traffic or parking. Alternative 2 would have no impact on existing parking or traffic. Therefore, the level of impact of Alternative 2 is potentially less than that of the proposed project.

Alternative 3 (Seasonal Joint Use)

The Seasonal Joint Use Alternative entails humans using Casa Beach and Children's Pool from July 1st through January 1st, and the harbor seals using Casa Beach and Children's Pool from January 2nd to June 30th. Under Alternative 3, seals would be deterred from using the beach and pool during summer and fall by methods approved by NMFS and conducted by trained City staff. During winter and spring the beach and pool would be closed to the public.

This alternative poses potential risks to both seal and human health and safety. Seals may be harassed and/or harmed during the period in which they are deterred from using the beach. Humans still face potential contamination issues resulting from the period in which seals use the beach.

Alternative 3 would not reconfigure the Children's Pool and therefore is deemed infeasible due to non-compliance with the court order.

Aesthetics and Neighborhood Character

The proposed project would result in less-than-significant impacts on aesthetics and neighborhood character. Alternative 3 would have no impact on aesthetics and neighborhood character since it would not reconfigure the Children's Pool beach. Therefore, the level of impact of Alternative 3 is potentially less than that of the proposed project.

Biological Resources

The proposed project would result in less-than-significant impacts on biological resources. Alternative 3 would have no impact on biological resources since construction and maintenance activities would not occur. Therefore, the level of impact of Alternative 3 is potentially less than that of the proposed project.

Geology and Soils

The proposed project would result in less-than-significant impacts on geology and soils. Furthermore, beneficial effects would result from implementation of the project through improvements to erosion conditions. Alternative 3 would potentially have significant impacts on geology and soils since erosion improvements would not occur. Therefore, Alternative 3 would potentially result in a greater degree of impact compared to the proposed project.

Historical Resources

The proposed project would result in significant impacts on historical resources that would be mitigated to a less-than-significant level. Alternative 3 would have no impact on historical resources since no earthwork would occur. Therefore, the level of impact of Alternative 3 is potentially less than that of the proposed project.

Human Health, Public Safety, and Hazardous Materials

The proposed project would result in less-than-significant impacts on human health, public safety, and hazardous materials. Furthermore, beneficial effects would result from implementation of the project since the project is specifically being proposed to improve public safety in the project area. Alternative 3 would potentially have significant impacts on human health, public safety, and hazardous materials since the improvements to the sand and water quality would not occur. In addition, as discussed above, this alternative poses potential risks to human health and safety since humans still face potential contamination issues resulting from the period in which seals use the beach. Therefore, Alternative 3 would potentially result in a greater degree of impact compared to the proposed project.

Hydrology and Water Quality

The proposed project would result in less-than-significant impacts on hydrology and water quality. Furthermore, beneficial effects would result from implementation of the project through decontamination of polluted sand and improvements to erosion conditions. Alternative 3 would potentially have significant impacts on hydrology and water quality since the decontamination of sand and erosion improvements would not occur. Therefore, Alternative 3 would potentially result in a greater degree of impact compared to the proposed project.

Land Use

The proposed project would result in less-than-significant impacts on land use during project construction and maintenance since those activities would only be temporarily incompatible with the surrounding beach use. Alternative 3 would have no impact on land use since it would not involve construction or maintenance activities that would be incompatible with surrounding beach use. Therefore, the level of impact of Alternative 3 is potentially less than that of the proposed project.

Recreational Resources

The proposed project would result in less-than-significant impacts on recreational resources. Furthermore, beneficial effects would result from implementation of the project since more beach space will be made available to the public, the reconfigured pool area will provide a secure swimming area, and the ocean will be easily accessible to snorkelers and divers entering and exiting the water. Alternative 3 would potentially have significant impacts on recreational resources since utilization of these resources would be prohibited for part of the year. Therefore, Alternative 3 would potentially result in a greater degree of impact compared to the proposed project.

Transportation and Circulation

The proposed project would result in less-than-significant impacts related on short-term construction period loss of approximately five parking spaces, and no long-term impacts on traffic or parking. Alternative 3 would have no impact on existing parking or traffic. Therefore, the level of impact of Alternative 3 is potentially less than that of the proposed project.

Alternative 4 (Open Breakwater Sluiceways)

The Open Breakwater Sluiceways Alternative explored the feasibility of opening the four breakwater sluiceways instead of dredging in order to increase water circulation in the Children's Pool and potentially reduce the level of contamination in the water.

Currently, the four sluiceways are cemented shut and are also situated below approximately 7 feet of sand. Thus, in order to make the sluiceways functional, Alternative 4 would also entail a sand removal construction process similar to that of the proposed project. Moreover, even when the approximately 3,000 cubic yards of sand have been removed as contemplated for the proposed project, the sluiceways would still be beneath approximately 3 feet of sand.

The sluiceways could then be further excavated and reopened, but this would result in additional earthwork, construction time, and risk of potential harm to the integrity of the breakwater from a physical and historic perspective.

Once functional, it is believed that sand would travel through the sluiceways and out to the seaward side of the wall, and sand would be conveyed out, and south, through several sand channels that occur between the rocky outcrops. Through natural sand flushing, this alternative could alleviate the need for maintenance sand removal contemplated as part of the proposed project, or at least reduce the frequency of necessary maintenance (currently expected to occur once every 2 to 5 years).

However, this alternative would also require its own maintenance to ensure that the sluiceways remain opened and unclogged. From a biological standpoint, the amount of sand movement through the sluiceways would be, in the long term, of a small enough volume that the proximal habitats would not be significantly affected. From a public safety standpoint, there could also be potential impacts related to the strength of the suction around the gates and the current pattern within the pool, which could lead to dangerous swimming conditions. ~~While not confirmed, anecdotal reports from the 1940s indicate that the sluiceways were cemented in part due to drowning concerns after a child was reported being held underwater against a sluiceway due to strong suction currents.~~

Alternative 4 would not reconfigure the Children's Pool and therefore is deemed infeasible due to non-compliance with the court order.

Aesthetics and Neighborhood Character

The proposed project would result in less-than-significant impacts on aesthetics and neighborhood character. Alternative 4 would also have a less-than-significant impact on aesthetics and neighborhood character since it would not substantially alter the existing character of Children's Pool beach. Therefore, the level of impact is similar between the proposed project and Alternative 4.

Biological Resources

The proposed project would result in less-than-significant impacts on biological resources. Alternative 4 would likewise have less-than-significant impacts on biological resources, since, as discussed above, the amount sand movement through the sluiceways would be, in the long term, of a small enough volume that the proximal habitats would not be significantly affected. Therefore, the level of impact is similar between the proposed project and Alternative 4.

Geology and Soils

The proposed project would result in less-than-significant impacts on geology and soils. Furthermore, beneficial effects would result from implementation of the project through improvements to erosion conditions. Alternative 4 would likewise have a less-than-significant impact on geology and soils since erosion improvements would likely occur as a result of natural processes associated with project. Therefore, the level of impact is similar between the proposed project and Alternative 4.

Historical Resources

Due to the earthwork involved, the proposed project would have significant impacts on historical resources that would be mitigated to a less-than-significant level. Alternative 4 could potentially have significant impacts on historical resources since earthwork would be involved to dredge out the sand that has accumulated around the sluiceways. Additionally, opening the sluiceways themselves would constitute a physical alternation to a potentially historic resource. Therefore, Alternative 4 would potentially result in a greater degree of impact compared to the proposed project.

Human Health, Public Safety, and Hazardous Materials

The proposed project would result in less-than-significant impacts on human health, public safety, and hazardous materials. Furthermore, beneficial effects would result from implementation of the project since the project is specifically being proposed to improve public safety in the project area. Alternative 4 would potentially have significant impacts on human health, public safety, and hazardous materials. Although the natural sand flushing may reduce the level of decontamination of the sand and water, this alternative, as discussed above, poses potential risks to human health and safety since opening the sluiceways could generate strong suction currents around the gates within the pool. Therefore, Alternative 4 would potentially result in a greater degree of impact compared to the proposed project.

Hydrology and Water Quality

The proposed project would result in less-than-significant impacts on hydrology and water quality. Furthermore, beneficial effects would result from implementation of the project through decontamination of polluted sand and improvements to erosion conditions. Alternative 4 is also presumed to have a less-than-significant impact on hydrology and water quality since similar beneficial water quality effects would occur. Therefore, the level of impact is similar between the proposed project and Alternative 4.

Land Use

The proposed project would result in less-than-significant impacts on land use during project construction and maintenance since those activities would only be temporarily incompatible with the surrounding beach use. Alternative 4 would likewise have less-than-significant impacts on land use since it would also involve construction and maintenance activities that would be incompatible with

surrounding beach use. Therefore, the level of impact is similar between the proposed project and Alternative 4.

Recreational Resources

The proposed project would result in less-than-significant impacts on recreational resources. Furthermore, beneficial effects would result from implementation of the project since more beach space will be made available to the public, the reconfigured pool area will provide a secure swimming area, and the ocean will be easily accessible to snorkelers and divers entering and exiting the water. Alternative 4 would likewise have a less-than-significant impact on recreational resources since safe utilization of these resources would likely occur. Therefore, the level of impact is similar between the proposed project and Alternative 4.

Transportation and Circulation

The proposed project would result in less-than-significant impacts related on short-term construction period loss of approximately five parking spaces, and no long-term impacts on traffic or parking. Alternative 4 would likewise have less-than-significant impacts on existing parking and traffic. Resulting impacts would be similar to those of the proposed project.

Alternative 5 (Create a New Children's Pool)

Alternative 5 contemplates creating a new Children's Pool at an alternate site and leaving the current pool in its existing condition. Because this alternative would not achieve compliance with the court order, it was deemed infeasible. Alternate sites were not explored due to this known infeasibility, and the impacts associated with the creation of a Children's Pool at an alternate site are highly speculative.

Aesthetics and Neighborhood Character

The proposed project would result in less-than-significant impacts on aesthetics and neighborhood character. Alternative 5 would also have a less-than-significant impact at the project site on aesthetics and neighborhood character since it would maintain the site in its existing form and function. However, the creation of a new Children's Pool and breakwater at an alternative location would potentially have significant impacts on aesthetics and neighborhood character at the new location since it could potentially alter the character of the alternative site through the introduction of man-made structures in an otherwise natural

environment. Therefore, Alternative 5 would potentially result in a greater degree of impact compared to the proposed project.

Biological Resources

The proposed project would result in less-than-significant impacts on biological resources. Alternative 5 would potentially have significant impacts on biological resources since construction of a new breakwater along the coast would disturb biological resources at an alternative site. Therefore, Alternative 5 would potentially result in a greater degree of impact compared to the proposed project.

Geology and Soils

The proposed project would result in less-than-significant impacts on geology and soils. Furthermore, beneficial effects would result from implementation of the project through improvements to erosion conditions. Alternative 5 would potentially have significant impacts at the project site on geology and soils since erosion improvements would not occur. Additionally, the creation of a new Children's Pool and breakwater at an alternative location would have significant impacts on geology and soils at the new location since it could potentially increase soil erosion or be located on an unstable geologic unit at the alternative site. Therefore, Alternative 5 would potentially result in a greater degree of impact compared to the proposed project.

Historical Resources

The proposed project would result in significant impacts on historical resources that would be mitigated to a less-than-significant level. Alternative 5 would likewise have significant impacts on historical resources that would be mitigated to a less-than-significant level since earthwork would occur at the alternative project site. Therefore, the level of impact is similar between the proposed project and Alternative 5.

Human Health, Public Safety, and Hazardous Materials

The proposed project would result in less-than-significant impacts on human health, public safety, and hazardous materials. Furthermore, beneficial effects would result from implementation of the project since the project is specifically being proposed to improve public safety in the project area. Alternative 5 would potentially have significant impacts on human health, public safety, and hazardous materials since it would leave the current pool in its existing condition and improvements to the sand and water quality would not occur. Therefore,

Alternative 5 would potentially result in a greater degree of impact compared to the proposed project.

Hydrology and Water Quality

The proposed project would result in less-than-significant impacts on hydrology and water quality. Furthermore, beneficial effects would result from implementation of the project through decontamination of polluted sand and improvements to erosion conditions. Alternative 5 would potentially have significant impacts on hydrology and water quality since the decontamination of sand and erosion improvements would not occur. In addition, the creation of a new pool would not achieve compliance with the court order. Therefore, Alternative 5 would potentially result in a greater degree of impact compared to the proposed project.

Land Use

The proposed project would result in less-than-significant impacts on land use during project construction and maintenance since those activities would only be temporarily incompatible with the surrounding beach use. Alternative 5 would have no impact at the project site on land use since it would not involve construction or maintenance activities that would be incompatible with surrounding beach uses. However, the creation of a new Children's Pool and breakwater at an alternative location would potentially have significant impacts on land use at the new location since it would likely be incompatible with the surrounding beach use at the alternative site. Therefore, the level of impact of Alternative 5 is potentially greater than that of the proposed project.

Recreational Resources

The proposed project would result in less-than-significant impacts on recreational resources. Furthermore, beneficial effects would result from implementation of the project since more beach space will be made available to the public, the reconfigured pool area will provide a secure swimming area, and the ocean will be easily accessible to snorkelers and divers entering and exiting the water. Alternative 5 would potentially have significant impacts at the project site on recreational resources since safe utilization of these resources would not occur. Therefore, the level of impact would be greater than that of the proposed project.

Transportation and Circulation

The proposed project would result in less-than-significant impacts related on short-term construction period loss of approximately five parking spaces, and no long-term impacts on traffic or parking. Alternative 5 would have no impacts on existing parking or traffic at the proposed project site; however construction of a new breakwater could potentially result in significant traffic and parking impacts due to more construction equipment, a longer construction period, and a larger construction work crew at the alternative site. Resulting impacts would be greater than those of the proposed project.

Alternative 6 (Offshore Seal Platform)

Alternative 6 contemplated construction of an offshore seal platform adjacent to the Seal Rock Preserve in order to provide an alternative haul out location for the seals. The efficacy of the artificial platform is debatable, but also it is not believed that providing an offshore platform would deter seals from hauling out at Children's Pool beach. Furthermore, this alternative would not meet any of the requirements of the court order and is therefore infeasible.

The creation of an artificial platform could result in its own environmental impacts on marine habitats and species, either through construction practices required to construct and anchor a platform offshore, or through long-term changes to local ecosystems. The creation of an artificial constructed element in the ocean could also be viewed as an adverse impact on the character of an otherwise natural environment.

Alternative 6 would not reconfigure the Children's Pool and therefore is deemed infeasible due to non-compliance with the court order.

Aesthetics and Neighborhood Character

The proposed project would result in less-than-significant impacts on aesthetics and neighborhood character. Alternative 6 would potentially have a significant impact on aesthetics and neighborhood character since it would alter the existing natural environment of the project area. Therefore, the level of impact would be greater than that of the proposed project.

Biological Resources

The proposed project would result in less-than-significant impacts on biological resources. Alternative 6, as explained above, could potentially result in significant impacts on marine habitats and species, either through construction

practices required to construct and anchor a platform offshore, or through long-term changes to local ecosystems. Therefore, Alternative 6 would potentially result in a greater degree of impact than the proposed project.

Geology and Soils

The proposed project would result in less-than-significant impacts on geology and soils. Furthermore, beneficial effects would result from implementation of the project through improvements to erosion conditions. Alternative 6 would potentially have a significant impact on geology and soils since erosion improvements would not occur. Therefore, Alternative 6 would potentially result in a greater degree of impact than the proposed project.

Historical Resources

The proposed project would result in significant impacts on historical resources that would be mitigated to a less-than-significant level. Alternative 6 would have no impact on historical resources since no earthwork would occur. Therefore, the level of impact of Alternative 6 is potentially less than that of the proposed project.

Human Health, Public Safety, and Hazardous Materials

The proposed project would result in less-than-significant impacts on human health, public safety, and hazardous materials. Furthermore, beneficial effects would result from implementation of the project since the project is specifically being proposed to improve public safety in the project area. Alternative 6 would potentially have a significant impact on human health, public safety, and hazardous materials since it would leave the current pool in its existing condition and improvements to the sand and water quality would not occur. In addition, as explained above, it is not believed that providing an offshore platform would deter seals from hauling out at Children's Pool beach. Therefore, Alternative 6 would potentially result in a greater degree of impact than the proposed project.

Hydrology and Water Quality

The proposed project would result in less-than-significant impacts on hydrology and water quality. Furthermore, beneficial effects would result from implementation of the project through decontamination of polluted sand and improvements to erosion conditions. Alternative 6 would potentially have a significant impact on hydrology and water quality since the decontamination of

sand and erosion improvements would not occur. Therefore, Alternative 6 would potentially result in a greater degree of impact than the proposed project.

Land Use

The proposed project would result in less-than-significant impacts on land use during project construction and maintenance since those activities would only be temporarily incompatible with the surrounding beach use. Alternative 6 would potentially have a significant impact on land use since it would involve the construction of an offshore structure that would be incompatible with surrounding beach uses. Therefore, Alternative 6 would potentially result in a greater degree of impact than the proposed project.

Recreational Resources

The proposed project would result in less-than-significant impacts on recreational resources. Furthermore, beneficial effects would result from implementation of the project since more beach space will be made available to the public, the reconfigured pool area will provide a secure swimming area, and the ocean will be easily accessible to snorkelers and divers entering and exiting the water. Alternative 6 would potentially have a significant impact on recreational resources since safe utilization of these resources would not occur. Therefore, Alternative 6 would potentially result in a greater degree of impact compared to the proposed project.

Transportation and Circulation

The proposed project would result in less-than-significant impacts related to short-term construction period loss of approximately five parking spaces, and no long-term impacts on traffic or parking. Alternative 6 would likewise have less-than-significant impacts on existing parking or traffic. Resulting impacts would be similar to those of the proposed project.

Comparison of Alternatives

Table 5-1 below compares the impacts of each alternative to those of the proposed project.

Table 5-1. Comparative Environmental Analysis of Alternatives to the Proposed Project

Resource Area	Proposed Project (After mitigation)	Alternative 1 (No Project)	Alternative 2 (Year-Round Joint Use)	Alternative 3 (Seasonal Joint Use)	Alternative 4 (Open Breakwall and Sluiceways)	Alternative 5 (Create a New Children's Pool)	Alternative 6 (Offshore Seal Platform)
Aesthetics and Neighborhood Character	Less than Significant	No Impact	No Impact	No Impact	Less than Significant	Significant	Significant
Biological Resources	Less than Significant	No Impact	No Impact	No Impact	Less than Significant	Significant	Significant
Geology and Soils	Less than Significant	Significant	Significant	Significant	Less than Significant	Significant	Significant
Historical Resources	Less than Significant	No Impact	No Impact	No Impact	Significant	Less than Significant	No Impact
Human Health, Public Safety, and Hazardous Materials	Less than Significant	Significant	Significant	Significant	Significant	Significant	Significant
Hydrology and Water Quality	Less than Significant	Significant	Significant	Significant	Less than Significant	Significant	Significant
Land Use	Less than Significant	No Impact	No Impact	No Impact	Less than Significant	Significant	Significant
Recreational Resources	Less than Significant	Significant	Less than Significant	Significant	Less than Significant	Significant	Significant
Transportation and Circulation	Less than Significant	No Impact	No Impact	No Impact	Less than Significant	Significant	Less than Significant

Environmentally Superior Alternative

The analysis presented above and summarized in Table 5-1 indicates that Alternative 2 (Year-Round Joint Use) would be the environmentally superior alternative. Alternative 1 (No Project) and Alternative 3 (Seasonal Joint Use) have an equal amount of "no impacts" as Alternative 2; and compared to the proposed project, Alternative 2 would have fewer "significant impacts" than Alternative 1 and 3. However, Alternative 2 would not meet the overall goal of the City, which is to achieve compliance with the court order.

Chapter 6
List of Preparers and References

Chapter 6
List of Preparers and References

City of San Diego

Samir Mahmalji, Project Officer II, Engineering and Capital Projects Department

Carrie Purcell, Senior Planner, Engineering and Capital Projects Department

Allison Sherwood, Senior Planner, Development Services Department

ICF Jones & Stokes

Bob Stark, AICP—Project Manager/Principal In Charge

Erin Pace—Project Coordinator

Kristen Schlech—Biological Resources

Rick Oestman—Biological Resources

Ted Lee—Biological Resources

Kylie Fischer—Biological Resources

Robert Case—Historical Resources

Rita Mahoney—Land Use

Matt Owens—Human Health, Public Safety, and Hazardous Materials/Hydrology and Water Quality

Mayra Medel—Aesthetics and Neighborhood Character/Geology and Soils/ Recreational Resources

Peter Langenfeld—Aesthetics and Neighborhood Character/Visual Assessments/Graphics

Aaron Sutton—GIS

Ken Cherry—Lead Editor

Keira Perkins—Publications Specialist

Contributors

Coastal Environments—Sand Excavation and Placement Plan and Biological Resources

Linscott, Law & Greenspan, Engineers—Traffic and Parking Memorandum

MBC Applied Environmental Sciences—Marine Biological Survey

TerraCosta Consulting Group, Inc.—Geology and Hydrology (Erosion) Study

References

2.0 Project Description

City of San Diego Parks and Recreation Department. 2006. La Jolla's Children's Pool Joint Use Feasibility Study.

San Diego Association of Governments (SANDAG). 2004. Population and Housing Estimates, Zip Code 92037. Available: <http://www.sandag.org/resources/maps_and_gis/redi/index.asp>. Accessed: October 1, 2008.

Superior Court of California. 2005. *Valerie O'Sullivan v. City of San Diego.* Final Statement of Decision. Case No. GIC 826918. August 26.

3.1 Aesthetics and Neighborhood Character

California Coastal Commission (CCC). 2008. Local Coastal Programs. Available: http://www.coastal.ca.gov/lcps.html. Accessed: December 1, 2008.

City of San Diego. 2004. La Jolla Community Plan and Local Coastal Program Land Use Plan. Available: http://www.sandiego.gov/planning/community/profiles/lajolla/plan.shtml. Accessed: December 1, 2008.

———. 2008. General Plan. San Diego, CA. Available: http://www.sandiego.gov/planning/genplan/index.shtml. Accessed: December 1, 2008.

3.2 Biological Resources

Abbott, I. A. and G. J. Hollenberg. 1976. *Marine Algae of California*. Standford University Press, Stanford, California.

Allen, L. G. 1985. A habitat analysis of the near shore marine fishes from Southern California. *Bulletin of the Southern California Academy of Sciences* 84:133–155.

Allen L. G. and E. E. DiMartini. 1985. Temporal and spatial patterns of near shore distribution and abundance of pelagic fishes off San Onofre, Oceanside, California. *U.S. Fish Bulletin*. 81(3):569–586.

Allen, L. G. and K. T. Herbinson. 1991. Beam-trawl survey of bay and near shore fishes of the soft-bottom habitat of Southern California in 1989. *California Cooperative Oceanic Fish Investment Report*. 31:84–96.

Allen, L. G., D. J. Pondella II, and M. H. Horn (eds.). 2006. *The Ecology of Marine Fishes: California and Adjacent Waters.* University of California Press: Berkeley.

American Society of Cetaceans (ACS). 2008. Species Fact Sheets. Available: <http://www.acsonline.org/factpack/index.htm>. Accessed: July 31, 2008.

Bond, A. B., J. S. Stephens, D. J. Pondella, J. M. Allen, and M. Helvey. 1999. A method for estimating marine habitat values based on fish guilds, with comparisons between sites in Southern California Bight. *Bulletin of Marine Science.* 64(2): 219–242.

California Department of Fish and Game (CDFG). 2001. California's Marine Living Resources: A Status Report. Grunion. Available: <http://www.dfg.ca.gov/marine/status/grunion.pdf>. Accessed: August 8, 2008.

———. 2003a. Annual status of the fisheries report: spiny lobster. Available: <http://www.dfg.ca.gov/marine/status/report2003/spinylobster.pdf>. Accessed: August 5, 2008.

———. 2003b. Annual status report for the giant kelps. Available: <http://www.dfg.ca.gov/marine/status/report2003/giantkelp.pdf>. Accessed: August 8, 2008.

———. 2005a. Abalone recovery and management plan. Available at: <http://www.dfg.ca.gov/marine/armp/pdfs/entire_armp.pdf>. Accessed: August 5, 2008.

———. 2005b. California Wildlife Habitat Relationships System (CWHR), Version 8.1. Personal computer program. Sacramento, CA.

———. 2007a. Garibaldi (Hypsypops *rubicundus*) Status of the population. Available: <http://www.dfg.ca.gov/mlpa/response/garibaldi.pdf>. Accessed: August 4, 2008.

———. 2007b. Special Plants List. Natural Diversity Data Base. July.

———. 2008. Special Animals List. Natural Diversity Data Base. February.

———. n.d. Guide to the Marine Life Management Act. Available: <http://www.fgc.ca.gov/mlma/contents.html>.

California Natural Diversity Data Base (CNDDB). 2008. Database RareFind 3 Report.

California State Water Resources Control Board (SWRCB). 1972. 1972 Ocean Plan. Available: <http://www.waterboards.ca.gov/water_issues/programs /tmdl/docs/303d_policydocs/408.pdf>.

———. 1979. California Marine Waters Areas of Special Biological Significance Reconnaissance Survey Report: San Diego-La Jolla Ecological Reserve. SWRCB Division of Planning Surveillance and Monitoring Section, Water Quality Monitoring Report No. 79-1.

Carretta, J. V., K. A. Forney, M. M. Muto, J. Barlow, J. Baker, B. Hanson, and M. S. Lowry. 2007. U.S. Pacific Marine Mammal Stock Assessments. U.S. Department of Commerce; NOAA Technical Memorandum, NMFS-SWFSC-414. 320p.

Coastal Environments. 2004. Effect of Excavation of the Children's Pool on Marine Resources.

Dailey M. D., D. J. Reish, and J. W. Anderson (eds.). 1993. *Ecology of the Southern California Bight, A synthesis and Interpretation.* University of California Press, Berkeley.

Dawson, E. Y. 1945. *An Annotated List of the Marine Algae and Marine Grasses of San Diego County.* Scripps Institution of Oceanography. 87p.

Defran R. H. and D. W. Weller, 2006. Occurance, distribution, site fidelity, and school size of bottlenose dolphins *(Tursiops truncates)* off San Diego, California. *Marine Mammal Science* 15(2):366–380.

DeMartini, E. E. 1981. The spring-summer ichthyofauna of surfgrass *(Phyllospadix)* meadows near San Diego, California. *Bulletin of the Southern California Academy of Sciences* 80:81–90.

Federal Register. January 11, 2008. Endangered and threatened wildlife and plants; proposed endangered status for black abalone. Department of Commerce: Docket No. 071128765–7769–01.

Haacker, P. L., D. O. Parker, and K. C. Henderson. 1984. Observations of harbor seal, *Phoca vitulina richardsi,* feeding in southern California waters. *Bulletin of the Southern California Academy of Sciences*. 82:152–153.

Hanan and Associates Inc. 2004. Biological Letter Report and Recommendations for Construction to the City of San Diego Regarding Pinniped Surveys at Children's Pool, La Jolla, California.

Herder, M. J. 1986. Seasonal movements and hauling site fidelity of harbor seals, *phoca vitulina richardsi*, tagged the Russian River, California. M.S. Thesis. California State University, Humboldt, California. 52p.

Hobday A. J. and M. J. Tegner. 2000. Status review of white abalone *(Haliotis sorenseni)* throughout its range in California and Mexico. NOAA technical memorandum: NOAA-TM-NMFS-SWR-035.

ICF Jones & Stokes. 2008a. Habitat Asssesment Letter Report for the Children's Pool Beach and Adjacent Pocket Beaches Areas in La Jolla, California. Letter Report to City of San Diego.

———. 2008b. General Shorebird Assessment for the Children's Pool Beach and Adjacent Pocket Beaches Areas in La Jolla, California. Letter Report to City of San Diego.

———. 2008c. Field Observations at the Children's Pool, La Jolla, California. July 30, 2008.

MacCall, A. D. 1990. *The Dynamic Geography of Marine Fish Populations*. Books in recruitment fishery oceanography. University of Washington Press: Seattle.

Morris, R. H., D. P. Abbott, and E. C. Haderlie. 1980. *Intertidal Invertebrates of California.* Stanford University Press, Stanford, California.

Pondella D. J., II, and L. G. Allen. 2000. The near shore fish assemblage of Santa Catalina Island. *California Islands Symposium*, 394–400. Santa Barbara Museum of Natural History: Santa Barbara.

Reish, D. J. 1982. Benthic survey of marine invertebrates off Sunset Beach, California. Report to U.S. Army Corps of Engineers, Los Angeles District. 36p.

Risebrough R. W., D. Alcorn, S. G. Allen, V. C. Anderlini, L. Booren, R. L. DeLong, L. E. Fancher, R. E. Jone, S. M. McGinnis, and T. T. Schmidt. 1979. Population biology of harbor seals in San Francisco Bay, California. Unpublished report to the Marine Mammal Commission, Washington D.C., Contract MM6AC006. 62p.

San Diego Association of Governments (SANDAG). 2000. Environmental Impact Report/Review Environmental Assessment for the San Diego Regional Beach Sand Project (State Clearinghouse Number 1999041104). 501p.

———. 2005. Regional beach sand project year 4 post-construction monitoring report for intertidal, shallow subtidal, and kelp forest resources and comprehensive analysis report (2001–2005). Report to SANDAG prepared by AMEC Earth and Environmental, Inc.

San Diego City Council (SDCC). 2004. Transcription of the City Council Meeting of September 14, 2004. Item 330-La Jolla Children's Pool Joint Use.

San Diego Metropolitan Wastewater Department (SDMWD) and the County of San Diego Department of Environmental Health. 1998. Potential Sources of Escherichia coli (*E. coli)* to Children's Pool in La Jolla, California. Revised October, 1998.

Stewart B. S. and P. K. Yochem. 1994. Ecology of Harbor Seals in the Southern California Bight. *Fourth California Islands Symposium: Update on the Status of Resources.* Santa Barbara Museum of Natural History, Santa Barbara, CA.

Thompson, P. M. 1989. Seasonal changes in the distribution and composition of common seal *(Phoca vitulina)* haul-out groups. *Journal of Zoology* 217:281–294.

Unitt, P. 2004. San Diego County Bird Atlas. *Proceedings of the San Diego Society of Natural History* 39:i–vii, 1–639.

U.S. Army Corps of Engineers (USACE). 2008. Status Report—Pinniped Predation and Hazing at Bonneville Dam. Internal Report available: <http://www.nwd-wc.usace.army.mil/tmt/documents/fish/2008/update20080526.pdf>. Accessed: August 1, 2008.

Woodfield, R. 2008. Noxious Seaweed Found in Southern California Waters. Available: <http://swr.nmfs.noaa.gov/hcd/CAULERPA.htm>. Accessed: August 3, 2008.

Yochem P. K. and B. S. Stewart. 1994. Ecology of harbor seals in the Southern California Bight. *The Fourth California Islands Symposium.* Santa Barbara Museum of Natural History, Santa Barbara, California.

———. 1998. Behavioral ecology and demography of seals and sea lions at Seal Rock Marine Mammal Reserve. Ad Hoc Committee c/o Robin Stribley, City of San Diego Park and Recreation Department.

3.3 Geology and Soils

California Coastal Commission (CCC). 2008. California Coastal Act. Available: <http://www.coastal.ca.gov/coastact.pdf>. Accessed: December 1, 2008.

City of San Diego. 2008. General Plan. San Diego, CA. Available: <http://www.sandiego.gov/planning/genplan/index.shtml>. Accessed: November 11, 2008.

PBS&J. 2004. Final Environmental Impact Report for the University of California, San Diego Long Range Development Plan. September. SCH No. 2003081023. La Jolla, CA. Prepared for: University of California, San Diego. Available: <http://physicalplanning.ucsd.edu/LRDP2004/EIR/default.htm#LRDP>. Accessed: September 15, 2008.

State of California, Department of Conservation. 2007a. *C*alifornia Geological Survey—Alquist-Priolo Earthquake Fault Zones. Available: <http://www.conservation.ca.gov/cgs/rghm/ap/Pages/Index.aspx>. Accessed: December 1, 2008.

———. 2007b. California Geological Survey—Seismic Hazards Zonation Program. Available: <http://www.conservation.ca.gov/cgs/shzp/Pages/shmpact.aspx>. Accessed: December 1, 2008.

———. 2007c. Mine Reclamation—SMARA Regulations. Available: <http://www.conservation.ca.gov/omr/lawsandregulations/Pages/SMARA.aspx>. Accessed: December 1, 2008.

TerraCosta Consulting Group, Inc. 2008. Geology and Hydrology (Erosion) Study: Children's Pool Sand Excavation EIR. October 16. Project No. 2602. La Jolla, CA. Prepared for: ICF Jones & Stokes.

3.4 Historical Resources

Bowman, R. H. 1973. Soil Survey, San Diego Area, California. U.S. Department of Agriculture, Washington D.C.

Code of Federal Regulations. 36 CFR PART 800—Protection of Historic Properties. Available: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr800_main_02.tpl>.

Fickewirth, A. A. 1992. *California Railroads.* Golden West Books, San Marino, CA.

Hollins, J. 2005. "Until Kingdom Come." The Design and Construction of La Jolla's Children's Pool. *The Journal of San Diego History* 51 (3 & 4):123–138.

Kennedy, M. P. 1975. Geology of the Western San Diego Metropolitan Area, California, Section A: Del Mar, La Jolla, and Point Loma quadrangles. *Bulletin 200*. California Division of Mines and Geology, Sacramento, CA.

La Jolla Historical Society. 1987. *Inside La Jolla 1887–1987.* La Jolla Historical Society, La Jolla, CA.

MacArthur, D. S. 2004. Building the Region: The Geologic Forces that Shape San Diego County. In P. R. Pryde (ed.), *San Diego: An Introduction to the Region,* Chapter 2, pp. 15–30. Kendall/Hunt Publishing, Dubuque, IA.

3.5 Human Health, Public Safety, and Hazardous Materials

California Environmental Protection Agency (CEPA). 2006a. Cortese List: Section 65962.5(a). Available: <http://www.calepa.ca.gov/sitecleanup/CorteseList/SectionA.htm>. Accessed: December 1, 2008.

———. 2006b. The History of the California Environmental Protection Agency. Available: <http://www.calepa.ca.gov/ABOUT/HISTORY01/dtsc.htm>. Accessed: December 1, 2008.

California Environmental Protection Agency, State Water Resources Control Board Division of Water Quality Ocean Standards Unit. 2005–2008. California Ocean Plan, Triennial Review and Workplan. Available: <http://www.swrcb.ca.gov/plnspols/docs/oplans/coptrirev20052008.pdf>. Accessed: December 1, 2008.

California Regional Water Quality Control Board (CRWQCB), San Diego Region. 2007. Water Quality Control Plan for the San Diego Basin (9). Available: <http://www.swrcb.ca.gov/sandiego/water_issues/programs/basin_plan>. Accessed: December 1, 2008.

City of San Diego. 2008. San Diego's Children's Pool. Available: <http://www.sandiego.gov/lifeguards/beaches/pool.shtml>. Accessed: November 14, 2008.

County of San Diego. 2008. Environmental Health. Available: <http://www.sdcounty.ca.gov/deh/index.html>. Accessed: December 1, 2008.

Envirostor, Department of Toxic Substances Control. 2007. Find Cleanup Sites and Hazardous Waste Permitted Facilities. Available: <http://www.envirostor.dtsc.ca.gov/public/>. Accessed: November 14, 2008.

SignonSanDiego. 2008. Beaches Closed after Fatal Shark Attack in North County. Available: <http://www.signonsandiego.com/news/northcounty/20080425-1223-bn25shark3.html>. Accessed: November 14, 2008.

United States Environmental Protection Agency (EPA). 2002. Federal Water Pollution Control Act. Available: <http://epw.senate.gov/water.pdf>. Accessed: December 1, 2008.

———. 2008. Toxic Substances Control Act. Available: <http://www.epa.gov/oecaagct/lsca.html>. Accessed: December 1, 2008.

Personal Communications

Thayer, T. 2008. Tom Thayer, Lifeguard, City of San Diego. San Diego, CA. August 21 conversation with Matt Owens of ICF Jones & Stokes.

McPherson, M. 2008. Mark McPherson, Chief of Water Quality Division, Department of Environmental Health (DEH), San Diego, CA. February 9 phone conversation with Erin Pace of ICF Jones & Stokes.

3.6 Hydrology and Water Quality

California Coastal Commission (CCC). 2008. California Coastal Act. Available: <http://www.coastal.ca.gov/coastact.pdf>. Accessed: December 1, 2008.

California Environmental Protection Agency (CEPA), State Water Resources Control Board. 2007. California Water Boards, Protecting California's Water. Available: <http://www.swrcb.ca.gov>. Accessed: December 1, 2008.

California Environmental Protection Agency (CEPA), State Water Resources Control Board Division of Water Quality Ocean Standards Unit. 2005–2008. California Ocean Plan Triennial Review and Workplan. Available: <http://www.swrcb.ca.gov/plnspols/docs/oplans/coptrirev20052008.pdf>. Accessed: December 1, 2008.

California Regional Water Quality Control Board (CRWQCB), San Diego Region. 2007. Water Quality Control Plan for the San Diego Basin (9). Available: <http://www.swrcb.ca.gov/sandiego/water_issues/programs/basin_plan>. Accessed: December 1, 2008.

City of San Diego. 2008. General Plan. San Diego, CA. Available: <http://www.sandiego.gov/planning/genplan/index.shtml>. Accessed: December 1, 2008.

City of San Diego, Think Blue. 2006. Urban Runoff Management Plan. Available: <http://www.sandiego.gov/thinkblue/contact/urmp.shtml>. Accessed: December 1, 2008.

Griggs, G. and Patsch, K. 2006. Littoral Cells, Sand Budgets, and Beaches: Understanding California's Shoreline. California Department of Boating and Waterways. Available: <http://www.dbw.ca.gov/csmw/PDF/LittoralDrift.pdf>. Accessed: September 25, 2008.

Miller, A. J. et al. 1999. Observing and Modeling the California Current System. *Eos Transactions, American Geophysical Union.* 80:533–539. Available: <http://ono.ucsd.edu/pages/pubs/eos_miller.et.al_1999/CCS_final.text.html>. Accessed: November 12, 2008.

NASA. 2008. Wind Driven Surface Currents: Upwelling and Downwelling. Available: <http://oceanmotion.org/html/background/upwelling-and-downwelling.htm>. Accessed: September 25, 2008.

San Diego Association of Governments (SANDAG). 2000. Final Environmental Report/Review Environmental Assessment for the San Diego Regional Beach Sand Project. Prepared by KEA Environmental for SANDAG and the U.S.Navy. State Clearinghouse No. 1999041104.

State Water Resources Control Board (SWRCB). 2007. Porter-Cologne Water Quality Control Act. Available: <http://www.swrcb.ca.gov/laws_regulations/docs/portercologne.pdf>. Accessed: December 1, 2008.

TerraCosta Consulting Group, Inc. 2008. Limited Geotechnical Investigation Children's Pool Lifeguard Station. Prepared for: RJC Architects, San Diego, CA. Project No. 2574.

United States Environmental Protection Agency (EPA). 2000. Marine Protection, Research, and Sanctuaries Act of 1972. Available: <http://epw.senate.gov/mprsa72.pdf>. Accessed: December 1, 2008.

———. 2002. Federal Water Pollution Control Act. Available: <http://epw.senate.gov/water.pdf>. Accessed: December 1, 2008.

———. 2008. California Toxics Rule. Available: <http://www.epa.gov/waterscience/standards/rules/ctr/index.html>. Accessed: December 1, 2008.

3.7 Land Use

California Coastal Commission (CCC). 2008. Local Coastal Programs. Available: <http://www.coastal.ca.gov/lcps.html>. Accessed: December 1, 2008.

City of San Diego. 1999. San Diego Municipal Code. Available: <http://www.sandiego.gov/city-clerk/officialdocs/legisdocs/muni.shtml>. Accessed: December 1, 2008.

———. 2004. La Jolla Community Plan and Local Coastal Program Land Use Plan. Available: <http://www.sandiego.gov/planning/community/profiles/lajolla/plan.shtml>. Accessed: December 1, 2008.

———. 2008. General Plan. San Diego, CA. Available: <http://www.sandiego.gov/planning/genplan/index.shtml>. Accessed: December 1, 2008.

San Diego Association of Governments (SANDAG). 1993. Shoreline Preservation Strategy for the San Diego Region. San Diego, CA. Available: <http://www.sandag.org/uploads/publicationid/publicationid_1256_5880.pdf>. Accessed: December 1, 2008.

3.8 Recreational Resources

Bike and Kayak Tours, Inc. 2008. The Reserve in La Jolla. Available: <http://www.sandiegobikeandkayaktours.com/ecological_reserve.html>. Accessed: November 6, 2008.

California Coastal Commission. 2008. Public Resources Code Division 20: California Coastal Act. Available: <http://www.coastal.ca.gov/coastact.pdf>. Accessed: September 25, 2008.

City of San Diego. 2004. La Jolla Community Plan and Local Coastal Program Land Use Plan. Available: <http://www.sandiego.gov/planning/community/profiles/lajolla/plan.shtml>. Accessed: September 25, 2008.

———. 2008a. City of San Diego General Plan: Recreation Element. San Diego, CA. Available: <http://www.sandiego.gov/planning/genplan/pdf/generalplan/adoptedrecelem.pdf>. Accessed: September 25, 2008.

———. 2008b. Shoreline Park: Ellen Browning Scripps. Available: <http://www.sandiego.gov/park-and-recreation/parks/shoreline/ebscripps.shtml>. Accessed: November 6, 2008.

MITIGATION MONITORING AND REPORTING PROGRAM

The California Environmental Quality Act (CEQA) Section 21081.6 requires that a mitigation monitoring and reporting program (MMRP) be established upon certification of an environmental impact report (EIR). It stipulates that "the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation."

This MMRP has been developed in compliance with Section 21081.6 of CEQA and identifies **(1)** mitigation measures to be implemented prior to, during, and after construction of the La Jolla Children's Pool project; **(2)** the individual/agency responsible for that implementation; and **(3)** criteria for completion or monitoring of the specific measures.

GENERAL

Prior to issuance of a Notice to Proceed (NTC), the Assistant Deputy Director (ADD) Environmental Designee of the Entitlements Division shall verify that the following Mitigation Measures have been included in entirety on the submitted construction documents and contract specifications, and included under the heading, "Environmental Mitigation Requirements." In addition, the requirements for a Preconstruction Meeting shall be noted on all construction documents.

Prior to the commencement of work, a Preconstruction Meeting (Pre-con) shall be conducted and include the City of San Diego's Mitigation Monitoring Coordination (MMC) Section, Resident Engineer, Building Inspector, Project Biologist/Archaeologist/Paleontologist, Applicant and other parties of interest.

Evidence of compliance with other permitting authorities is required, if applicable. Evidence shall include either copies of permits issued, letters of resolution issued by the Responsible Agency documenting compliance, or other evidence documenting compliance and deemed acceptable by the ADD Environmental Designee.

BIOLOGICAL RESOURCES

The following measures shall be implemented to reduce potential impacts to biological resources to the satisfaction of the City Development Services Department. The City Development Services Department shall verify that future development plans have incorporated or complied with the following measures:

BIO-1.1.a: A Biological Monitor shall conduct a pre-construction biological survey and shall be present throughout the construction process and shall monitor both the sand donor and receiver sites to ensure that sensitive areas and species are avoided and appropriate BMPs are implemented. If the monitor determines that sand is being dispersed too quickly and therefore causing negative impacts on the marine or terrestrial environment, construction shall be slowed or halted to allow more gradual dispersal. Additional measures overseen by the monitor will include:

A. Ensure that the sand excavation area is centralized and equipment will not directly scrape or scour the hard intertidal surfaces (the breakwater and rocky outcrops) that support sensitive species.

B. Ensure that excavation and sand transfer activity in the lower pool beach area and on the lower pocket beach area avoids surfgrass turfs to the maximum extent practicable.

C. Ensure that staging areas for the excavation and sand transfer equipment, and the sand transport route, are not sited within the bluff habitats.

D. Ensure that transported sand is redistributed on the upper portions of the pocket beach above the high tide line and as far under the cliff base as feasible.

E. Ensure that all excavation and sand transport equipment is checked for presence of *Caulerpa* fragments prior to use within the beach areas.

F. Ensure that seals do not approach the construction equipment and, if so, halt construction until the seals are no longer within the active areas.

BIO-1.1.b: Grunion spawning occurs from March through August, and peak spawning is late March to early June (CDFG 2001). Excavation shall occur outside of the grunion spawning season unless a qualified biologist determines that the spawning season has concluded, or as determined by and in consultation with the resource agencies.

BIO-1.1.c: Spiny lobsters mate from November through May and egg-bearing females occur in shallower waters. Excavation shall occur outside of the lobster breeding season unless a qualified biologist determines that the reproductive season has concluded, or as determined by and in consultation with the resource agencies.

BIO-1.1.d: Seals may molt and pup anywhere from December to June. Excavation activity shall occur outside of the seal pupping season unless a qualified biologist determines that the pupping season has concluded, or as determined by and in consultation with the resource agencies.

BIO-2.1: During excavation, a silt curtain on the seaward side of the berm shall be used to minimize changes to ambient turbidity and nutrient levels within the immediate waters that could contribute to changes in species composition. These measures would reduce impacts to a level below significance.

HISTORICAL RESOURCES

CUL-1.1: A qualified archaeologist shall monitor all construction activity that disturbs native soils. The monitoring shall involve both archaeological and Native American Monitors. If human remains are discovered, work will halt in that area and the following procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) will be undertaken:

I. Prior to Permit Issuance or Bid Opening/Bid Award

A. Entitlements Plan Check

1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. Prior to Bid Award, the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training with certification documentation.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.

3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (¼ mile radius) has been completed. Verification includes, but is not limited to, a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American monitor shall attend any grading/excavation–related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
    a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM, or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Acknowledgement of Responsibility for Curation (Capital Improvement Program [CIP] or Other Public Projects)
    a. The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.
3. Identify Areas to be Monitored
    a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC for approval identifying the areas to be monitored, including the delineation of grading/excavation limits.
    b. The AME shall be based on the results of a site-specific records search as well as information regarding the age of existing pipelines, laterals, and associated appurtenances and/or any known soil conditions (native or formation).
    c. MMC shall notify the PI that the AME has been approved.
4. When Monitoring Will Occur

a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.

b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents that indicate conditions such as age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

5. Approval of AME and Construction Schedule

a. After approval of the AME by MMC, the PI shall submit to MMC written authorization of the AME and Construction Schedule from the CM.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The Archaeological monitor shall be present fulltime during grading/excavation/trenching activities including, but not limited to, mainline, laterals, jacking and receiving pits, services, and all other appurtenances associated with underground utilities as identified on the AME and as authorized by the CM. The Native American monitor shall determine the extent of their presence during construction-related activities based on the AME and provide that information to the PI and MMC. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**

2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVRs shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion)**, and in the case of ANY discoveries. The RE shall forward copies to MMC.

3. The PI may submit a detailed letter to the CM and/or RE for concurrence and forwarding to MMC during construction requesting a modification to the monitoring program when a field condition (such as modern disturbance post-dating the previous trenching activities, presence of fossil formations, or encountering of native soils) may reduce or increase the potential for the presence of resources.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.

2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.

3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI and Native American monitor shall evaluate the significance of the resource. If Human Remains are involved, the protocol in Section IV below shall be followed.

a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.

b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval of the program from MMC, CM, and RE. ADRP and any mitigation must be approved by MMC, RE, and/or CM before ground-disturbing activities in the area of discovery will be allowed to resume.

(1) Note: For pipeline trenching projects only, the PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "III-D."

c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

(1) Note: For pipeline trenching projects only, if the deposit is limited in size, both in length and depth, the information value is limited and is not associated with any other resource, and there are no unique features/artifacts associated with the deposit, the discovery should be considered Not Significant.

(2) Note: For pipeline trenching projects only, if significance cannot be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.

D. Discovery Process for Significant Resources—Pipeline Trenching Projects

1. The following procedures for documentation, curation, and reporting constitute adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:

a. One hundred percent of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench, and profiles of side walls, recovered, photographed after cleaning, and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.

b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.

c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms—DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.

d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area, and the following procedures as set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).

2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.

2. The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.

3. If a field examination is not warranted, the Medical Examiner shall determine, with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains **ARE** determined to be Native American

1. The Medical Examiner shall notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. NAHC shall immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD shall contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with the California Public Resource and Health & Safety Codes.
4. The MLD shall have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity of the human remains and associated grave goods.
5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, IF:
    a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR
    b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.
    c. To protect these sites, the landowner shall do one or more of the following:
        (1) record the site with the NAHC;
        (2) record an open space or conservation easement; or
        (3) record a document with the County.
    d. Upon the discovery of multiple Native American human remains during a ground-disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5-c., above.

D. If Human Remains are **NOT** Native American

1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.

2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).

3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant department and/or Real Estate Assets Department (READ), and the Museum of Man.

V. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the Precon Meeting.

2. The following procedures shall be followed:

a. **No Discoveries:** In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSVR and submit to MMC via fax by 8 a.m. of the next business day.

b. **Discoveries:** All discoveries shall be processed and documented using the existing procedures detailed in Sections III—During Construction, and IV—Discovery of Human Remains.

c. **Potentially Significant Discoveries:** If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III—During Construction shall be followed.

d. The PI shall immediately contact the RE and MMC, or by 8 a.m. of the next business day, to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night and/or weekend work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.

2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with

appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring:

a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.

b. **Recording Sites with State of California Department of Parks and Recreation:** The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.

2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or for preparation of the Final Report.

3. The PI shall submit revised Draft Monitoring Report to MMC via the RE for approval.

4. MMC shall provide written verification to the PI of the approved report.

5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued.

2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area, that faunal material is identified as to species, and that specialty studies are completed, as appropriate.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing, and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.

2. The PI shall submit the Accession Agreement and catalogue record(s) to the RE or BI, as appropriate for donor signature with a copy submitted to MMC.

3. The RE or BI, as appropriate, shall obtain signature on the Accession Agreement and shall return to PI with copy submitted to MMC.

4. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI, as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC of the approved report.

2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC, which includes the Acceptance Verification from the curation institution.

Appendix A
NOP, Comment Letters, and Scoping Meeting Minutes

THE CITY OF SAN DIEGO

DEVELOPMENT SERVICES DEPARTMENT
Date of Notice: October 19, 2007
PUBLIC NOTICE OF PREPARATION OF A
DRAFT ENVIRONMENTAL IMPACT REPORT AND A PUBLIC EIR SCOPING MEETING
JO: 298720

PUBLIC NOTICE: The City of San Diego Land Development Review Division will be the Lead Agency and will prepare a draft Environmental Impact Report in compliance with the California Environmental Quality Act (CEQA). This Notice of Preparation of an Environmental Impact Report and Scoping Meeting and was publicly noticed and distributed on October 19, 2007.

SCOPING MEETING: A scoping meeting will be held by the City of San Diego Land Development Review Division on Thursday, November 15, 2007 from 6:00 to 8:00 p.m. at the La Jolla Recreation Center, 615 Prospect Street, La Jolla, 92037. Verbal and written comments regarding the scope and alternatives of the proposed Environmental Impact Report (EIR) will be accepted at the meeting. Written comments may also be sent to Allison Sherwood, City of San Diego Development Services Center, 1222 First Avenue, MS 501, San Diego, CA 92101, or emailed to **DSDEAS@sandiego.gov** with the Project Number (71362) in the subject line.

General Project Information:

- Project No. 71362, SCH No. **Pending**
- Community Plan Area: **La Jolla Community Plan Area**
- Council District: **1 (Peters)**

Subject: La Jolla Children's Pool: COASTAL DEVELOPMENT PERMIT (CDP), SITE DEVELOPMENT PERMIT (SDP) and CITY COUNCIL APPROVAL to dredge 3,000 cubic yards of beach sand from the Children's pool beach and re-locate it on the west side of the breakwater wall at the closest pocket beach just south of the Children's pool. The project site is located on the beach adjacent to 850 Coast Boulevard.

Applicant: City of San Diego Engineering and Capital Projects Department.

Recommended Finding: The recommended finding that the project may have a significant effect on the environment is based on an Initial Study. The following issue areas that have been identified include: Land Use; Aesthetics/Neighborhood Character; Biological Resources; Geology/Soils; Historical Resources; Hydrology/Water Quality; Human Health/Public Safety/Hazardous Materials; Recreational Resources; and Transportation/Circulation.

Availability in Alternative Format: To request this Notice, the Scoping Letter and/or supporting documents in alternative format, call the Development Services Department at 619-446-5000 or (800) 735-2929 (TEXT TELEPHONE).

Additional Information: For environmental review information, contact Allison Sherwood at (619) 446-5379. The Scoping Letter and supporting documents may be reviewed, or purchased for the cost of reproduction, at the Fifth floor of the Development Services Center. For information regarding public meetings/hearings on this project, contact Project Manager Morris Dye at (619) 446-5201. This notice was published in the SAN DIEGO DAILY TRANSCRIPT, placed on the City of San Diego web-site (http://clerkdoc.sannet.gov/Website/publicnotice/pubnotceqa.html), and distributed on October 19, 2007.

Robert J. Manis, Deputy Director
Development Services Department

Attachments: Scoping Letter
Figure 1: Location Map

Distribution:

Federal Government

U.S. Environmental Protection Agency (19)
U.S. Fish and Wildlife Service (23)
U.S. Army Corps of Engineers (26)
U.S. Department of Commerce, National Marine Fisheries Service (20)

Native Americans

Ron Christman (215)
Louie Guassac (215A)
Kumeyaay Cultural Repatriation Committee (225)
Carmen Lucas (206)
Clint Linton (215B)
Native American Distribution (225 A-R)*

State of California

California Department of Transportation (31)
California Department of Fish and Game (32)
California Environmental Protection Agency (37)
California Department of Parks and Recreation (40)
California Department of Boating and Waterways (52)
Resources Agency (43)
California Regional Water Quality Control Board (44)
State Clearinghouse (46)
California Coastal Commission (47)
Native American Heritage Commission (222)
State Historic Preservation Office

County of San Diego

Department of Planning and Land Use (68)
County Water Authority (73)
Hazardous Materials Management Division (75)

City Government

City of San Diego:
Mayor Sanders
Councilmember Peters, District 1
Councilmember Faulconer, District 2
Councilmember Frye, District 6
Development Services Department
Engineering & Capital Projects Department, Darren Greenhalgh, Samir Mahmalji, MS 35

Historical Resources Board (87)
Library Department (81)
Metropolitan Wastewater Department, MS 901A
Fire-Rescue Department, Frankie Murphy , Fire Marshall, MS 603
Fire-Rescue Department, Ken Hewitt, Lifeguard Chief, MS 32
Planning Department - MSCP (MS 5A)
Police Department
Real Estate Assets Department (65)
Water Department, Carolyn Brennecke, MS 906
Wetlands Advisory Board (171)
City of Del Mar (96)

Other Organizations and Interested Individuals

California State Coastal Conservancy
California Lobster and Trap Fisherman's Association
University of California, San Diego (134)
San Diego Association of Governments (108)
San Diego Gas and Electric (114)
California Native Plant Society (170)
Sierra Club (165, 165A)
San Diego Audubon Society (167)
San Diego Regulatory Alert (174)
Center for Biological Diversity (176)
Endangered Habitats League (182)
San Diego Coast and Baykeeper (173)
Jerry Schaefer, Ph.D. (208A)
South Coastal Information Center, San Diego State University (210)
San Diego Historical Society (211)
San Diego Archaeological Center (212)
San Diego Natural History Museum (213)
Save Our Heritage Organisation (214)
San Diego County Archaeological Society (218)
San Diego Council of Divers (177)
La Jolla Cove swim club
La Jolla Light (142)
La Jolla Shores Association (272)
La Jolla Town Council (273)
La Jolla Historical Society (274)
La Jolla Community Planning Association (275)
La Jolla Shores PDO Advisory Board (279)
La Jollans for Responsible Planning (282)
La Jolla Riford Branch Library, MS17
League of Conservation Voters (322)
Citizens Coordinate for Century III (324A)
Torrey Pines Association (186)
Torrey Pines Community Planning Group (469)
University Community Planning Group (480)
University City Community Association (486)
University City Library (488)

Joanne Pearson
Tom Sauer
Debbie Beacham
Scripps Institute of Oceanography
Diving Locker
Ms. Stanton
Ms. Valli

THE CITY OF SAN DIEGO

October 19, 2007

Samir Mahmalji
Engineering and Capital Projects Department
City of San Diego
202 C Street, MS 35
San Diego, CA 92101-3860

SUBJECT: SCOPE OF WORK FOR DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE LA JOLLA CHILDREN'S POOL PROJECT (PTS NO. 71362)

Dear Mr. Mahmalji:

The Environmental Analysis Section (EAS) of the Land Development Review Division (LDR) has conducted an Initial Study for the La Jolla Children's Pool project. The project site is located at the La Jolla Children's Pool, between Coast Boulevard and the Pacific Ocean. The project proposes to excavate approximately 3,000 cubic yards of beach sand from the Children's Pool in order to return the pool to it' 1940's configuration. The excavated sand would be cleaned by working the sand with grading equipment, spreading it, and exposing it to the ultraviolet rays of the sun. When the sand is tested and deemed clean per the standards required of the resource agencies, the sand would be placed over the breakwater at the closest pocket beach just south of Children's Pool. The tide water would then take the sand through the existing sand migratory channels out to sea and redistribute it along the adjacent beaches. The remaining sand at Children's Pool would be worked the same way and graded and groomed. Continual maintenance would consist of sand removal at Children's Pool on a two year rotation. It is estimated that approximately 100 cubic yards of sand would need to be relocated every two years in order to maintain the 1940's configuration.

Based on the results of the Initial Study pursuant to the California Environmental Quality Act (CEQA) of 1970, Section 15063(a) and 15081, as amended, it has been determined that the proposed project may have a significant effect on the environment. The preparation of a draft Environmental Impact Report (EIR) is, therefore, required. This scoping letter is based on the project submittal received by the City of San Diego on April 8, 2006. Further changes to the project, prior to release of the draft EIR, may affect the need to address the issues identified in this letter.

The purpose of this letter is to identify the issues to be specifically addressed in the EIR. The EIR should be prepared in accordance with the City of San Diego's "Environmental Impact Report Guidelines" (enclosed). The issues to be addressed are discussed below. A Notice of Preparation will be distributed to the Responsible Agencies and others who may have an interest in the project. Consequently, changes or additions to this scope of work may be required as a result of input received in response to the Notice of Preparation.

DIVERSITY

Development Services
1222 First Avenue, MS 501 • San Diego, CA 92101-4155
Tel (619) 446-5460

I. PROJECT DESCRIPTION

Discuss the goals and objectives of the proposed project. Project objectives will be critical in determining the appropriate alternatives for the project, which would avoid or substantially reduce potentially significant impacts. Describe all discretionary actions needed to implement the project, including all permits required from federal, state, and local agencies. Describe the major project features, including grading (cut and fill) and relocation of existing facilities. Describe any off-site activities necessary to implement the proposed project. The EIR should include sufficient graphics and tables to provide a complete description of all major project features.

II. ENVIRONMENTAL SETTING

Describe the precise location of the project and present it on a detailed topographic map and regional map. Provide a local and regional description of the environmental setting of the project, as well as the zoning and land use designations of the site and its contiguous properties, area topography, drainage characteristics, and vegetation. Include any applicable land use plans and/or overlay zones that affect the project site. A description of other utilities that may be present on or in close proximity to the site and their maintenance accesses should be discussed, as well. Also, include information on the existing public services (i.e., lifeguards) that would serve this site.

III. ENVIRONMENTAL ISSUES

The potential for significant environmental impacts must be thoroughly analyzed and mitigation measures identified that would avoid or substantially lessen any such significant impacts. Below are key environmental issue areas that have been identified for this project, within which the issue statements must be addressed individually. Discussion of each issue statement should include an explanation of the existing project site conditions, impact analysis, significance determination, and appropriate mitigation. The impact analysis should address potential direct, indirect, and cumulative impacts that could be created through implementation of the proposed project and its alternatives.

Significance determinations made in the EIR should reflect the fact that CEQA does not permit deferral of the establishment of mitigation measures and that an impact should be considered significant if it cannot be demonstrated with certainty that it is not (i.e., if a significant impact "may" result).

Land Use

Issue 1: Would the proposed project implement or result in a conflict with the goals, objectives, and recommendations of the City of San Diego Progress Guide and General Plan, the La Jolla Community Plan and Local Coastal Program Land Use Plan, and the State of California Coastal Commission? How is the proposed project consistent with the land use designation, intensity of development, and environmental goals of these plans?

Discuss how the project accomplishes or fails to implement the goals, objectives, and recommendations of the Progress Guide and General Plan, the La Jolla Community

Plan and Local Coastal Program Land Use Plan, and the State of California Coastal Commission. Analyze how the proposed project would implement and comply with the environmental goals of these plans as they pertain to coastal bluffs. Provide an analysis of the compatibility of this project with SANDAG's Shoreline Preservation Strategy for the San Diego Region.

Aesthetics/Neighborhood Character

Issue 1: Would the proposed project affect the visual quality of the area, particularly with respect to views from public viewing areas, vistas, or open spaces as identified in the community plan?

Issue 2: Would the proposed project substantially alter the existing character of the area?

Issue 3: Would the proposed project result in the creation of a negative aesthetic site or project?

Issue 4: Would the proposed project result in substantial change in topography or ground surface relief features?

Issue 5: Would the proposed project result in the loss, covering, or modification of any unique geologic or physical features such as a sandstone bluff or rock outcrop?

The proposed project is located on a public beach. Sand would be excavated from the Children's Pool and deposited at another location. Identify existing coastal views and vistas. Describe the extent of visual impact of the project to public views of and along the ocean and other scenic coastal areas at both project locations, both during and after construction. Describe design features or mitigation measures that would be incorporated into the proposed project to reduce or eliminate any potential impacts.

Biological Resources

Issue 1: Would the proposed project result in a reduction in the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals?

Issue 2: Would the proposed project result in a substantial change in the diversity of any species of animals or plants?

Issue 3: Would the proposed project interfere with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors?

Issue 4: Would the proposed project result in an impact on City, State, or federally regulated wetlands (including, but not limited to, coastal salt marsh, vernal pools, lagoon, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Provide a detailed biological technical report, prepared by a qualified biologist in accordance with the City of San Diego's Biological Guidelines. The report

shall discuss the biological resources present on both the project site and the proposed sand receiving site, including habitat type, predominant plant and animal species, known and expected sensitive, rare, proposed threatened or endangered species. Provide a wetland delineation and a waters determination for affected wetland and waters areas. Address the potential for indirect and cumulative impacts to any resources within or adjacent to the project area. Any adverse affects to the marine environment and beach areas should be identified.

The report should discuss potential project impacts to harbor seals, the California Brown Pelican, the California least tern, and grunion, as well as invertebrates and benthic organisms, both during and after construction.

As harbor seals currently use the project area for breeding and haul-out, the EIR should analyze the long-term impacts to the seals. For example: Will the seals be permanently driven from the site? If so, where would the existing population go? If joint use is proposed, would seal behavior in regard to breeding and raising young be impacted due to human presence? Would there be a danger to humans sharing the area when pups are present? Include a discussion of the applicability of the Marine Mammal Protection Act.

The mitigation section should propose measures to avoid any identified impacts or reduce them to below a level of significance.

Issue 5: Would the proposed project result in a conflict with the provisions of the City's Multiple Species Conservation Program Subarea Plan or other approved local, regional, or state habitat conservation plan?

The EIR should address whether the project is consistent with the MSCP Subarea Plan. In particular, the analysis should identify: 1) whether the project lies within the Multi-Habitat Planning Area (MHPA); 2) describe any applicable MHPA Guidelines; 3) assess compliance with the planning policies and guidelines; 4) address, if applicable, the land use adjacency guidelines; 5) assess whether any special conditions of coverage apply to the species affected by the project.

Geology/Soils

Issue 1: Would the proposed project be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project?

Issue 2: Would the proposed project result in a substantial increase in wind or water erosion of soils, either on or off the site?

The project proposes to dredge approximately 3,000 cubic yards of sand from Children's Pool and deposit it at a different location. Provide a site specific geological reconnaissance report addressing the impact of sand removal on coastal bluff recession and bluff-top improvements. The report should include the receiving site, as well. A prior report indicated that relatively high rates of marine erosion were at one time impacting bluff-top improvements in the area of Children's Pool. Address whether the reduced bluff recession rates in the area of Children's Pool are related to the accreted sand.

Hydrology/Water Quality

Issue 1: Would the proposed project result in the erosion of public beaches or adversely impact local shoreline sand supply?

Issue 2: Would the proposed project result in changes in deposition or erosion which may be deposited in sensitive marine habitats?

Issue 3: Would the proposed project result in a substantial alteration to on- and off-site drainage patterns due to changes in runoff flow rates or volumes?

Issue 4: Would the proposed project result in an increase in pollutant discharges, including down stream sedimentation, to receiving waters during or following construction?

Issue 5: Would the proposed project cause discharge into surface water or any alteration in surface water quality?

Discuss potential impacts to the Children's Pool beach due to the proposed project. Discuss how the adjacent beach will be impacted by the relocation of the sand. Do sand levels fluctuate due to natural conditions? If so, would the sand be relocated during a high or low sand level at the adjacent beach? Discuss potential impacts to the reef due to the relocation of the sand. Discuss the capacity of the receiving site and whether it is large enough to place all 3,000 cubic yards of sand above the mean high tide line without dramatically increasing the elevation of the beach.

Describe how the proposed project would impact the issues listed above and include proposals for mitigation measures through the development of construction and post-construction Best Management Practices (BMPs).

Human Health/Public Safety/Hazardous Materials

Issue 1: Would the proposed project create any known health hazard (excluding mental health)?

Issue 2: Would the proposed project expose people or the environment to a significant hazard through the routine transport, use, or disposal of hazardous materials?

Issue 3: Would the proposed project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or environment?

Issue 4: Would the proposed project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Provide a history of water quality issues at Children's Pool and actions taken by the San Diego County Environmental Health Department. Describe the current water quality at Children's Pool in regard to fecal coliform bacteria from the seals. Provide backup material for this conclusion. Discuss measures that would be required to improve water quality to an acceptable level for human use. What measures are proposed to keep water quality acceptable for human use?

Discuss contamination levels in the sand proposed to be excavated. Discuss how the sand would be cleaned prior to relocation and the basis for determining that these measures would be adequate to clean the sand to an acceptable level.

Recreational Resources

Issue 1: Would the proposed project affect recreational activities?

The project proposes to dredge sand from the Children's Pool beach and deposit it at another beach. Identify public beach access points for both locations and identify where construction or operation of the project could disrupt existing or planned recreational uses. Include construction staging areas. Describe measures to reduce impacts to public access of the beach. The EIR should include an impact assessment and mitigation measures for recreational impacts.

Transportation/Circulation

Issue 1: Would the proposed project result in an increased demand for off-site parking?

Issue 2: Would the proposed project result in effects on existing parking?

Issue 3: Would the proposed project result in alterations to present circulation movements including effects on existing public access to beaches, parks, or other open spaces areas?

Describe how construction equipment would be brought to the construction sites, where it would be staged, and the time frame needed for each staging location. Discuss proposed project impacts on traffic circulation, beaches and on-street parking.

Historical Resources

Issue 1: Would the proposed project result in any adverse physical or aesthetic effects to a prehistoric or historic building, structure, object, or site?

Issue 2: Would the proposed project result in any adverse physical or aesthetic effects to an architecturally significant building, structure, or object?

The Children's Pool breakwater was constructed in 1931. Structures over 45 years of age are potentially significant historical resources. Discuss potential impacts to the breakwater and/or its associated stairs. If the breakwater and/or stairs would be impacted by the proposed project, a historical assessment report prepared by a qualified historian in accordance with the City of San Diego's Historical Guidelines would be required. The report would analyze the structures in accordance with CEQA, federal, state, and local criteria for potential historical resources

The City of San Diego as Lead Agency has determined that the following issue areas are not potentially significant with the proposed project and do not require analysis in this EIR: Agriculture Resources/Natural Resources/Mineral Resources, Air Quality, Energy, Noise, Paleontological Resources, Public Services, Utilities, Water Conservation. A separate section of the EIR should include a brief discussion of why these areas were not considered to be potentially significant. However, if these or other potentially significant issue areas arise during detailed environmental investigation of the project, consultation with this division is recommended to determine if these other issue areas need to be addressed in the EIR. Additionally, as supplementary information is submitted, the EIR may need to be expanded to include additional issue areas.

Mitigation measures should be clearly identified, discussed, and their effectiveness assessed in each issue section of the EIR. A Mitigation, Monitoring, and Reporting Program (MMRP) for each mitigation measure must be included. At a minimum, this program should identify: the city department or other entity responsible for the monitoring, the monitoring and reporting schedule, and the completion requirements. The separate MMRP should also be contained (Verbatim) as a separate section, which will be attached to the EIR.

IV. SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

In accordance with CEQA Section 15126.2(c), the EIR must include a discussion of any significant irreversible environmental changes which would be caused by the proposed action should it be implemented. Address the use of nonrenewable resources during the construction and life of the project. See CEQA Section 15127 for limitation on the requirements for this discussion.

V. GROWTH INDUCEMENT

The EIR should address the potential for growth inducement through implementation of the proposed project. The document should discuss the ways in which the proposed project could foster economic or population growth, or construction of additional housing either directly or indirectly. Accelerated growth could further strain existing community facilities or encourage activities that could significantly affect the environment. This section need not conclude that growth-inducing impacts, if any, are significant unless the project would induce substantial growth or concentration of population.

VI. CUMULATIVE IMPACTS

In accordance with CEQA Section 15130, potential cumulative impacts should be discussed in a separate section of the EIR. This section should include all existing and pending development proposals in the vicinity, *including those undergoing* review with the Development Services Department.

VII. ALTERNATIVES

The EIR should place major attention on reasonable alternatives which avoid or mitigate the project's significant environmental impacts. These alternatives should be identified and discussed in detail and should address all significant impacts. The

alternatives analysis should be conducted in sufficient graphic and narrative detail to clearly assess the relative level of impacts and feasibility. Preceding the detailed alternatives analysis should be a section entitled "Alternatives Considered but Rejected". This section should include a discussion of preliminary alternatives that were considered but not analyzed in detail. The reason for rejection should be explained. At a minimum, the following alternatives should be considered:

No Project Alternative

The No Project Alternative should address the feasibility of retaining the site in its current state. The EIR should discuss impacts resulting from the proposed project which would be avoided under this alternative.

Year-Round Joint Use Alternative

The Year-Round Joint Use Alternative would address the feasibility of humans and harbor seals sharing Children's Pool all year round.

Seasonal Joint Use

The Seasonal Joint Use Alternative would address the feasibility of humans using Children's Pool from July 1st through January 1st, and the harbor seals using Children's Pool from January 2nd to June 30th.

Open Breakwater and Sluiceways

The Open Breakwater and Sluiceways Alternative would address the feasibility of opening the sluiceways instead of dredging in order increase water circulation in the Children's Pool potentially reduce the level of contamination in the water.

Create a New Children's Pool

The Create a New Children's Pool Alternative would address the feasibility of creating a Children's Pool in another location and leaving the current pool to the harbor seals.

Offshore Seal Platform Alternative

The alternative would address the feasibility of constructing a platform adjacent to the Seal Rock Preserve in order to provide an alternative haul out location for the seals.

If, through the environmental analysis, other alternatives become apparent that would mitigate potential impacts, these should be discussed with EAS staff prior to including them in the EIR. It is important to emphasize that the alternatives section of the EIR should constitute a major part of the report. The timely processing of the environmental review will likely be dependent on the thoroughness of effort exhibited in the alternative analysis.

The EIR should be prepared in draft form by a consultant of your choice, based on the scope of work determined by this office. It is important to note that timely processing of your project will be contingent in large part on your selection of a well-qualified

consultant. Prior to starting work on the EIR, a meeting between the consultant and EAS will be required to discuss and clarify the scope of work.

If a screencheck draft EIR is not submitted to EAS for review within 30 days of the date of this letter, the application processing timeline will be held in abeyance until the report has been provided.

Should you have any questions, please contact the environmental analyst, Allison Sherwood at (619) 446-5379.

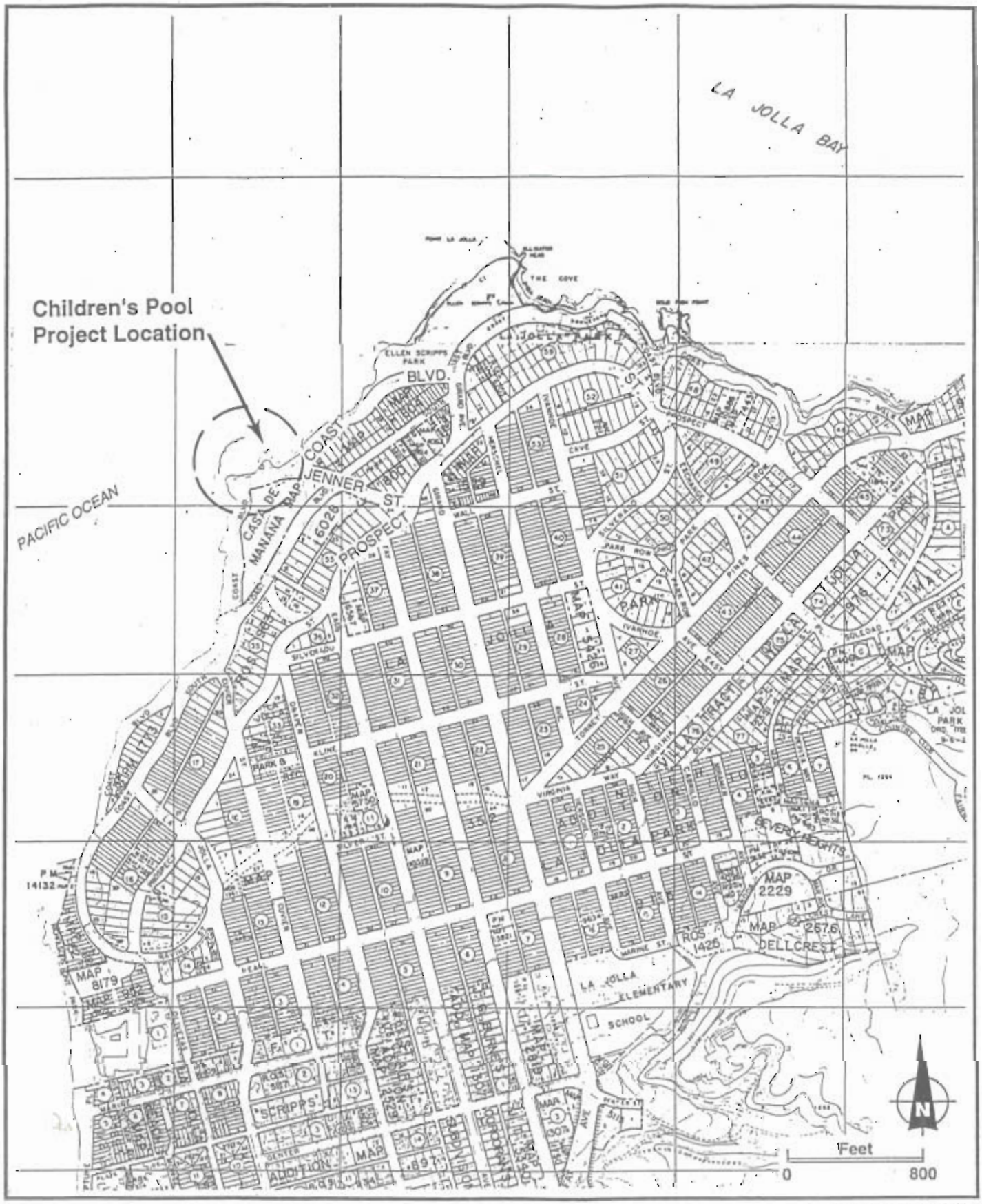
Sincerely,

Allison Sherwood for

Robert J. Manis
Deputy Director
Development Services Department

Enclosures: City of San Diego Technical Report and Environmental Impact Report Guidelines
City of San Diego Significance Determination Thresholds

cc: Morris Dye Jr., Development Project Manager
EAS Seniors, Development Services Department



(249-1684)1-8-99 JAA

LOCATION MAP - Children's Pool

Environmental Analysis Section

CITY OF SAN DIEGO • DEVELOPMENT SERVICES

Figure 1

CHILDREN'S POOL SCOPING MEETING MINUTES

November 15, 2007 – La Jolla Recreation Center

Bill Valentine of Monte Vista Avenue in la Jolla and I have one central question. In 1999 there was a mitigated negative declaration prepared for this project and it was deemed acceptable at the time, why are we now doing an entire EIR for the same project? That's it.

Does anyone else wish to speak?

Regarding the esthetic and the neighborhood character one of the benefits I think about having the county seals that live there on that beach is that its unique to the United States, unique maybe in the whole world, where you can see a county of wild animals being born living and dying in their natural habitat which is coastal navy wetlands

The subject on this EIR
Could not hear what that person was asking (person is not speaking into the microphone).

I'm dealing with
I refer to the aesthetics in neighborhood character on page three. I think that dredging that beach or removing those seals would forever alter the aesthetic and neighborhood character of that location and I would like the dredging to seriously consider that before you go about dredging that beach.

My name is Ellen Shively I would support leaving the children's pool alone undredged, it is currently heavily used by wildlife not only the seals but birds of many types. The seals are the top predator of the wildlife they support large bio diversity. Underneath the water is a rich eco system the kelp beds are there and the seals are just and intricle part of the eco system. Seals increase the diversity in a beautiful way we don't even pretend to know the dynamics of what goes on in the water under there. If you dredge you will destroy many of the attributes of the area. That's an observation place if you take the sand away you will eliminate all of the wildlife that lives there. In this area of concern with global warming and the loss of species we have to protect our assets as they present themselves and this will be a terrible loss for San Diego.

My name is Cindy Benner and I have just three different items to cover one is a business survey that was conducted between oh I'm sorry okay one is a survey that was conducted between June and September of this year and it asks if businesses support having the rope line up at children's pool on a year round basis. In the interest of public safety in some cases during pupping season a lot of tourists that don't know take their kids down and actually put them like two feet in front of a seal and the other issue is preventing seal harassment. Four hundred and twenty six businesses were surveyed and 77 % supported having the rope line up on a year round basis. About less than 20% were opposed and the remaining 80% had no opinion as it they didn't want it to influence their business. So these business owners obviously want to protect the seals, want to keep the seals there and realize that dredging the beach will completely change the seal habitat. In addition a

poll was conducted in May by an accredited organization it was a ????? poll and 81% of adult San Diegan's and 67% of La Jollan's felt the beach be reserved for seal watching rather than swimming. In addition 80% of adult San Diegan's and 71% of La Jollan's felt the rope lines should be kept up year round and most importantly 74% of San Diegan's and 58% of La Jollan's felt the beach not be dredged. One of the other items is an e-mail that I received from somebody from National Fisheries Northwest because we were interested in finding out more information about the use of platforms offshore to mitigate the effect of dredging the beach. If the beach is dredged this is something that is required to be submitted to National fisheries. And of all the research available there seems to be only one location where platforms were used and it was called a Doce Wallaps River Delta in Oregon and the reports says that seals began using the raft shortly after installation but did not use it when weather conditions got rougher. This is not a feasible option.

****Cannot hear what the person in the background is saying
That is why we have forms in the back if you put your comments on if you cannot complete your time in two (2) minutes. So you are basically giving us 2 minutes of comments.

You can also e-mail your comments to me there's an email address on the notice.

Are there any other questions? Does anyone else need to speak? Okay

We can focus on what is that the scoping letter that you can either add to it or something that is missing or concern that needs to be added to the scoping, that would be very helpful.

My name is Greg Salas and I want to go with the character of the neighborhood as well, and how tourists come from all over because this is one seal rookery that we don't have a lot of in Southern California. There is a few in Northern California, but down here this is the only one and for us to get rid of that we'd get rid of a lot of tourism because where else are people going to see that unless they go to Northern California and people come here to see that. So for us to get rid of that would get rid of a lot of tourists and just, I mean its, its character, that's what character is. People come here to see that, and if people ask their children if they would want to get rid of the seals, none of the kids would say yes they want to get rid of the seals, I mean its nature, that's what we want to see, so.

Hi my name is Bobbie Weaver my address is 1010 University Avenue #572 and my issue is possible impact that the dredging project would have on a very unique and environmental educational opportunity that we now have for our children and adults as well, when we can watch wild animals in their natural habitat. The information that we get from confined animals in zoos and water parks is not the kind of information that shows us the animal's true natural behavior and the animals there at Casa beach are in their natural element. There's been a recent study showing that direct experience of nature by children has enhanced the children's academic performance and conflict resolution and this opportunity we have now being able to observe the seal colony at casa

beach as well as the other wild life that dwell there can have the children can have the direct experience with nature rather than a synthesized one that they might get from a zoo or a water park and the problem with the dredging is that with repeated disturbances that would be caused by the direct dredging there's a possibility that the harbor seals would abandon the haul-out site this has happened before in the bay area strawberry spit in the 70's there were about 100 harbor seals that came out to haul out but by the late 1980's because of development moving into the area they have abandoned the site altogether and we have to keep in mind that the children are our future scientist and policy makers and to have this environment and this opportunity for them to see animals in their natural environment is valuable for us now and in the future.

Hi, my name is Jim Moore 8944 Nottingham Place, La Jolla and I requested a copy of this ahead of time and didn't get one so my comments are just now based on very quick reading through this. Instead of neighborhood character I ask that this section address aesthetics and character from the prospective from international tourism as well as residence of La Jolla and what they are viewing in addition to how it affects the broad view. With respect to biological resource I'd like to make sure that the unique be inclusive of behavioral uniqueness and address that loss. I would also hope that the population status of the formal biological sense of what a population is be address and with reference to issue number anyway its one of them I hope that with respect to biological resources the international component of issue number three (3) the movement of revenue migratory wildlife be addressed because it is a good evidence to think that they are migrating back and forth between here and the Coronado's. I hope that the hydrology of component will estimate, will address estimation the affect of increasing ???? size of bacteria concentrations if the seals continue to use the beach and continue grouping on the sand in a smaller beach with a larger ????. I hope that the human health public safety has its materials section will address the principles underlying the use of fugal color form counts as an indicator of human waste and address the fact that they are not in themselves, address there is no indication of fecal coliform in itself causes disease so I'd like to know whether or not the particular bacteria that result from seals are harmful to humans or not. With recreational uses I just hope that we define clearly what recreation is and include tourism and wildlife watching as legitimate forms of recreation and not just intrusive swimming in sand. I'll put those in Thank You.

My name is Jean Carrie and the other comment I want to make is the reason we are all here seems to be skirted. This meeting and this project is generated by a determination of Judge Pate in a lawsuit and there is a court order and that is basically what we're here for. Judge Pate has determined that the children's pool should be for children that the seals existence there is artificially enhanced it is a population that's robust and he said that the pool needs to be returned to its intended use which is a state land grant that gives that in perpetuity to children of San Diego, bottom line thank you.

My name Janis Danger my comment goes directly ????? as well as a value to the children of the beach. Okay sorry I don't know if this microphone works too well. I'll just read the letter I wrote I wasn't really sure the format this meeting would take so I just wrote a letter and put it in a comment box and I'll just read it now. San Diego should do

everything in its power to make sure Casa Beach is not dredged as a volunteer at Casa beach since the summer of 2005 I've been privileged to watch the faces of local visitors not to mention people and children from around the world is a marvel to the thrill of being so close to wild seals and their urban setting. Visitors uniformly and always express strong disappointment if no seals are on the beach. Some of these seal watchers express the thought that there is nothing like this back where I live. Many will repeat visitors who use seal watching in a natural setting is a prime reason and recreational activity to come to San Diego. If Casa beach is dredged the seals will likely leave and odds are they won't be back. Think of the irreplaceable treasure San Diego will loose. North cities would pay a lot of money to have such a unique natural resource. The seals were here in San Diego long before humans came to the area and they deserve to keep their home. The vast majority of San Diegan's say don't dredge and safe guard our seals.

I'm John Steel I am a residence of La Jolla. A couple of comments on this the stuff that I'm hearing about seals is almost irrelevant the courts have decided and will finally decide from the supreme court what's going to happen down there at the children's pool. Ms. Shively mentioned emphasis's I can tell you since I swim every day at the children's pool there are almost zero fish down because the seals are disposing of them. In terms of the ??????? most marginal poll I have ever heard of I have to tell this group that repeatedly the La Jolla Town Council has voted almost unanimously to have that beach open to the public and to children. The real environmental impact that's going on down there has to do with the seals. There should have been an environmental impact done as to why the seals were allowed to be there. They have contaminated the beach they have contaminated the water that's environmental and it's a serious problem because the beach has been closed based on the bacteria count. There also creates a smell that goes up to 939 and the homes and places along the coast there from the seal poop which is of course what caused the contamination on the beach in the first place. The City then was the city with the former mayor and the former city council put up a barrier which was a violation of the trust that for the children's pool set up by Ellen Browning Scripps. So there is an increase traffic problem down there that's environmental in terms of seal watching so there are allot of environmental downsides to having seals there in any case and this should appear in any environmental report that is going anywhere else. Anyway that's basically all I have to say but I hate to see this group waste its time because the courts have decided and the course of this action is going to happen thank you.

Is there anyone else that wishes to speak?

My name is Paul Kennerson, I live in La Jolla and I've talked to George Shafer who gave me permission to speak at this meeting and as much as I represented Valerie O'Sullivan in the law suit that is the subject of very considerable comment. My comments are these Number one there were two occasions in 1999 and 2004 when sand removal projects were proposed and studied and followed through to a considerable extent but the City of San Diego as far as I know there were no environmental impact reports with respect to either project. I believe there was a negative declaration in connection with the 1999 project. What I'm fearful of frankly and I have advised the City of this is that it seems to me that the City is once again on the road of delay, if this decision is left to stand by

supreme court in action or affirness by the supreme court of California where it now is then the original order to get this implemented within six months will stand. What I'm fearful of is that we are going through a cosmetic exercise to drag out the whole procedure on and on and have excuses along the lines that we met with the public and it takes time and all this sort of thing. That's my first comment my second comment is simply, I've got no dog in this fight but I would just ask people that are of the opinion of such as the gentlemen that says fecal coliform doesn't cause disease. I mean I'm not a doctor I don't know the County of San Diego and the State of California, Virginia Tech University that did the study of fecal coliform being from seals down at the children's pool are uniformly, unambiguously without exception of the few that, that water down there contains pa????? that are harmful to people human beings and other animals and how people can ignore just get up here and for out of their head the top of their heads say things that patently aren't true bedevils me. My time is up yeah, I hardly even, the rubbers hardly left the road. Please refrain from debating about ?????????

Any other comments?

Hi I'm Debbie Beachum
I wanted to address the idea of opening the swims ways because I feel that the reality is we do need to clean up that beach and the water and one of the most simple ways would be to include a project for opening the sluiceways and allowing the water to circulate and cause title flushing and with that in mind I think we can pretty much you don't have to remove as much sand I think, removing sand is critical but we also have lots of wave action that comes through on that beach and I know just from just observing it that alot of that sand can get cleaned back out annually because of the way the waves work and I think with the combination of that type of wave action annually which we get in the winter and some flushing you don't have to go through all sluiceways but maybe by making one swims way a little bit open testing it out seeing if that results in cleaning up the water and maybe that will keep it clean on an ongoing basis so that's my hope as well.

My name is Todd Cardiff at 1516 Plum street San Diego, California 92106 I am here on behalf of the San Diego Chapter of the Surf rider Foundation. I'm also an environmental attorney with Chris Law Group. I wanted to address a few different things one of the things that we need to realize is that there is an alternative that isn't discussed in here and that's simply giving the seal pool or what I consider the seal pool to back to state. We don't have to accept the responsibility as a trustee and obviously that releases the City of San Diego of this whole mess so there's more than one way to crack this nut and I think that's an alternative that should be in EIR. We also need to look at the impact of the sand on kelp and we also need to determine how often we need to dredge if you are going to dredge. Obviously there needs to be a study of the cumulative impact of this on harbor seals within southern California and an identification of all the different areas that harbor seals are in southern California to know whether this is a significant impact. Let's see I think that there is a that knocking down the sea wall is one way to deal with this and finally I don't think that the I think that we need to do a very clear analysis of the legal impacts of any of this kind of dredging making sure that, that even the ruling by Judge

Pate does not release the City from the Marine Mammal protection Acts and other various such as the Coastal Act which does not allow impact to Marine resources. Thank you very much.

Anybody else?

Yes my name is Don Perry I live in La Jolla I just like to speak to the basic use that the pool was built for as a swimmer and almost daily swimmer I see the currents and my main concern I mean other things that people have said I'm very concerned about also but the reason why that pool was built is allot of times overlooked and that's so that people will have what the break water does and that is it provides a safe egress in access to the ocean. The area beaches in the other areas such as shell beach to the north and south casa have both horrendous rip currents and I've seen children taken out and I really would like just for the sake of the kids safety for them to have their beach back so that they have a safe place to swim when the sand is removed they'll have a bigger pool and it will be returned to what it used to be and that is a children's pool. Thank you.

Anyone else?

Good evening I'm John Leek I live in San Diego and I love seals there is nothing here there's not an issue whether you likes seals or you don't like seals everybody like them.. One of the questions was could we do shared use at La Jolla at the children's pool. I do shared use I go down there I get in the water with the seals I go around them I swim with them they hassle me they play with me their my buddies. I wish I could say shared use will work there are two problems with shared use that I can't get over even though I encourage everybody to go down there and practice shared use. You can't share a contaminated beach that's one problem the other problem with shared use is that the court has ruled that shared use is one of the things that was supposed to save the day and it ruled against it just as the appellant court ruled unanimously against every point that the City attorney brought as an argument against to release the city from the O'Sullivan decision so because the city has done everything that it can to prevent shared use and give free reign to people who keep it from happening so it was rejected in the court by both the Judge Pate and the three appellant judges because of the behavior of the City and people there so I wish I could tell you were gona have shared use but I as only a few people like me that go ahead and do it and cleaning up that mess is not bad for seals its bad for the seal display industry that's all its about there are 36,000 seals in California. There spread all over California this is the only place where we can have them lured ashore so we can have a seal display for the tourists to look at but we have always had one, seal rock still holds seals. They hold seals on many days more than there are on children's pools because harbor seals can't take heat they can't take sunshine on a hot summer day their gone from a white sandy beach and there on a wet rock. Thank you maam.

Can I ask a question here. Why is there no disability access at Seal Beach there is a sign that says there is a blue wheel chair for everybody to access it. I park my vehicle and the blue zone and the red zone are so close together we have to stay over the red line when I

park there. I was surprised when I tried to access the beach there is no access for disabled people down at Seal Beach. While I was looking for the access I got a parking ticket for my tires being on the red line even though I was on the blue zone. Sir I'm sorry that you have some things happen to you there that are do not expect this meeting is actually for public input for the environmental impact report. Well I consider that the environmental I have it written down. Can you come up and you record it with you state your name and what you think needs to be included in the EIR. You have two minutes

I will only take one minute. My name is Norman Wicks and I simply have one question that all of the beaches including Seal Beach and shell beach and children's beach the children's cove there is no disability access at all for a person like me who wants to go down there watch the seals or even get into the water I can't even access the water even at La Jolla Shores I was given three tickets for my dog and this is a service dog given three tickets for my dog being on the beach. I don't understand I'm actually from Santa Barbara and I want to go back to Santa Barbara but because of the tickets that I received for trying to access the beaches for my dog I'm stuck here and I'm absolutely mystified that in this day and age when they have ADA laws that protect and help out the disabled people there is no access whatsoever and when I ask one of the lifeguards why is that he told me that the people of La Jolla don't want to spoil the atmosphere of the beach by putting in a ramp so that the disabled people can enjoy (I can swim, I can swim in salt water really well, I can float) but there is no access for me. Thank You.

Yes

****Signs for children's pool disabled and also

Make sure that he heard you. At the end of the meeting.

Anybody else wishing to speak this evening? Okay

I just want have just quickly addition to the EIR we are doing also

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
www.nahc.ca.gov
ds_nahc@pacbell.net

October 24, 2007

Ms. Allison Sherwood
CITY OF SAN DIEGO
1222 First Avenue, MS-501
San Diego, CA 92106

Re: SCH# 1999011060; CEQA Notice of Preparation (NOP) draft Environmental Impact Report (DEIR) for La Jolla Children's Pool Project; City of San Diego; San Diego County, California

Dear Ms. Sherwood:

Thank you for the opportunity to comment on the above-referenced document. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE),' and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

√ Contact the appropriate California Historic Resources Information Center (CHRIS). Contact information for the 'Information Center' nearest you is available from the State Office of Historic Preservation in Sacramento (916/653-7278). The record search will determine:

- If a part or the entire (APE) has been previously surveyed for cultural resources.
- If any known cultural resources have already been recorded in or adjacent to the APE.
- If the probability is low, moderate, or high that cultural resources are located in the APE.
- If a survey is required to determine whether previously unrecorded cultural resources are present.

√ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.

- The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure.
- The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.

√ Contact the Native American Heritage Commission (NAHC) for:

* A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity who may have information on cultural resources in or near the APE. Please provide us site identification as follows: USGS 7.5-minute quadrangle citation with name, township, range and section. This will assist us with the SLF.

- Also, we recommend that you contact the Native American contacts on the attached list to get their input on the effect of potential project (e.g. APE) impact. In many cases a culturally-affiliated Native American tribe or person will be the only source of information about the existence of a cultural resource.

√ Lack of surface evidence of archeological resources does not preclude their subsurface existence.

- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.

√ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigations plans.

- CEQA Guidelines §15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the Initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American groups, identified by the NAHE, to ensure the appropriate and dignified treatmentof Native American human remains and any associated grave goods.
- Health and Safety Code §7050.5, Public Resources Code §5097.98 and CEQA Guidelines §15064.5(d) mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

√ Lead agencies should consider avoidance, as defined in CEQA Guidelines §15370 when significant cultura resources are discovered during the course of project planning or execution.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

Dave Singleton
Program Analyst

Attachment: Native American Contact List

Native American Contacts
San Diego County
October 24, 2007

Ewiiaapaayp Tribal Office
Harlan Pinto, Sr., Chairperson
PO Box 2250 Kumeyaay
Alpine , CA 91903-2250
wmicklin@leaningrock.net
(619) 445-6315 - voice
(619) 445-9126 - fax

Kumeyaay Cultural Historic Committee
Ron Christman
56 Viejas Grade Road Diegueno/Kumeyaay
Alpine , CA 92001
(619) 445-0385

Manzanita Band of Kumeyaay Nation
Leroy J. Elliott, Chairperson
PO Box 1302 Kumeyaay
Boulevard , CA 91905
(619) 766-4930
(619) 766-4957 Fax

Campo Kumeyaay Nation
H. Paul Cuero, Jr., Chairperson
36190 Church Road, Suite 1 Kumeyaay
Campo , CA 91906
chairgoff@aol.com
(619) 478-9046
(619) 478-5818 Fax

Sycuan Band of the Kumeyaay Nation
Danny Tucker, Chairperson
5459 Sycuan Road Diegueno/Kumeyaay
El Cajon , CA 92021
ssilva@sycuan-nsn.gov
619 445-2613
619 445-1927 Fax

Jamul Indian Village
William Mesa, Chairperson
P.O. Box 612 Diegueno/Kumeyaay
Jamul , CA 91935
jamulrez@sctdv.net
(619) 669-4785
(619) 669-48178 - Fax

Viejas Band of Mission Indians
Bobby L. Barrett, Chairperson
PO Box 908 Diegueno/Kumeyaay
Alpine , CA 91903
daguilar@viejas-nsn.gov
(619) 445-3810
(619) 445-5337 Fax

Kumeyaay Cultural Repatriation Committee
Steve Banegas, Spokesperson
1095 Barona Road Diegueno/Kumeyaay
Lakeside , CA 92040
(619) 443-6612
(619) 443-0681 FAX

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SCH#1999011060 CEQA Notice of Preparation (NOP) for the La Jolla Children's Pool Project; draft Environmental Impact Report (DEIR); City of San Diego; San Diego County, California.

Native American Contacts
San Diego County
October 24, 2007

Clint Linton
P.O. Box 507 Diegueno/Kumeyaay
Santa Ysabel , CA 92070
(760) 803-5694
cjlinton73@aol.com

Manzanita Band of the Kumeyaay Nation
Nick Elliott, Cultural Resources Coordinator
P.O. Box 1302 Kumeyaay
Boulevard , CA 91905
(619) 766-4930
(919) 766-4957

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SCH#1999011060 CEQA Notice of Preparation (NOP) for the La Jolla Children's Pool Project; draft Environmental Impact Report (DEIR); City of San Diego; San Diego County, California.

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

Notice of Preparation

October 22, 2007

To: Reviewing Agencies

Re: La Jolla Children's Pool
SCH# 1999011060

Attached for your review and comment is the Notice of Preparation (NOP) for the La Jolla Children's Pool draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Allison Sherwood
City of San Diego
1222 First Ave.
MS-501
San Diego, CA 92106

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Project Analyst, State Clearinghouse

Attachments
cc: Lead Agency

Document Details Report
State Clearinghouse Data Base

SCH#	1999011060
Project Title	La Jolla Children's Pool
Lead Agency	San Diego, City of

Type	**NOP** Notice of Preparation
Description	To dredge 3,000 cubic yards of beach sand from the children's pool beach and re-locate it on the west side of the breakwater wall at the closest pocket beach just south of the children's pool.

Lead Agency Contact

Name	Allison Sherwood		
Agency	City of San Diego		
Phone	619-446-5379	**Fax**	
email			
Address	1222 First Ave. MS-501		
City	San Diego	**State** CA	**Zip** 92106

Project Location

County	San Diego			
City	La Jolla			
Region				
Cross Streets	Coast Blvd. & Jennifer Street			
Parcel No.				
Township	**Range**	**Section**	**Base**	

Proximity to:

Highways	
Airports	
Railways	
Waterways	Pacific Ocean
Schools	
Land Use	beach

Project Issues	Coastal Zone; Soil Erosion/Compaction/Grading; Recreation/Parks; Vegetation; Water Quality; Wildlife
Reviewing Agencies	Resources Agency; California Coastal Commission; Department of Conservation; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Native American Heritage Commission; Department of Fish and Game, Marine Region; Department of Fish and Game, Region 5; State Lands Commission; Caltrans, District 11; Regional Water Quality Control Board, Region 9

Date Received	10/22/2007	**Start of Review**	10/22/2007	**End of Review**	11/20/2007

1999011060

Resources Agency

- [ ] Resources Agency
  Nadell Gayou
- [ ] Dept. of Boating & Waterways
  David Johnson
- [ ] California Coastal Commission
  Elizabeth A. Fuchs
- [ ] Colorado River Board
  Gerald R. Zimmerman
- [ ] Dept. of Conservation
  Sharon Howell
- [ ] California Energy Commission
  Paul Richins
- [ ] Cal Fire
  Allen Robertson
- [ ] Office of Historic Preservation
  Wayne Donaldson
- [ ] Dept of Parks & Recreation
  Environmental Stewardship Section
- [ ] Reclamation Board
  DeeDee Jones
- [ ] S.F. Bay Conservation & Dev't. Comm.
  Steve McAdam
- [ ] Dept. of Water Resources
  Resources Agency
  Nadell Gayou
- [ ] _____
  Conservancy

Fish and Game

- [ ] Depart. of Fish & Game
  Scott Flint
  Environmental Services Division
- [ ] Fish & Game Region 1
  Donald Koch
- [ ] Fish & Game Region 1E
  Laurie Harnsberger
- [ ] Fish & Game Region 2
  Banky Curtis
- [ ] Fish & Game Region 3
  Robert Floerke
- [ ] Fish & Game Region 4
  Julie Vance
- [ ] Fish & Game Region 5
  Don Chadwick
  Habitat Conservation Program
- [ ] Fish & Game Region 6
  Gabrina Gatchel
  Habitat Conservation Program
- [ ] Fish & Game Region 6 I/M
  Gabrina Gatchel
  Inyo/Mono, Habitat Conservation Program
- [ ] Dept. of Fish & Game M
  George Isaac
  Marine Region

Other Departments

- [ ] Food & Agriculture
  Steve Shaffer
  Dept. of Food and Agriculture
- [ ] Depart. of General Services
  Public School Construction
- [ ] Dept. of General Services
  Robert Sleppy
  Environmental Services Section
- [ ] Dept. of Health Services
  Veronica Malloy
  Dept. of Health/Drinking Water

Independent Commissions,Boards

- [ ] Delta Protection Commission
  Debby Eddy
- [ ] Office of Emergency Services
  Dennis Castrillo
- [ ] Governor's Office of Planning & Research
  State Clearinghouse
- [ ] Native American Heritage Comm.
  Debbie Treadway
- [ ] Public Utilities Commission
  Ken Lewis
- [ ] Santa Monica Bay Restoration
  Guangyu Wang
- [ ] State Lands Commission
  Jean Sarino
- [ ] Tahoe Regional Planning Agency (TRPA)
  Cherry Jacques

Business, Trans & Housing

- [ ] Caltrans - Division of Aeronautics
  Sandy Hesnard
- [ ] Caltrans - Planning
  Terri Pencovic
- [ ] California Highway Patrol
  Shirley Kelly
  Office of Special Projects
- [ ] Housing & Community Development
  Lisa Nichols
  Housing Policy Division

Dept. of Transportation

- [ ] Caltrans, District 1
  Rex Jackman
- [ ] Caltrans, District 2
  Marcelino Gonzalez
- [ ] Caltrans, District 3
  Jeff Pulverman
- [ ] Caltrans, District 4
  Tim Sable
- [ ] Caltrans, District 5
  David Murray
- [ ] Caltrans, District 6
  Marc Birnbaum
- [ ] Caltrans, District 7
  Cheryl J. Powell
- [ ] Caltrans, District 8
  Dan Kopulsky
- [ ] Caltrans, District 9
  Gayle Rosander
- [ ] Caltrans, District 10
  Tom Dumas
- [ ] Caltrans, District 11
  Mario Orso
- [ ] Caltrans, District 12
  Ryan P. Chamberlain

Cal EPA

Air Resources Board

- [ ] Airport Projects
  Jim Lerner
  - [ ] Transportation Projects
    Ravi Ramalingam
  - [ ] Industrial Projects
    Mike Tollstrup
- [ ] California Integrated Waste Management Board
  Sue O'Leary
- [ ] State Water Resources Control Board
  Regional Programs Unit
  Division of Financial Assistance
- [ ] State Water Resources Control Board
  Student Intern, 401 Water Quality Certification Unit
  Division of Water Quality
- [ ] State Water Resouces Control Board
  Steven Herrera
  Division of Water Rights
- [ ] Dept. of Toxic Substances Control
  CEQA Tracking Center
- [ ] Department of Pesticide Regulation

Regional Water Quality Control Board (RWQCB)

- [ ] RWQCB 1
  Cathleen Hudson
  North Coast Region (1)
- [ ] RWQCB 2
  Environmental Document Coordinator
  San Francisco Bay Region (2)
- [ ] RWQCB 3
  Central Coast Region (3)
- [ ] RWQCB 4
  Teresa Rodgers
  Los Angeles Region (4)
- [ ] RWQCB 5S
  Central Valley Region (5)
  - [ ] RWQCB 5F
    Central Valley Region (5)
    Fresno Branch Office
  - [ ] RWQCB 5R
    Central Valley Region (5)
    Redding Branch Office
- [ ] RWQCB 6
  Lahontan Region (6)
  - [ ] RWQCB 6V
    Lahontan Region (6)
    Victorville Branch Office
- [ ] RWQCB 7
  Colorado River Basin Region (7)
- [ ] RWQCB 8
  Santa Ana Region (8)
- [ ] RWQCB 9
  San Diego Region (9)

- [ ] Other _____

Last Updated on 09/11/07

John R. Leek
3090 Admiral Avenue
San Diego, CA 92023
(858) 576-0877
JLeek001@san.rr.com

7 November 2007

Allison Sherwood
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 982101
Via email - DSDEAS@sandiego.gov

Re: EIR Comments for Scoping Meeting – Public Comment
Draft Environmental Impact Report for the La Jolla Children's Pool Project (Project 71362)

Dear Ms. Sherwood:

The action in question is described as: "Coastal Development Permit, Site Development Permit, and City Council Approval to dredge 3,000 cubic yards of beach sand from the Children's Pool beach and relocate it on the west side of the breakwater wall at the closest pocket beach just south of the Children's Pool."

Somehow, there is no mention of the court order to restore Children's Pool that brought us here, upheld unanimously by 3 appellate judges, who had dismissed every point in the City's appeal. That order never said "dredge".
http://www.divebums.com/Childrens/Childrens_082505.pdf (bottom line shown below)

Therefore, in order to protect the rights of the people of California to the full use and enjoyment of a unique asset, the Children's Pool, the City, as trustee of the Children's Pool, is hereby ordered to employ all reasonable means to restore the Pool to its 1941 condition by removing the sand build-up and further to reduce the level of water contamination in the Pool to levels certified by the County of San Diego as being safe for humans.

It is not the City, but the County Department of Environmental Health that has declared that beach "contaminated" by its tests and readily acknowledges the contamination is all seal feces.

During the upcoming meeting, there will be claims the city cannot proceed because it would harm seals that somehow will die if not allowed to lounge on Children's Pool beach, though the other 36,000 harbor seals (Footnote) in California do quite well without it. These same claims were made the last time the City pursued an EIR about Children's Pool. In fact, this has ALL been done before.
http://www.epa.gov/fedrgstr/EPA-IMPACT/2004/November/Day-19/i25741.htm

Note that this document cited above is from the National Oceanographic and Atmospheric Administration, the supreme authority for protection of Marine Mammals. That same body advised the City in 1997 not to let seals colonize a public beach, and in 2005, advised the City,

> **My understanding based on our meeting with you on September 16, 2005, is that the City of San Diego intends to excavate sand from Children's Pool Beach in order to restore the beach for exclusive human use and that the City will be taking further actions as necessary to permanently exclude marine mammals from Children's Pool Beach in order to ensure the beach is safe for human use. NMFS agrees that the MMPA allows the City to restore the beach for exclusive human use provided the City determines one or more of the above provisions of section 109(h) apply and can document the decision. No formal approval or permit is needed in order for the City to take action under section 109(h).**

http://www.friendsofthechildrenspool.com/federal_la_jolla_seals/101705_noaa.pdf

Moving Sand

With the seal issue laid to rest, the sand removal to other beaches should be considered not as an extraordinary expense, but part of the normal sand maintenance budget of the City. In 2001, 12 beaches were enhanced with 2 million cubic yards of sand deposited on them at a cost of 17.5 million dollars.
http://www.sandag.cog.ca.us/index.asp?projectid=101&fuseaction=projects.detail
The project had a planned effectiveness of 6 years. That was 7 years ago. SANDAG had obtained money from several sources, including local city governments and has already advised that more will be coming from those local governments in the future. Given this previous cost of $1.5 million per beach, restoring one of the finest beaches in California to public use, and enhancing 2 other beaches downcurrent for the prices quoted so far is in fact an extraordinary bargain.

Yours truly,

John R Leek.

Footnote - http://www.nmfs.noaa.gov/pr/pdfs/sars/po2005sehr-ca.pdf
NOAA Stock assessment of California harbor seals. On page 2, an actual best effort census of seals yielded a count of 26,333, which was adjusted to an estimated true population of 34,233. However, per the growth rate given, one must add 3.5% per year in the last 2 years, coming to 36,671.

Therefore, in order to protect the rights of the people of California to the full use and enjoyment of a unique asset, the Children's Pool, the City, as trustee of the Children's Pool, is hereby ordered to employ all reasonable means to restore the Pool to its 1941 condition by removing the sand build-up and further to reduce the level of water contamination in the Pool to levels certified by the County of San Diego as being safe for humans.

My understanding based on our meeting with you on September 16, 2005, is that the City of San Diego intends to excavate sand from Children's Pool Beach in order to restore the beach for exclusive human use and that the City will be taking further actions as necessary to permanently exclude marine mammals from Children's Pool Beach in order to ensure the beach is safe for human use. NMFS agrees that the MMPA allows the City to restore the beach for exclusive human use provided the City determines one or more of the above provisions of section 109(h) apply and can document the decision. No formal approval or permit is needed in order for the City to take action under section 109(h).

November 27, 2007

RE: Scoping meeting comments and questions for EIR Project #71362

Morris Dye, Senior Project Manager
Allison Sherwood, Senior EAS
Development Services Department
1222 First Ave. MS 501
San Diego, Ca 92101-5460

Dear Mr. Dye and Ms. Sherwood;

A. This letter is in response to the EIR Project # 71362 Scoping meeting held November 15, 2007 at the La Jolla Recreation Center. The issues addressed in the DRAFT EIR Public NOP seem to be very comprehensive and will be very helpful in planning the project if it should be approved. The major concerns are the illegality of the project, how and who will collect the accumulated data and by whom, and how thoroughly the analysis is done. If the investigators are biased one way or the other, the outcome could be greatly influenced. This should be prevented by frequent and ongoing scrutiny as the data is prepared.

B. Below are additional considerations for how will the following be measured, analyzed, and mitigated?

1. What are the potential impacts from dredging such a large amount of sand (3,000 cubic yards) on flora, such as eelgrass, and other fauna, and on reefs, kelp beds, birds, etc in the ecosystem?

2. How can you measure the impact of this illegal court order to dredge on harbor seal behavior and biology? These animals are site-specific, show site fidelity, and require daily haul out for biological reasons and for pupping and raising young, and they have certain requirements for a haul out site to be usable and acceptable. The Sarah Allen and Hal Markowitz, May-Dec 1998, study of Strawberry Spit (Richmond and San Raphael, CA Bridge Project) showed that a mitigation using an artificial habitat did not work for retaining seals. Pups cannot haul out on the Rock in front of 939 Coast, especially in the high winter surf. Where will the seals go as an alternative to using Casa Beach? If seal numbers decline, how will this impact the entire local ecosystem? Since some biologists have claimed that seal waste products provide nutrients to the kelp plants and thereby

enrich the surrounding fish. How will the reduced numbers of seals from this project affect fish, crustaceans, such as lobster, and other components of the ecosystem? How will the loss or reduced numbers of a top predator impact the entire ecosystem? Not too much is known for certain, however scientific studies support these as serious questions and concerns.

3. What will be the impact be on nearby geological features? How will the dredging impact cliff erosion and cliff stability in the vicinity and of the bluffs? Will the dredging increase coastal erosion and weaken the underlying rock formations? How will the deposit of sand on the western side of the seawall impact other geological and biological factors in the ecosystem? How will the ocean currents be diverted and how far out will the current be diverted? Please review the Dr. Douglas Inman (Scripts Institute of Oceanography, during the 1990 and early 2000's) reports and comments about cliff erosion, and how dredging increases cliff erosion. What will be the cost of perpetually maintaining this particular coastline as the sand returns due to the closed system created by the seawall?

4. This is an internationally recognized site for important wildlife viewing and tourism. San Diego will likely receive worldwide negative publicity for disturbing and possibly destroying the seal colony, and other coastal wildlife and the scenic beauty of this urban beach.. Filmed Documentaries have been made about the Children's Pool by the BBC and other foreign and national filmmakers. The controversy has been covered by television, radio and the written media. How will these losses, and the negative publicity be mitigated?

5. What is the economic impact from the loss of the seal colony to the business interests of the Village of La Jolla? Currently, the Chamber of Commerce distributes brochures on snorkeling, kayaking and swimming which show pictures of interactions of people with the seals in the waters. It is estimated from lifeguard statistics kept at the Children's Pool Lifeguard station, that 100,000 visitors visit this location monthly. In one travel magazine in 2007, the CP was listed as one the top 25 reasons to visit San Diego.

6. Please obtain the services of an impartial trained conservation biologist, such as Joe Cordero of the NMFS, Long Beach Office, and a similarly qualified geologist, to be expert.consultants in determining the impacts throughout the EIR process.

7. The Marine Mammal Protection Act (MMPA) provision covering the seal disruption, as well as the City's Municipal Code allows local officials to take or remove an animal if that animal is a nuisance, or for the protection of the public health and welfare. This provision appears to be designed to deal with individual animals and not entire populations as contemplated by dredging the pool. Since the entire colony will be disrupted, how will you justify this action to these federal and state and local agencies?

8. The City of San Diego, as trustee of the tideland grant from the state, must have flexibility to accommodate changing public needs, and that those needs include environmental concerns. The California Supreme Court said "The public uses to which

tidelands are subject are sufficiently flexible to encompass changing public needs....There is a growing public recognition that one of the most important public uses of the tidelands – a use encompassed within the tidelands trust – is the preservation of those lands in their natural state, so that they may serve as ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life, and which favorably affect the scenery and climate of the area." Marks v.Whitney, 6 Cal.3d 251, 259-260. . Since the land grant uses are vague enough to contain flexibility in how the area is to be used, seal watching and wildlife enjoyment and preservation of natural contours are in keeping with the original intended uses. How will you justify following an illegal order and destroying this perfectly allowable interpretation of uses for the beach.

9. The court's ruling violates the separation of powers by ordering the manner in which the City exercises its discretionary duties over management of the beach. This sets a terrible precedent for future court orders. How will you justify this violation?

10. The court does not have the authority to dictate to other agencies with jurisdiction (e.g., the California Coastal Commission and the U.S. Army Corps of Engineers) that they must grant permits to the City to perform the court-ordered activities. Those agencies must use their own criteria to issue permits. How will you persuade these agencies to comply with this illegal court directive? How will you justify this compliance?

11. Please explore the possibility of leaving the current Casa Beach fully intact, and creating a new Children's Pool elsewhere in a controlled setting. A suggestion would be a large municipal pool staffed by lifeguards with a "beach entry" design and possibly a wave machine, for use by children learning to swim

12. Another possibility is to keep the rope barrier up not only during pupping season – as recommended by Joe Cordero of NMFS – but all year round. This complies with the City's current decision for "shared use". People would be required to stay behind the rope. All entries to the water would be from other routes. People not entering the water at this point would not be subject to the complaint of "pollution", as natural ocean currents keep the water circulating. Please investigate this viable alternative.

13. What will you tell the children who will no longer visit this site to watch live marine mammals give birth, learn from their mothers, play in the water, rest, molt, reoxygenate and provide a real life experience with wildlife in a natural setting at no cost? The nearest doubtfully comparable experience is to visit a local ocean theme park for nearly $300 for a family of four to watch captured animals perform tricks nearly twelve hours a day and live in a swimming pool!

Thank you for your consideration in these important comments.

Ellen Shively

Spokesperson, San Diego Coastal Habitats Coalition
c/o Sierra Club, San Diego Chapter
3820 Ray Street
San Diego, California 92104
Home Phone 619-479-3412
Email: ellenshively@sbcglobal.net

James Hudnall <balaena@pacbell.net> wrote:

Date: Tue, 27 Nov 2007 12:26:17 -0800 (PST)
From: James Hudnall <balaena@pacbell.net>
Subject: Project Number 71362, La Jolla Children's Pool CDP(dredging)
To: Allison Sherwood <DSDEAS@sandiegogo.gov>

Dear Ms. Sherwood,

Please add me to your list of Other Organizations and Interested Individuals regarding the above project:

James Hudnall
P.O. Box 8030
La Jolla, CA 92038-8030
Tel: 858-454-2425

I have reviewed the "Public Notice of Preparation...JO:298720." Dredging activity at the Children's Pool Beach to reduce it to 1940's size will have the immediate effect of frightening harbor seals away from their haul-out habitat on the sand of this beach. Longer term impact on the existing harbor seal rookery at this beach may include abandonment of the site as a rookery.

The role of the harbor seal in the nearshore ecosystem must be considered. Harbor seals, as top predators in the immediate vicinity, contribute to richness and diversity in the nearshore ecosystem through culling and nutrient transport. Available evidence suggests that the richness of the nearshore lobster population and the diversity of nearshore kelp-bed fish species may be a direct result of the presence of the harbor seal rookery at Children's Pool.

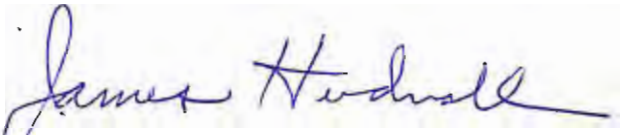
The recreational value of harbor seal watching by our public must also be considered. Approximately 130,000 people come to Children's Pool every month to view and photograph the seals.

Sand removal from Children's Pool may contribute significantly to increased bluff erosion between Boomer Beach and Children's Pool due to the limited offshore supply of available sand. Douglas Inmann at Scripps Institution of Oceanography commented on this during consideration of dredging in 1999.

Dredged sand dumped onto South Casa Beach (southwest of the seawall) will migrate southward along the coast, but, because of the generally southward-flowing current and the extensive rock-reef extending southwest from the seawall, the dumped sand will not replenish to sand source supplying Boomer Beach and Shell Beach.

Sincerely,

James Hudnall



James Hudnall
Resident and taxpayer, La Jolla

(Signed hard copy of this e-mail to follow to your office)

Appendix B
La Jolla Children's Pool Joint Use Feasibility Study by San Diego Parks and Recreation, March 2, 2006

LA JOLLA CHILDREN'S POOL
JOINT USE

FEASIBILITY STUDY

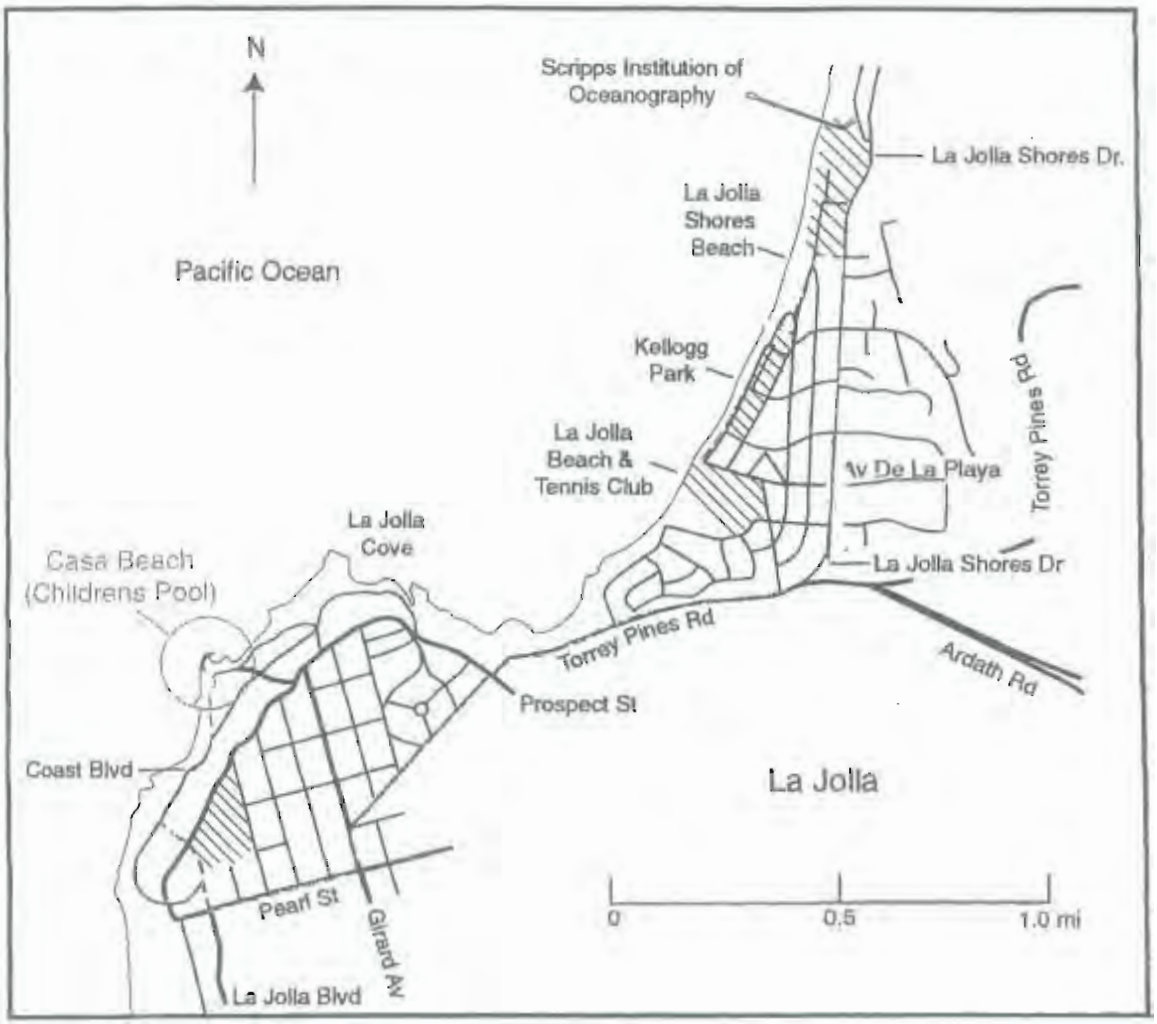


Prepared By:

CITY OF SAN DIEGO
PARK & RECREATION DEPARTMENT
202 C STREET, M.S. 35
San Diego, CA 92101

March 2, 2006

Figure1. Map showing the location of the La Jolla Children's Pool.



LA JOLLA CHILDREN'S POOL
JOINT USE

BACKGROUND

The Children's Pool breakwater was built in 1931 to provide a sheltered swimming area for children. Disturbed by the news of the drowning death of two young children at that time, Ellen Browning Scripps donated the funds and contracted for the construction of the breakwater. It was subsequently dedicated and granted to the City per California State Chapter 937 with the following relevant conditions:



"The State of California do enact as follows: (a) That said lands shall be devoted exclusively to public park, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incidental to, or convenient for the full enjoyment of, such purposes; (b) the absolute right to fish in the waters of the Pacific Ocean over said tidelands or submerged lands, with the rights of convenient access to said waters over said lands for said purpose is hereby reserved to the People of California."

Since its creation, the Children's Pool has remained a popular attraction along the shoreline. A variety of users have come to rely on it for ocean access and beach recreation. For example, the San Diego/La Jolla Underwater Park, located offshore of the La Jolla Cove and approximately 2,500 feet north of Children's Pool, offers excellent diving. Because the children's pool was built to eliminate major wave action, it not only is ideal for children to recreate, but also provides a protected area where divers can safely enter and exit the water.

The breakwater originally featured four sluice gates designed to be opened when necessary to flush out sand that accumulated in the sheltered area behind the breakwater. Field engineer logs show that a conscious decision was made to close them shortly after the pool was open to the public. The notes show that the build up of sand was a welcomed idea because it provided more beach area for the adults and children to recreate. There were rumors of a child drowning by getting stuck in them, although this has never been substantiated. However, sometime later, the sluices were subsequently capped with concrete and closed. Accretion of sand in the pool rapidly covered the sluice gates and they are now about seven feet under the top of the current sand finish grade. Since 1931, the beach behind the breakwater has gradually widened as sand has accumulated in the sheltered pool.

By 1998 the shoreline advanced to its current state, and at this point has a very small pool area for recreational swimming. Because the beach extends so much further out toward the opening of the breakwater, the protected swimming area as originally sought when designed in 1931 has diminished. The proximity to an identified rip current near the breakwater opening has created significant safety concerns. In order to maintain a safe environment for children to swim the beach reconfiguration should be done.

In addition to the safety concerns mentioned above, federal law prohibits the harassment of the large number of harbor seals that regularly "haul out" at the Children's Pool. The term "haul out" refers to the method by which the seals crawl onto land for purposes such as resting, molting, giving birth and nursing. Although there are no City-imposed prohibitions on using the Children's Pool, the federal Marine Mammal Protection Act (MMPA) adopted in 1972 generally makes it unlawful to harass seals. During a City Council hearing on September 14, 2004, Councilman Scott Peters asked Mr. James Lecky, the current National Resources Protection Director, "... can you give me a little sense of, for a lay person, what constitutes harassment?" Mr. Lecky replied, "Actually it is a challenge for us to interpret harassment. Harassment basically is what we consider a substantial change in the behavior as a result of human cause stimulus. Chasing animals up and down the beach, chasing them off the rocks, throwing things at them, allowing your dog to run among them, things of that nature are what we have actually prosecuted." As a result, recreational uses for children/bathers wishing to use the beach; fisherman wishing to fish; and divers wishing to use the entrance for deep water diving have been adversely effected.

As less people used the beach concerned they would "harass" the mammals, more seals began to make Children's Pool their home. Seal excrement resulted in fecal coli form bacteria counts that significantly exceed State water quality standards for bathing beaches. Therefore, the County Environmental Health Department deemed the Children's Pool unsafe for human contact, and it was closed to the public for all water contact in September 1997. While the beach was closed for human use, more seals began to haul-out. The current count varies with the time of year. Studies done by local experts say there are at least 150 seals using Children's Pool. The count has been over 200 at times.

In 2003, the County Environmental Health Department notified the City that the designation for the Children's Pool had been changed from a "closed status" to an "advisory" one. The revised status was based upon changes in State policies, not because of improved water quality at Children's Pool. The advisory status meant that the public could enter the water at their own risk; however, the County Environmental Health Department does not advise it.

If humans are to use Children's Pool, the pool water quality is a serious matter. The State of California thresholds for clean water at Children's Pool have rarely been acceptable. Currently, the County Environmental Health Department simply deems the area an impaired water body. The County Environmental Health Department sponsors a web page showing their test results. Past Manager's Reports have discussed those concerns in detail and no one refutes the water quality is not acceptable for human use. Past tests also show that the poor water quality is due to the seals and sea lions. Therefore, if humans are to use Children's Pool, only a limited number of seal and sea lions can be present.

From the time the Children's Pool breakwater was built until the advisory by the County Environmental Health Department (1997), seals had been observed on the beach along with people as shown in the pictures. Most of the public recreated side by side with the





small population of seals for many years. However, when the beach closure of Children's Pool to bathers occurred, the seal population began to increase, births occurred, and National Marine Fisheries Service (NMFS) began to treat the area as a rookery. Docent programs began to "strongly encourage" mammal use only of the Children's Pool beach area. During the September 2004 City Council hearing, many people stated that returning Children's Pool for human use was a violation of the MMPA because pups had been born there and it was an "Official Rookery." However, at the same hearing, Mr. Lecky stated:

> "Let me comment on that briefly, because we actually have contributed some confusion over that. Rookeries, of course, are areas where pups are born and they are special and important for reproductive purposes. And there are some pretty important and key rookeries for these species in our state and we have developed

practices in terms of how we want people to behave on those rookeries because it actually causes more harm than good. And those guidelines have been perpetuated to Children's Pool, but in fact there is no mechanism in the statue to designate a specific piece of beach or habitat as a rookery. A rookery has no specific status or designation under the MMPA. It's different from any other habitat. It is correct to say that there is no designation that the agency has made to change the regulatory status of the area."

On September 14, 2004, the San Diego City Council voted to approve a project at the La Jolla Children's Pool to return the area to seasonal joint use for humans and seals (See attachment 1). This approval authorized city staff to perform preliminary studies, initiate design and permit applications, and actions incidental to these functions, in order to comply with the accepted recommendation. Staff was also to return to City Council with the appropriate environmental document for review and certification for approval in order to comply with the recommendation. It is the intent of this document to provide the various agencies information to obtain a comprehensive environmental document and resource agency permits.

On August 26, 2005, the City of San Diego received a judgment recited in California Superior Court Case GUC 826918 that required the City to restore the conditions at Children's Pool, such that people may once again use the bathing area. The City of San Diego appealed this ruling at the end of 2005. The status of the appeal is unknown at this time.

PROJECT OBJECTIVES

Given that the City Council directive in September 2004 and the Superior Court ruling in 2005 do not conflict in their basic premise that the Children's Pool should provide for human use, and the fact that City Council did not direct staff to cease work on the project when the appeal was authorized to the City Attorney, the original September 2004 directive is continuing to be processed.

In order to return the Children's Pool for human use, the following objectives must be met:

1) Reduce the seal and sea lion population: The seals and sea lions that have overtaken the beach in significant numbers create a health concern for humans due to their fecal matter contaminating the water. Therefore, the only real coexistence possible would be that only a few seals or sea lions could likely use the beach at the same time as humans. This scenario occurred in the early 1990s. The number of seals and sea lions that can be present while maintaining a safe human environment is unknown and the water quality standards have changed since the 1990s; so, it is conceivable that very few seals or sea lions can continue to haul out at the site and the city still is able to maintain a safe human environment.

Therefore, it is proposed to discourage the large majority of seals and sea lions from using the beach by reducing the current beach size. Historical photos show that the 1941 reconfiguration will leave enough beach for human bathers and it is hoped will likely discourage the seals and sea lions from "hauling out" because the beach will be very close to the lifeguard tower and comfort station. This "discomfort" the seals and sea lions encounter may be enough to limit their numbers in the pool area to where acceptable water levels can be maintained for humans.

After the reconfiguration, the seals and sea lions may begin to lie on the rocks within the Children's Pool area (this does not include Seal Rock or areas outside Children's Pool). If this occurs, then the City will utilize Marine Mammal Protection Act (MMPA) Section 109h to shoo the animals from the rocks. In testimony at the September 2004 City Council hearing, Mr. Lecky stated, "And the bottom line is we really view this as a local government issue. The Federal Government is not going to weigh in and say you can or cannot use 109h as a rationale for managing the situation at Children's Pool." City staff intends to consult and coordinate all the actions taken at Children's Pool with the National Marine Fisheries Service (NMFS).

2) Clean the Water: After the reconfiguration of the beach to the 1940's size, and the seal and sea lion population reduction, the City will test the water for compliance with the San Diego County Health Department standards and any other resource agency water quality requirements. By creating a bigger pool when the beach is reduced, the flushing action will also likely improve the water quality.

3) Clean the Sand: The project proposes to place the excess sand removed from the Children's Pool beach to the other side of the breakwater at the closest little pocket beach just south of Children's Pool. The sand must be cleaned prior to dumping it over the break water just south of the bedrock as the current project proposes. It is proposed to clean the sand by working the sand with grading equipment, spreading it and exposing it to the ultra violet rays of the sun at the Children's Pool. When it is tested and deemed clean per the standards required of the resource agencies, 3,000 cubic yards will be relocated in order to obtain the 1940's reconfigured beach. The remaining sand on the beach will be worked the same way as described above and simply graded and groomed as noted in the grading plans within the Children's Pool beach area.

4) Continual Maintenance: The City will need a long term budget allocation for sand removal at Children's Pool on a two year rotation. It is likely that approximately 100 cubic yards every two years will need to be relocated to the southern beach so that the 1940's configuration is maintained. The City will need a long term budget allocation for city staff to enforce the MMPA 109h by occasionally shooing seals or sea lions from the Children's Pool so that the current situation does not repeat.

SCOPE OF WORK

This project will excavate approximately 3000 cubic yards of beach sand and place the excavated sand just to the west of the breakwater to return the Children's Pool to the 1940's configuration (See figure 2, Appendix. A).The sand to be excavated is between the MLLW and the back of the pool.

A sand berm (acting as a damn) at the edge of the Mean High Tide Line would be created enabling the loader and excavator to operate without impacting water quality. Sand would be excavated and then left to dry until the fecal coliform dissipates creating less beach area and a larger pool area. The placement of sand to the southwest of the breakwater would be placed in increments of approximately 250 - 500 C.Y. daily.

The permit should have an allowance to remove accumulated sand as necessary every two years or as necessary to maintain the Children's Pool at the 1940's configuration. The method to maintain the pool every two years will be similar to this project, except smaller equipment will be needed used because of the small amount of sand that will have accumulated.

The City of San Diego intends to hire a contractor who will utilize an excavator and a loader to perform the reconfiguration effort. The details are as follows:

1. Develop the project plans and specifications
2. Complete an environmental review
3. Complete Site Development and Coastal Develop Permits from the City of San Diego (items #2 and #3 concurrent)
4. Seek required Agency Permits
    a. California Coastal Commission (CCC)
    b. U.S. Army Corps of Engineers (Corps)
    c. U.S. Fish and Wildlife Service (USFWS)
    d. California Department of Fish and Game (CADFG)
    e. California Regional Water Quality Control Board (CARWQCB)
    f. National Oceanic Atmospheric Administration/Nation Marine Fisheries Service (NOAA/NMFS)
5. Avoid construction from January through May/June. Staff looked to avoid starting the project during the seal "pupping season" which starts around January and ends in May/June.
6. Avoid construction from February through September for two reasons:
    a. Memorial Day through Labor Day (September) is the City's self imposed summer moratorium. This moratorium was put in place many years ago to ensure careful consideration is given in beach areas to minimize the impact of construction on commercial businesses, tourists, and the general

public. If the sand removal is over the breakwater as proposed, the moratorium would likely be lifted. However, if trucking through the community to other beaches, a safety concern exists and the moratorium would likely not be lifted; and,

   b. February through September has the potential, although vary unlikely, of disrupting grunion spawning.

7. Obtain a contractor
8. Hire 24 hour security guards for site safety
9. Develop staging area just below the bathrooms/lifeguard tower on the beach.
10. Visqueen and Best Management Practices will be placed to eliminate and manage equipment pollution.
11. The wheel loader & excavator will first develop a berm at the mean high tide line. This will manage the water infiltrate to the work zone and prevent marine mammals from hauling out on the beach.
12. The contractor will stock pile 250-500 cubic yards from upper and southern part of the beach (by the stairs).
13. The CSD will test the sand for contaminates. Once it passes as "clean" the sand will be discarded over the breakwater in a beach area noted in this picture.
    a. The intent is to have the tide water take the sand through the existing sand migratory channels out to sea and redistribute it along the adjacent beaches (see alternate for future discussion on the matter).
    b. If the sand does not break down at a rate determined by marine biologist to not be detrimental to the marine life in the immediate areas, the sand will be further distributed along the beach as shown in this picture.
14. Once all of the 3,000 cubic yards of sand are redistributed, the contractor will use the excavator equipment to rid the beach of the berm and move sand along the mean high water line to more accurately depict the 1941 configuration. NOTE: This configuration does not exist as far as the City knows in a plotted form to within plus or minus a tenth of a foot. However, the City does have a general idea from pictures of the Children's Pool taken in 1941 (Figure 1, App. A). Therefore, the City will "eyeball" the 1941 configuration and its due diligence and attempt to replicate the pool depths, etc.
    a. The existing sluiceways will still be under sand and are not exposed in the 1941 configuration. See alternatives for more discussion.
15. The contractor will then pull off site and clean up the entire site of construction debris. Any gates, concrete walkways, etc. that need repair and/or replacement will be done at that time. All storm water best management practices will be removed once there is no more work at the site.
16. *Close-out the project*

Staff noted that a best case scenario would provide for a start date in September 2006. This timeframe did not have the benefit of Permit Agency discussions which have now taken place and will be further discussed below. Staff hoped to start at the very latest in December 2006.

DISCUSSION

Hydrology/Water Quality

This project does not increase the amount of impermeable surface. Beach exists now and the site will remain beach with additional water pool area in its place. Therefore, there is no hydrological affect. This project does not produce additional "Q" (flows). It simply increases the pool area in the ocean to a past condition.

The Children's Pool is deemed an impaired water body by the County Health Department. Past reports have shown and proven that the impairment is due to mammal fecal matter (See attached DNA testing report dated June 10, 1998, Attachment 2). Therefore, to improve the water quality, the number of mammals that use the Children's Pool will need to be reduced in order to restore the water quality for human use. The number of mammals needed for this to occur is unknown. The intent of this project would be to reduce the number to a point where the County Environmental Health Department can remove the advisory level.

During construction, a berm will be built at the water line to limit and avoid murky/high turbidity water conditions as sand behind the berm is worked, cleaned, stock piled, tested and relocated to the southern neighboring beach area. Tests will be as required by the applicable state, federal and local permitting agency regulations.

It is planned to place the sand on the other side of the breakwater at the next southerly pocket beach. The idea for this location is to allow the current and tide to wash the sand back into the ocean in such a way that the wave action will redistribute the sand to the south. The turbidity of the water will be highest at this point. The biology study shows that this natural condition exists now at times during turbulent storms and such, and the turbidity levels will not be significant to affect the local marine life in the area. However, the biologist will be on site to watch the operations. If the turbidity levels exceed the recommended levels, the sand will be stock piled on the same beach, but further back along the cliff edge. There are no significant biological affects to this approach. See enclosed biology report prepared by Coastal Environments "Effect of Excavation of The Children's Pool on Marine Resources", dated October 18, 2005 (see attachment 3).

VISUAL QUALITY

The project proposes to excavate sand from the Children's Pool beach and place it above the mean high water line to the west and southwest of the breakwater at the southerly pocket beach. The grain size of the sand at both locations are compatible, see report by Coastal Environments for sand analysis dated December 31, 2004. The placement of the sand would not result in any visual impact because of the comparative sand grain size.

The proposed excavated sand will be disposed at Sites 1 and 2 (see grading plans, attachment 9) and this will increase the sand coverage in these areas. The natural

conditions at these sites involve fluctuating sand levels. These areas have been covered with sand in the past, and any impacts are unlikely to differ substantially from those that occur with the natural movement of sand onto the beach. Sand in these areas is transported via migratory sand channels. Therefore, no visual impact is anticipated due to the sand disposal at the two sites.

The La Jolla Community Plan does not specifically address views at Children's Pool. However, it does address and list view corridors. Attached are pictures of the site at the present condition (Figure 3, App. A) and a picture of the pool in the 1941(Figures 3 & 4, App A). This project is attempting to recreate the 1941 picture as a Mean High Tide Line condition. The proposed excavation will not affect the view corridors or vistas that are listed in the La Jolla Community Plan. See attached pictures for the past and present of the children's pool from those corridor views (See Figure 8 through 14, App A).

There will be a temporary visual impact during the construction period due to the equipment that will be used during the excavation and a staging area fenced off in front of the Lifeguard Tower for materials, small tools, among other construction incidentals. It is anticipated that the construction period will range between approximately four to eight weeks. These impacts will be temporary and short term.

PUBLIC ACCESS

The Children's Pool will not be in use for the public while construction is being done.

Public access on the breakwater itself will not be in use for the public while construction is being done.

Public Access on the beach to the south of Children's Pool is unknown at this time. It would be better for the permits and conditions to assume it will not be in use. The reason for this is if the sand from Children's Pool is deposited to the southern beach, construction equipment will be present and the public should not be allowed by any construction operations. (See figure 13 & 14 Appendix A)

The construction period will range between four to eight weeks.

COASTAL RESOURCES

In December 2003, an oceanographic and coastal engineering consultant firm, Coastal Environments, completed an evaluation of the project and a biological survey of the Children's Pool site as well as the sand disposal sites to the west and south west of the breakwater. Based on the consultant study, there will be no significant impact on the coastal resources. The following is a summary of the various coastal resources:

Mussel Beds

No impact to the mussel beds and surf grass patches since they are at relatively high elevations in comparison to the sandy bottom.

Fish Communities

This project does not affect the fish communities in general, with the possible exception of grunion. Although the operations staff does not recall grunion spawning at Children's Pool, there is still concern about future potential of spawning. Therefore, the mitigation measure proposed is to not perform the work from February to September. If this is done, both beach operations, the sand removal beach at Children's Pool and the sand receiving beach to the southwest of the breakwater will not impact grunion spawning.

Marine Mammals

Harbor seals (and at times a sea lion or two) currently use the beach area as a haul out site for resting, sleeping, molting and pupping. Their counts and detailed specifics are enclosed in Attachment 7. It is anticipated that this project will result in a reduction of these mammals at Children's Pool. Therefore, the impact of this project will likely result in a reduction of marine mammals using the beach at Children's Pool. In fact, this needs to be an outcome in order for humans to use the beach.

The question on harbor seals and sea lions that has been continually asked is the health of the species and the need for the Children's Pool site for their well being. What would happen to them? These questions were asked in public testimony of Mr. James Lecky, the National Resources Protection Director of NOAA/NMFS, at the September 2004 hearing (see attachment 4). The taped recordings are as follows:

> Councilman Scott Peters asked, "What is the status of the population, you said something about optimum sustainable population and that harbor seals are approaching that? Can you tell me what that is?"
>
> Mr. Lecky replied, "I'll try not to get too far into the weeds, but basically in recognition that many of the stocks at the time the was passed were declining and depleted approaching threatened or endangered status or were actually already there, there was a criteria established to essentially be a goal or a target for restoring these populations. That criterion is referred to as Optimum Sustainable Level (OSP). And we've subsequently defined that through rule making that has been adopted by Congress to be a range of population sizes and the floor is what is called the Maximum Net Productivity Level. That is the population at which level the population is capable of producing its maximum a mount of individuals for replacement purposes. All the way up to the carrying capacity which is the maximum amount of individual the environment can sustain.
>
> Councilman Scott Peters asked, "Okay, so we are approaching that optimal capacity now?"
>
> Mr. Lecky replied, "We are learning that with some of these marine mammals that the Maximum Net Productivity Level and the carrying capacity might actually be fairly close together. So the range might not be as broad as for the

organisms. But, the indication on the harbor seals is that the population has been continually increasing, we are seeing a slowing in the rate of increase. Which mean s perhaps density dependent factors are beginning to operate and it's beginning to approach the level we would consider in the low end range of OSP."

Councilman Scott Peters asked, "So, it's safe to say the population is healthy?"

Mr. Lecky replied, "It's healthy."

Councilman Scott Peters asked, "Okay, and the Children's Pool itself, is that necessary for the survival of the seal population, or for its health?

Mr. Lecky replied, "No, it's not."

Councilman Scott Peters asked, "And there are other haul out sites along the California Coast, at least some along the southern California Coast?"

Mr. Lecky replied, "There are many along the California Coast and on the Channel Islands, both north and south. "

This testimony from the highest ranking official of the National Resources Protection Agency who has worked for 30 years with the NMFS since 1976 and all that time implementing the Mammal Protection Act (MMPA) and/or the Endangered Species Act has demonstrated the clear facts on the matter of seals. Mr. Lecky has noted the marine mammals have many sites to use if they are not able to use Children's Pool. In addition, Mr. Lecky confirmed their numbers are healthy and the Children's Pool site is not needed to sustain the seal population.

Birds

Impacts on the brown pelican and other bird species were determined to be temporary and insignificant because the affected areas is small, and all of these species are mobile and capable of migrating form one location to another. The Children's Pool is not known to support nesting least terns or any other nesting sensitive species. See the biology report enclosed for more detailed information.

Kelp

Approximately 750 ft offshore of the Children's pool is the La Jolla kelp bed, which is approximately 5 miles long and 0.9 miles wide. The relatively small quantity of sand (3,000 cubic yds) and large area over which it will be dispersed before reaching the kelp bed will have no significant impact on this habitat.

RESOURCE AGENCY DISCUSSIONS

National Oceanic Atmospheric Administration/National Marine Fisheries Service (NOAA/NMFS)

- September 16, 2005: Jim Lecky (National Director of Protected Resources) stated that NOAA's position is that the City can authorize themselves, under Section 109(h) of the Marine Mammal Protection Act, to remove the seals and excavate the sand for the following reasons:
  - Health & water quality issues
  - Safety of animals and humans
  - Court order requires the City to return the beach to human use under the Trust
  - Restore the beach for swimming purposes

  Mr. Lecky added that no permits are required under 109(h) and asked for the City to formally send a letter to NOAA/MNFS notifying NOAA/NMFS that the City intends to exercise its authority under 109(h), and seeking NOAA's/NMFS's technical assistance. Mr. Lecky stated that they will officially acknowledge the City's letter and offer to provide technical assistance in dealing with the seals. See enclosed meeting minutes and a letter of Authorization from NOAA/NMFS in attachment 6.

California Coastal Commission (CCC)

- September 26, 2005: CCC will require a Coastal Development Permit to investigate the following:
  - Use as a bathing pool is consistent with the California Coastal Act
  - Evaluate health & water quality issues
  - Evaluate public access issues
  - Determine impacts to Environmentally Sensitive Habitat Areas (ESHAs) via review of Public Resource Code 30240 and verify that there is no impact on any endangered species
  - The CCC has agreed to process their Coastal Development Permit concurrent with the City's noting the City's permits and environmental document will need to be approved first. An application was submitted on September 28, 2005
  - A CCC public hearing will be required
  - See enclosed meeting minutes in attachment 6

U.S. Fish and Wildlife Service (USFWS)

- September 30, 2005:
  - USFWS will defer the seal issue to the NMFS as the experts on the Marine Mammal Protection Act
  - City to address the affects of the project on the grunions, and the federally endangered brown pelican and least tern
  - City to ensure the sand is thoroughly tested and confirmed to be free of contaminants prior to disposal on any other beach
  - City to avoid impacting the offshore reef and seagrasses during disposal of sand material
  - USFWS stated that they will analyze the City's response to those as part of her review when the CEQA document is circulated
  - The USFWS will also review the Corps Public Notice for their issuance of a permit for this project
  - The USFWS will not require any permits pursuant to the Endangered Species Act if adverse impacts to federally listed species regulated by the U.S. Fish and Wildlife Service (e.g., brown pelican or least tern) are avoided
  - See enclosed meeting minutes in attachment 6

U.S. Army Corps of Engineers (Corps)

- October 5, 2005:
  - A 404 permit Clean Water Act will be required because the drawings indicate that the operation as planned will be below the High Tide Line
  - A Section 10 Rivers and Harbors Act of 1899 permit will be required because the drawings indicate that the operation as planned will be below the Mean High Waterline
  - It is possible, but doubtful, that a Marine Sanctuary & Research Act permit will be required since the project is not discharging directly into the ocean, but rather as proposed at this time along the beach edge
  - The Corps will need to do an environmental analysis. If there is a significant issue, an Environmental Impact Study would be required. If no significant issues are found, an Environmental Analysis would be done. A permitting process involving an Environmental Impact Study ranges between 1½ to 2 years, and an Environmental Analysis ranges between 120 to 180 days
  - See enclosed Meeting Minutes in attachment 6

California Department of Fish and Game (CADFG)

- September 30, 2005:
  - CADFG stated that they have looked at the project before and they do not have any significant issues with the project with regard to marine resources
  - CADFG will defer to NOAA/NMFS for impacts to harbor seals as they are the managing agency for harbor seals under the Marine Mammal Protection Act (MMPA)
  - CADFG will not require any permits. They will comment on the CEQA document when it is published for review
  - CADFG would look for the grunions spawning to be evaluated in the CEQA document
  - See enclosed meeting minutes in attachment 6

California Regional Water Quality Control Board (CARWQCB)

- October 3, 2005:
  - CARWQCB would coordinate with a Corps 404 permit for purposes of the Clean Water Act
  - CARWQCB would require a 401 permit
  - CARWQCB noted that discharge of less than 5,000 cubic yards of sand has the potential to be exempt from the Porter-Cologne Water Quality Control Act, but would look at the application to make that determination for sure
  - CAWQCB has agreed to process their Permit(s) concurrent with the City's process noting the City's CEQA document needs to be final prior to their agency taking final action
  - A public hearing may be required
  - See enclosed Meeting Minutes in attachment 6

COST

1. The estimated project cost to excavate the sand from the Children's Pool and return it to the 1941 configuration is $300,000. This cost includes construction documents, permits, environmental, administration, and construction.
2. If the excavated sand needs to be hauled out and trucked to another legal dump site the project cost is estimated at $450,000.
3. The cost to provide for removal of accumulated sand every two years to maintain the 1941 configuration is estimated at $20,000.
4. The cost for a limited full time ranger position with associated non personnel expense to provide education and interpretation of the area and manage the mixed use of the site is $75,000.

ALTERNATIVES

ALTERNATIVE 1: REMOVE THE SEALS AND DO NOT REMOVE THE SAND

Advantages

- No permitting required
- No additional cost for permitting, design, and construction
- Will reduce the contaminated water and sand to an acceptable level.

Disadvantages

- This alternative would be more intrusive on the seals
- Does not protect children's from the rip currents and waves

ALTERNATIVE 2: OPEN BREAKWATER & SLUICEWAYS

A study has been done on the feasibility to open the sluiceways on April 29, 1998 (See attachment # 9). The sluiceways can be opened by removing the concrete plugs that were placed on the ocean side of the breakwater. Debris will need to be cleared out of the remaining section of each sluiceway. There will be a need to insure that the red silty clay located between at the interface between the breakwater and the breakwater concrete and sandstone. Removing this soil may undermine the abutment connections. There are pro's and con's to this alternative:

Advantages

- There is some evidence that the having the sluiceways open will move portion of the sand on the pool side through the sluiceways and carry the sand into the open area outside the breakwater. That was based on the observation of the resident engineer right after the construction of the breakwater on May 5, 1931(as documented in his daily report). This will eliminate annual maintenance.

Disadvantages

- Since the top of the sluiceways are covered with about seven feet of sand, grading will be required to be able to open the sluiceways. The grade around the opening of the sluiceways, on the pool side, need to be transitioned.

- Permitting might be required due to the grading and opening of the sluiceways by all agencies (ACE, CCC, and RWQCB) & site development permit might be required by the City's Development Services.
- Requires the design and construction of new sluice gates as well as exterior covers at the sluiceways. The cost is estimated at $400,000.
- The estimated cost to open the sluiceways would total $ 450,000. This cost will include construction cost, permitting, and administration. It is expected that an additional maintenance cost will be required to maintain the sluiceway gates.
  We could experiment with opening one of the sluiceways but we still need to insure safety to swimmers and divers.
- **There are safety issues due to the strong suction pull caused by the water running into the sluiceways and then receding. This observation was noted by the resident engineer on April 4, 1931. That was documented in his daily report.**

ALTERNATIVE 3: NO PROJECT

Advantages

- No permitting required and no additional costs would be incurred

Disadvantages

- Does not meet the City Council direction of September 14, 2004.
- Does not meet the Superior Court Judgment by Judge William C. Pate on August 26, 2005.
- Lifeguards have to perform rescues in contaminated water.
- Health issue due to the contaminated water for swimmers and divers.
- Water quality to the beach would be below state standard.
- Resolving daily issues at the beach.
- Swimmers or divers could be bitten by the seals.
- Unsafe for children, swimmers and divers since the beach extends further out of the protected area by the breakwater. The proximity to the rip current has created significant safety concerns.

APPENDIX 'A'

PHOTOGRAPHS



Figure 1. Photograph of the Children's Pool, showing 1941 configuration.

(Source: San Diego Historic Society photograph# 79:741-712)

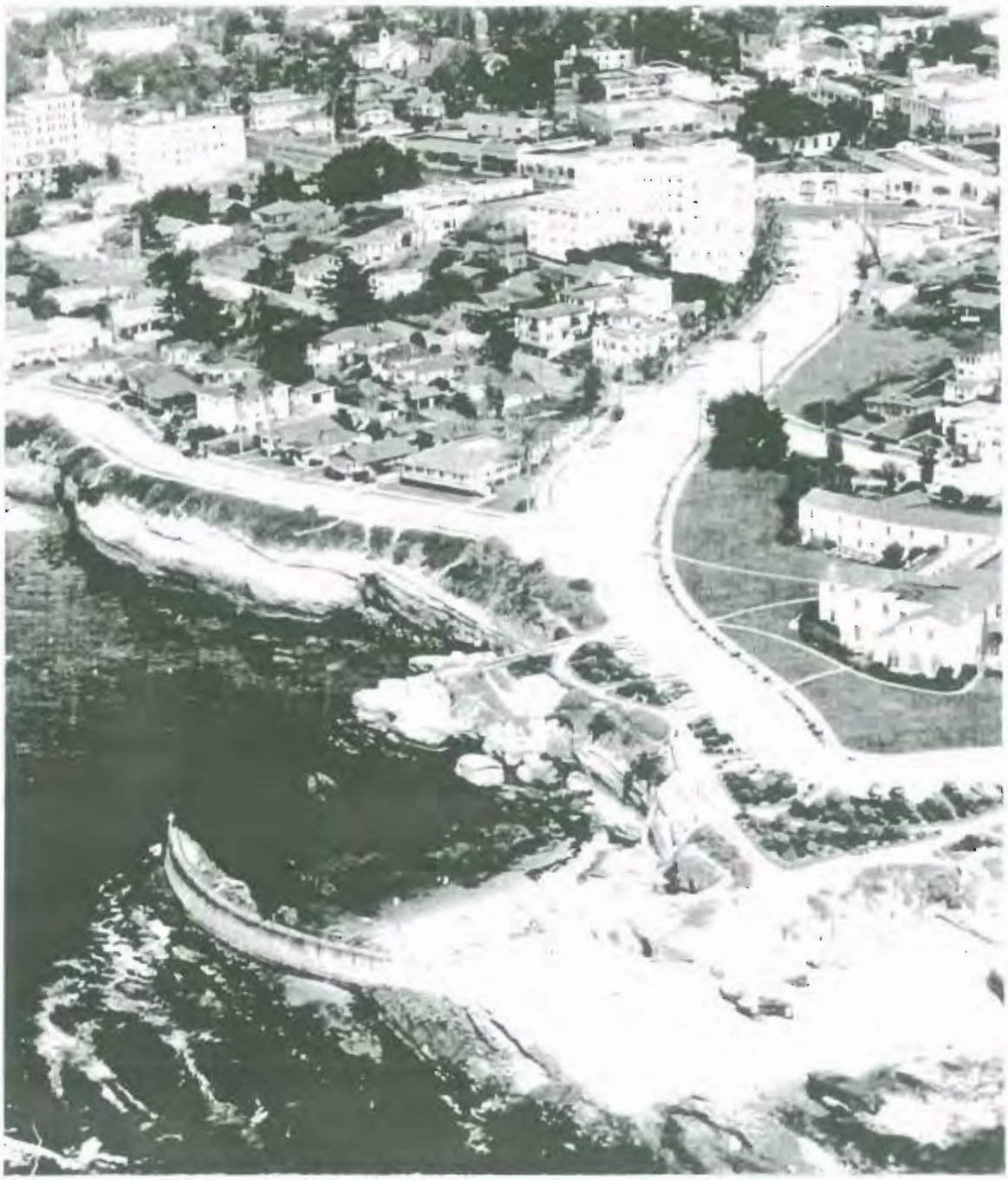


Figure 2. Another view of the Children's Pool, showing 1935 configuration.

(Source: San Diego Historical Society photograph# 79:741-712)



Figure 3. Photograph of the Children's Pool at low tide. Photograph taken along Coast Blvd on December 20, 2003.



Figure 4. Photograph taken on December 21 2003 showing the Children's Pool at high tide.



Figure 5. **Possible sand disposal site, located west of the breakwater (pocket beach just south of the Children's Pool).**



Figure 6. Another view of the possible sand disposal site located west of the breakwater.



Figure 7. Location of the sluices at the Children's Pool.



Figure 8. View of the Children's Pool from Jenner Street on January 26, 1935

(Source: San Diego Historical Society photograph# 79:741-712)



Figure 9. Another view of the Children's Pool from Jenner Street on January 26, 1935. (Source: San Diego Historical Society)



Figure 10. Present view of the Children's Pool from Jenner Street taken on November 21, 2005



Figure 11. Present view of the Children's Pool from the shed above the Pool November 21, 2005



Figure 12. View showing the shed above Children's Pool
November 21, 2005



Figure 13. View showing the stairs/access to the Children's Pool beach November 21, 2005



Figure 14. View showing the access to the Breakwater
November 21, 2005

If I can facilitate the issue of this permit in any manner or if you need additional information, please contact me at (619)236-7342. I can also be reached by fax at (619)525-8224, or E-mail at Smahmalji@sandiego.gov.
Thanks for your assistant.

Sincerely

Samir Mahmalji
Project Officer II
Park & Recreation Department
City Of San Diego

Attachments:
1) City Council Resolution
2) Children's Pool DNA testing
3) Bio Report "Effect Of Excavation Of The Children's Pool On Marine Resources"
4) Testimonies (Including Harbor Seal expert)
5) La Jolla Children's Pool Study by Coastal Environments.
6) Agencies Input & Meeting Minutes
7) Seals Counts For The Children's Pool
8) Other Agencies Permit Applications
9) Grading plans
10) Feasibility Study on opening the four sluiceways in the breakwater

Appendix C
Biological Letter Report and Recommendations for Construction Regarding Pinniped Surveys at Children's Pool, La Jolla, California by Hanan and Associates, May 1, 2004

Biological Letter Report and Recommendations for Construction

Regarding Pinniped Surveys at
Children's Pool, La Jolla, California

In Partial Fulfillment of
Fixed Fee Agreement C-12438 for
Children's Pool Lifeguard Tower

Submitted to

City of San Diego
Public Buildings and Parks Division
Engineering & Capital Projects Department
Architectural Engineering & Contracts Division
Mr. Jihad Sleiman, Associate Engineer

May 1, 2004

Hanan & Associates, Inc.
Post Office Box 8914
Rancho Santa Fe, California 92067

Table of Contents

1.0 INTRODUCTION 3
2.0 GENERAL HARBOR SEAL INFORMATION 3
3.0 SURVEY METHODS 4
4.0 RESULTS 4
4.1 Counts 4
Table 1 Combined Counts at Children's Pool 5
Table 2 Hanan Counts at Children's Pool (12/2/03-4/19/04) 5
Table 3 Lyle Counts at Children's Pool (2/10/04-4/8/04) 6
Table 4 LJFOS Counts at Children's Pool (10/06/03-3/30/04) 6
Table 5 Counts at Pt. LJ Reef (12/2/03-4/19/04) 6
Table 6 Counts at Seal Rock (12/2/03-4/19/04) 7
4.2 Pinniped Observations 7
5.0 POTENTIAL FOR DISTURBANCE 7
Table 7 Hanan Counts of People at Children's Pool 8
6.0 COMPARISON TO YOCHEM AND STEWART (1998) 8
Figure 1 Yochem and Stewart Counts at Children's Pool by month. 9
7.0 RECOMMENDATIONS FOR CONSTRUCTION 10
Figure 2 Combined Counts at Children's Pool by month. 11
Table 8 Seals present 0800-1700 hours at Children's Pool 11
Figure 3 Harbor Seal Counts at Children's Pool by Time of Day. 12
8.0 ACKNOWLEDGEMENTS 12
9.0 REFERENCES 12
ATTACHMENT A. PINNIPED SURVEY FORM 14
ATTACHMENT B. YOCHEM AND STEWART, 1998. 15

1.0 INTRODUCTION

Children's Pool was created in 1931 by building a seawall to provide a safe and calm swimming area on its leeward side. It is located at Point La Jolla, California and is similar to other jetties and seawalls along the southern California coastline that provide protection from waves and surf for marinas and other man-made facilities. As with other break waters and sea walls, a beach has filled in on the leeward side of the wall and is suitable for basking in the sun in addition to swimming in relatively calm ocean water behind the wall.

Typically, Pacific harbor seals use secluded hauling sites where they experience little harassment and have direct access to open water. With the expanding pinniped populations off the US west coast, there has been increased use of new hauling sites by harbor seals (Hanan 1996). In the last 20 years, there has been sporadic use of Children's Pool and beach by sea lions, elephant seals, and harbor seals; however harbor seals started using the beach at Children's Pool much more frequently about 1990 and by 1995 were using the site daily as a hauling site and rookery (Yochem and Stewart 1998). There has been much public discussion, as well as, involvement by the City of San Diego, California Department of Fish and Game, and National Marine Fisheries Service (NMFS) regarding the status of the beach as a haul out site and rookery. Management of the beach lies with the city and management of the seals lies with NMFS (Marine Mammal Protection Act of 1972).

A lifeguard tower built on the bluff above the beach is now in need of repair. Because of its proximity to the harbor seals hauling out at Children's Pool and potential for disturbance, it is likely that NMFS will require application for an Incidental Harassment Permit for the construction. The City of San Diego commissioned this study with Dr. Doyle Hanan, Hanan & Associates, Inc. to provide 1) background on harbor seal use of the area, 2) comparison to the 1998Yochem and Stewart study of the City of San Diego's Seal Rock Marine Reserve, 3) recommendations to reduce construction impacts on the seals, and 4) assistance in the preparation of the MMPA permit application.

2.0 GENERAL HARBOR SEAL INFORMATION

Pacific harbor seals, *Phoca vitulina richardsi*, inhabit the Pacific Ocean from Baja, Mexico to Alaska (Carretta et al. 2001). They are one of the most commonly seen marine mammals along the west coast of North America. They are not territorial and tend to frequent the same beaches repeatedly with occasional long range movements up to 500 miles documented (Herder 1986). They tend to haul out daily with peak numbers ashore near mid-afternoon. In California, there are at least 1,000 hauling sites and the number of seals hauled out at individual hauling sites range from 1 - 1,000 with an average of about 50 seals per site. They haul out (crawl onto land or low structures at the water's edge) to rest, molt, give birth, and nurse. Preferred haul out times are influenced by tide cycles, day length, weather, and disturbance.

They are medium-sized pinnipeds, up to 250 pounds and to a length of about six feet. Harbor seals vary in color from nearly all white to nearly all black with light or dark spots and rings; they "molt" or shed this coat annually during early summer. About 40% of the harbor seals in San Francisco Bay have red coats or heads due to oxides deposited in the hair (Allen et al., 1993). They have acute vision and hearing in water and on land. Adults occasionally make guttural sounds, but are usually very quiet and are extremely wary of any unusual sights or sounds which can cause them to charge into the water for safety. Female harbor seals mature at 3-4 years and males at 4-6 years. A single pup is born to each female annually with weaning at about four weeks and mating shortly afterward. They can stay underwater up to 30 minutes diving to depths of 1,000 feet as important near-shore predators feeding on fish, octopus, and squid in the early morning hours before dawn.

3.0 SURVEY METHODS

For this study, an observation plan was developed to monitor pinniped use of Children's Pool, as well as two nearby sites: Point La Jolla reef and seal rock. Forty, one-hour periods were selected for observation from all hours of the day and night using a computer generated simple random sample of the 24 hour time periods for the months of December 2003 through mid-April 2004. During the observation hour, total counts and counts by age class of seals (adult, immature, pup) were made every 15 minutes at each of the three sites (Appendix I). Personal observations of seal behavior and human disturbance were recorded. All field data and notes were transferred to data sheets and to computer spreadsheet following each observation period. All observations were made using Zeiss 10 x 40 binoculars. At night there was enough light from the life guard tower and nearby hotels to allow counts at all hours.

In addition to these counts and observations, a student from UCSD, Mr. Brian Lyle, made eight one-hour observations during February, March, and April 2004 using Bushnell 7 x 50 binoculars and following the same procedures outlined above. His counts were separated into two categories: adult and juvenile (including pups).

The La Jolla Friends of the Seals docent program (LJFOS) provided counts and observations for the time period October 2003 through March 2004. During that time period, a total of 120 counts were made and of that total, 66 were 7:30 AM daily counts at Children's Pool, while the rest of the counts were made at other opportune times of the day and night. These counts were separated into two categories: total seals and pups.

4.0 RESULTS

4.1 Counts

During the forty, one-hour observations, 476 counts and observations were made by Dr. Hanan at the three observation sites. In addition, 206 counts were made during 8 hours of observation by Mr. Lyle and 120 counts were made by LJFOS. Combined counts are shown in Table 1 for the time period 10/6/03-4/19/04.

Table 1 Combined Counts at Children's Pool

	Total	Adult	Immature	Pup
Mean	72	63	11	6
SE	2.04	1.87	0.46	0.33
Median	67	58	11	6
Mode	65	34	12	2
SD	38.29	35.08	6.56	3.80
Minimum	0	0	0	1
Maximum	165	160	34	16
Count	353	353	206	135

At Children's Pool, Dr. Hanan counted on average (Table 2) a total of 78 seals (65 adults, 12 immature and 6 pups). Seals on the beach, the rock structures near the sea wall base of the leeward side, and on a rock closer to the center of the beach were all included as one count for the pool area. Depending on group size, seals hauled out anywhere along the water's edge from the sea wall to the bluff's edge near shore and up on the beach towards the lifeguard tower. A rope has been provided as the suggested extent of human use of the beach. It runs roughly parallel to the beach in Children's Pool and splits the beach approximately in half. Occasionally seals were seen on the upper side of the rope as occasionally people or their footprints were seen on the beach side of the rope.

Table 2 Hanan Counts at Children's Pool (12/2/03-4/19/04)

	Total	Adult	Immature	Pup
Mean	78	64	12	6
SE	2.78	2.43	0.56	0.38
Median	81	64	12	6
Mode	98	47	12	2
SD	35.53	30.98	6.59	3.72
Minimum	0	0	1	1
Maximum	164	135	34	14
Count	163	163	137	95

Mr. Lyle counted on average (Table 3) a total of 72 seals (64 adult and 8 juveniles). His counts were made during the day as well as during the night. He attempted night vision binoculars, but there was generally too much light for them to function properly.

Table 3 Lyle Counts at Children's Pool (2/10/04-4/8/04)

	Total	Adult	Immature
Mean	72	64	8
SE	5.81	5.52	0.69
Median	58	48	8
Mode	40	34	3
SD	48.27	45.84	5.72
Minimum	1	1	0
Maximum	165	153	21
Count	69	69	69

LJFOS counted on average (Table 4) a total of 64 seals (61 adults and 3 pups). Counts were concentrated at 7:30 AM and in the late evening around 9:00 – 10:00 PM.

Table 4 LJFOS Counts at Children's Pool (10/06/03-3/30/04)

	Total	Adult	Pup
Mean	64	61	7
SE	3.09	3.04	0.61
Median	55	55	7
Mode	55	55	7
SD	34.02	33.42	3.86
Minimum	12	12	1
Maximum	160	160	16
Count	121	121	40

The two adjacent sites were also monitored by Dr. Hanan and Mr. Lyle during the time periods when he was observing at Children's Pool. The first, Point La Jolla reef (Table 5), was used only during low tides when the reef was accessible. Therefore its use was very dependent on the tide cycles with seals moving to the reef as tides fell and off the reef as tides rose. Some of the seals appeared to move back to Children's Pool after they left the reef. Occasionally 1 -3 seals hauled out on the higher portions of the reef near the sea wall during higher tides.

Table 5 Counts at Pt. LJ Reef (12/2/03-4/19/04)

	Total	Adult	Immature
Mean	2	2	1
SE	0.42	0.40	0.20
Median	0	0	1
Mode	0	0	1
SD	6.36	5.68	1.32
Minimum	0	0	0
Maximum	45	25	6
Count	226	197	45

Seal rock was frequented by harbor seals (Table 6) at all hours and tides except very high tides that washed over the rock. At very low tides, seals were sometimes alerted by people wading nearby.

Table 6 Counts at Seal Rock (12/2/03-4/19/04)

	Total	Adult	Immature
Mean	6	5	1
SE	0.70	0.72	0.33
Median	0	0	0
Mode	0	0	0
SD	10.33	10.15	2.08
Minimum	0	0	0
Maximum	54	48	9
Count	220	197	39

4.2 Pinniped Observations

One immature elephant seal and two immature California sea lions were observed at Children's Pool during this study. These pinnipeds are not rare at Children's Pool just infrequent visitors.

Two or three red headed harbor seals were observed by Dr. Hanan and some of the docents in early March at Children's Pool. It is likely that these seals had been in or were from San Francisco Bay where there are large numbers of seals with red coats and heads because of an oxidation process from some chemicals in the Bay. These observations suggest some exchange of seals from that far away. Hanan (1996) showed that seals tagged near Point Conception, California frequent the Northern Channel Islands as well as being observed in San Francisco Bay. He also showed that seals tagged at San Miguel Island frequent the mainland, suggesting a free exchange across the Santa Barbara Channel. This is the first report of harbor seals assumed to be from San Francisco being observed near San Diego.

The first pup of the 2004 pupping season was observed born at Children's Pool on January 29 and the last was born April 3, 2004. There were an estimated 20 pups born this season with a least 3 known mortalities.

5.0 POTENTIAL FOR DISTURBANCE

Harbor seal behavior at Children's Pool is very interesting considering the constant presence of people (Table 7) on the sea wall, the upper beach, and the walkways near the street and above the beach at the lifeguard tower. People are present at all hours day and night. Dr. Hanan observed people doing things that would cause harbor seals at most hauling sites to flush into the water. For example: people were observed laughing, shouting, screaming, clapping, stomping, banging on the railings and signs, taking flash pictures, dropping objects from the sea wall, climbing down the sea wall to the rock ledge next to the seals, wading, snorkeling and swimming nearby, entering the water to

SCUBA dive, and from the street above honking horns, slamming car doors, setting of car alarms, and many of the other noises associated with a street. Airplanes and helicopters flew over and boats went by. Whales swam nearby and spouted. Harbor seal reaction to all these actions varied with occasional minor flushing (6-12 seals). Loud startling noises (i.e., banging on signs) sometimes caused a few seals to flush into the water but they returned to the beach shortly. Generally the main stimulus to flush large numbers of these seals was people on the beach near the seals or at the water's edge but total numbers of seals following the disturbance did not seem affected long term.

Table 7 Hanan Counts of People at Children's Pool

	Total
Mean	43
SE	4.57
Median	30
Mode	30
SD	35.69
Minimum	2
Maximum	120
Count	61

At other hauling sites, human disturbance has had important effects on haul out numbers (Pauli and Terhune 1987) and even documented abandonment at two sites: San Francisco-Oakland Bay Bridge and at Strawberry Spit (Bartholomew 1949, Risebrough et al. 1979, Allen 1991). In California, small boats approaching a haul-out site can flush harbor seals, while minor disturbances might result in alert reactions but no flushing (Stewart et al. 1988; Allen 1991). Harbor seals can become habituated to the noise in places with many boats (Johnson et al. 1989). The seals at Children's Cove seem much habituated to many disturbances including loud noises and human presence. Because of this habituation, they may be more likely to habituate to new disturbances and noises.

6.0 COMPARISON TO YOCHEM AND STEWART (1998)

Drs. Yochem and Stewart studied the behavior and demography of pinnipeds in the vicinity of Point La Jolla but focused on the Seal Rock Marine Mammal Reserve during November 1995 through September 1997 (Attachment B). They had day-long observations once or twice per month during the two years of study, as well as, time-lapse photography at both seal rock and Children's Pool beach. They also radio tagged 10 harbor seals and radio scanned for these tagged seals several times per week. They also noted too few elephant seals and sea lions to evaluate any sort of hauling/behavioral aspects. Our observations were comparable.

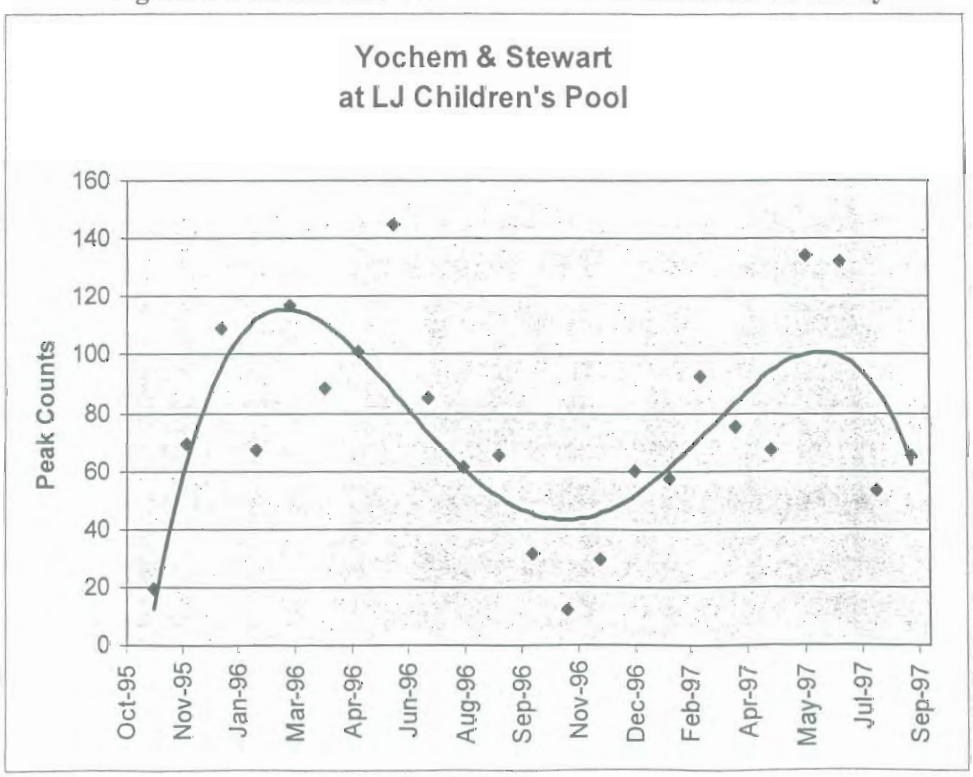
Yochem and Stewart (1998) results are summarized for Children's Pool beach in Figure 1 from data presented in their report. For trend analysis, we note that they documented two periods when there were peak number of seals hauled out at Children's Pool and concurrently for the whole area: in the spring of 1996 and in the summer of 1997 (Figure 1). The trend by season for fewest total seals hauled out was documented during each fall

of 1995, 1996, and 1997. We document a similar low point for total seals hauled out at Children's Pool during the late fall-early winter of 2003-2004. Since we did not monitor for a completel year, we do not have data for the expected summer peak number of seals hauling out.

The range of daily harbor seal counts in our study is similar to the range of peak daily counts presented by Yochem and Stewart with a maximum of 172 compared to our maximum of 165 seals; although, their highest counts are for summer months which we did not monitor. This is an indication that the number of seals using Children's Pool beach has increased. Our counts for seal rock are also lower on average than those reported by Yochem and Stewart. This combined with increases at Children's Pool may indicate either a shift in preference by the seals or more likely it may indicate a reduction in harassment of seals at Children's Pool.

Yochem and Stewart (1998) did not observe any harbor seals births while Dr. Hanan saw two seals born at Children's Pool and evidence (blood spots or placenta on the sand) of several more births. The docents reported births or evidence of about 20 births. The largest number of pups reported by Yochem and Stewart was 10 in 1996 and 8 in 1997. The largest number of pups observed by Dr. Hanan was 14 and by LJFOS was 16 pups. Yochem and Stewart observed the presence of pups at Children's Pool April to June in 1996 and March to June 1997. We observed the first pup on January 29th and were still seeing pups as of this writing (May 10th).

Figure 1 Yochem and Stewart Counts at Children's Pool by month.



7.0 RECOMMENDATIONS FOR CONSTRUCTION

As mentioned above, the seals that use hauling sites in the vicinity of LJ Children's Pool are quite habituated to human presence. They also appear to be habituated to most of the common noises associated with being near people and cars including loud voices, laughter, yelling, horns, screeching tires, slamming doors, lights, etc. They seem to have a large number of potential disturbances that they are either habituated to or that are similar enough to other potential disturbances that they don't alert and don't flush.

It seems to be the novel or unexpected human activities or noises that cause them to flush into the water. Since these more severe disturbances that cause them to flush are not continuously repeated and the seals have come back and continue to use the site, we don't know whether there is potential to cause the seals to abandon these hauling sites. However, based on documented cases in San Francisco Bay, there is potential for construction and human disturbance to cause abandonment of a hauling site.

With the modification construction at the LJ Children's Pool life guard tower, there are three issues of concern for the harbor seals that utilize the site: 1) hauling site abandonment 2) short term or permanent hearing loss and 3) disruption of pupping behavior or reduction of pupping success.

To reduce overall impact on the seals, I recommend that all major and especially loud construction activities be scheduled during months when the fewest seals are present. Preferably this would be in the late summer, fall, and early winter (Figures 1 and 2). Time of day should also be considered since fewer seals are present at Children's Pool in early morning hours up to about 3:30 or 4:30 (Figure 3, Table 8). During pupping season, February through April, there should be no loud construction (painting, inside finish work, tiling, or other less noisy activities would be acceptable especially if indoors). Construction activities that can be done offsite, across the street or behind sound barriers should be considered. Decibel levels near the seals should be monitored and construction stopped if noise approaches unacceptable sound thresholds for pinnipeds (generally above 90 dB is considered the level for temporary threshold shift in hearing). Seals should be monitored and if more than a recommended number of seals (perhaps 50 to 70 %) are flushed by the construction or combined noise of construction activities, construction should be halted until a certain number or percentage return.

Figure 2 Combined Counts at Children's Pool by month.

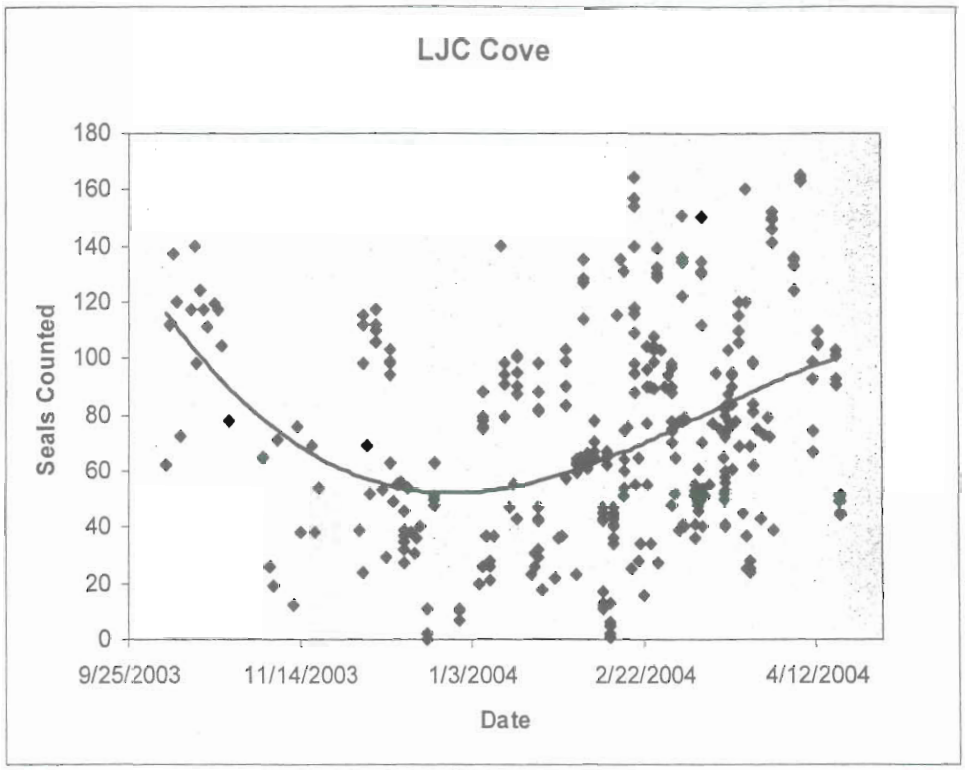
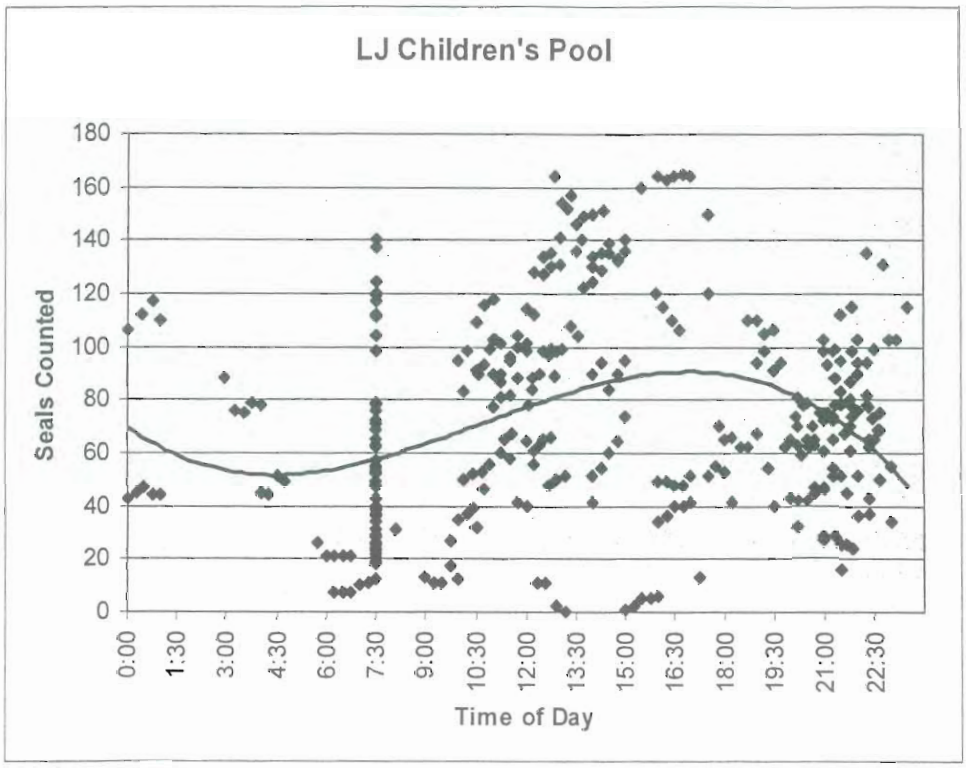


Table 8 Seals present 0800-1700 hours at Children's Pool

	Total	Adult	Immature	Pup
Mean	82	68	11	5
SE	3.67	3.36	0.55	0.55
Median	88	74	11	4
Mode	90	48	13	2
SD	44.47	36.45	6.22	4.05
Minimum	0	0	0	1
Maximum	164	135	34	14
Count	147	118	129	54

Figure 3 Harbor Seal Counts at Children's Pool by Time of Day.



8.0 ACKNOWLEDGEMENTS

We thank Dr. Pam Yochem of Hubbs-SeaWorld Research Institute for help in preparing this project and for her ground breaking work at Children's Pool. Brian Lyle, UCSD, is thanked for contributing his personal time to this project and making the counts at all hours. Jihad Sleiman, City Engineer and his assistant engineer, Alexandra Corsi-Morgan, are thanked for the opportunity to do this work and for the discussions in preparation. La Jolla Friends of the Seals including James Hudnall and Chris Abbot are thanked for sharing their observational and counting data.

9.0 REFERENCES

Allen, S.G. 1991. Harbor seal habitat restoration at Strawberry Spit, San Francisco Bay. Point Reyes Bird Observatory Report PB91-212332/GAR. 47pp.

Allen, S.G., M. Stephenson, R.W. Risebrough, L. Fancher, A. Schiller, and D. Smith. 1993. Red-pelaged harbor seals of the San Francisco Bay region. J. Mammalogy 74(3): 588-593.

Bartholomew, G.A. Jr. 1949. A census of harbor seals in San Francisco Bay. J. Mammal. 30(1): 34-35.

Carretta, J. V., J. Barlow, K. A. Forney, M. M. Muto and J. Baker (2001). U.S. Pacific Marine Mammal Stock Assessments: 2001. NOAA Technical Memorandum, NMFS-SWFSC-317, U.S. Department Commerce.: 280 pages.

Hanan, D. A., 1996. Dynamics of abundance and distribution in the Pacific harbor seal, *Phoca vitulina richardsi,* on the coast of California. Doctor of Philosophy dissertation. University of California, Los Angeles. 173 pages.

Herder, M. J., 1986. Seasonal movements and hauling site fidelity of harbor seals, *Phoca vitulina richardsi*, tagged the Russian River, California. M.S. Thesis. California State University, Humbolt, California. 52 pages.

Johnson, S.R., Burns, J.J., Malme, C.I., and R.A. Davis. 1989. Synthesis of Information on the Effects of Noise and Disturbance on Major Haulout Concentrations of Bering Sea Pinnipeds. Report from LGL Alaska Research Associates, Inc. for U.S. Minerals Management. 267 pgs.

N.M.F.S. 1997. Investigation of scientific information on the Impacts of California sea lions and Pacific harbor seals on salmonids and on the coastal ecosystem of Washington, Oregon, and California. *US DOC NOAA Technical Memorandum, NMFS-NWFSC-28*172.

Pauli, B.D. and J.M. Terhune.1987. Tidal and temporal interaction on harbour seal haulout patterns. Aquatic Mammals 13 (3): 93-95.

Risebrough, R.W.; Alcorn, D.; Allen, S.G.; Anderlini, V.C.; Booren, L.; DeLong, R.L.; Fancher, L.E.; Jone, R.E.; McGinnis, S.M.; and Schmidt, T.T. (1979) Population biology of harbor seals in San Francisco Bay, California. Unpub. report to the Marine Mammal Commission, Washington, D.C., Contract MM6AC006. 62pp.

Yochem and Stewart, 1998. Behavioral ecology and demography of seals and sea lions at Seal Rock Marine Mammal Reserve. HSWRI Technical Report No. 98-282. Submitted to Seal Rock Marine Mammal Reserve Ad Hoc Committee c/o Robin Stribley, City of San Diego Park and Recreation Department.

ATTACHMENT A. PINNIPED SURVEY FORM

Hanan & Associates, Inc.
La Jolla Children's Cove Pinniped Survey Form

Observer_____ Date ___/___/___

Weather_____ Tide _____

Location

TIME	Harbor Seal Total	Harbor Seal Adults	Harbor Seal Immature	Harbor Seal Pups	Other Pinnipeds	Comments

Location

TIME	Harbor Seal Total	Harbor Seal Adults	Harbor Seal Immature	Harbor Seal Pups	Other Pinnipeds	Comments

Location

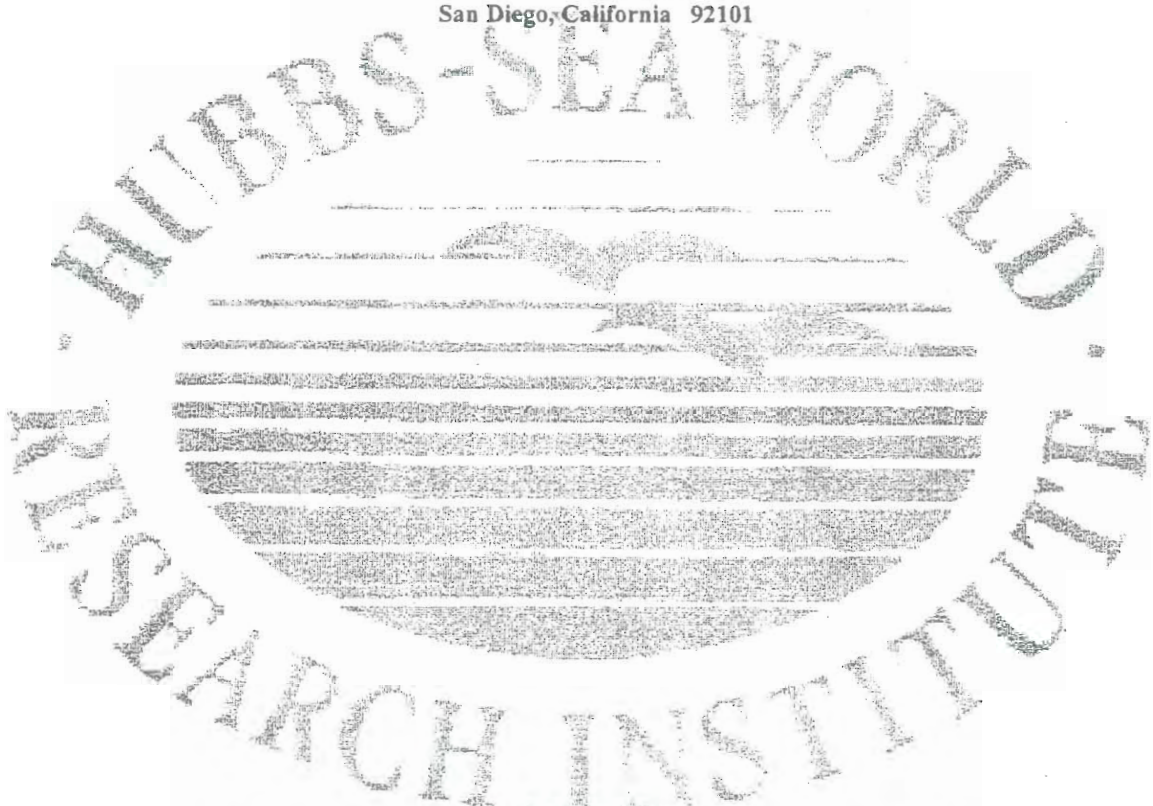
TIME	Harbor Seal Total	Harbor Seal Adults	Harbor Seal Immature	Harbor Seal Pups	Other Pinnipeds	Comments

ATTACHMENT B. YOCHEM AND STEWART, 1998.

Behavioral ecology and demography of seals and sea lions at Seal Rock Marine Mammal Reserve. HSWRI Technical Report No. 98-282. Submitted to Seal Rock Marine Mammal Reserve Ad Hoc Committee c/o Robin Stribley, City of San Diego Park and Recreation Department.

BEHAVIORAL ECOLOGY AND DEMOGRAPHY OF SEALS AND SEA LIONS AT THE SEAL ROCK MARINE MAMMAL RESERVE

Final report submitted to:
Seal Rock Marine Mammal Reserve Ad Hoc Committee
c/o Robin Stribley
City of San Diego Park and Recreation Department
202 C Street, MS#35
San Diego, California 92101



Submitted by:
Pamela K. Yochem, M.S., D.V.M., and Brent S. Stewart, Ph.D., J.D.
Hubbs-Sea World Research Institute
2595 Ingraham Street
San Diego, California 92109

2 January 1998

Hubbs-Sea World Technical Report No. 98-282

INTRODUCTION

A five-year temporary marine mammal reserve was established at Seal Rock in La Jolla by the City of San Diego in 1994. At the end of five years, the City will decide whether or not to make the Seal Rock Marine Mammal Reserve (SRMMR; Figure 1) permanent, depending in part on the results of a study on the importance of the Reserve to pinnipeds (seals and sea lions). This report summarizes the results of our two-year study (October 1995- September 1997) on the behavioral ecology and demography of pinnipeds in and around the Seal Rock Marine Mammal Reserve; preliminary results were submitted in a progress report last year (Yochem and Stewart 1996).

Specifically, this report addresses the following topics:

- Characterization of pinniped use of SRMMR (e.g., haul-out vs. rookery);
- Demography of pinnipeds at SRMMR (e.g., site fidelity, seasonal abundance);
- Diurnal and seasonal variation in haul-out patterns of pinnipeds at SRMMR;
- Impact of human activities on pinnipeds at SRMMR (e.g., effectiveness of docents).

METHODS

Ground counts

Day-long observations (daylight hours) were made at the SRMMR once or twice each month from November 1995 - September 1997. Although the primary focus of the observations was the Reserve itself, counts of seals present at nearby La Jolla haul-out sites (e.g., Children's Pool Beach) were also recorded throughout the day. The following information was noted on a data form (Figure 2): species, number, and age class of pinnipeds present; presence of tagged or marked seals; animal condition (e.g., degree of molt, presence of wounds or entangling objects like fishing gear), presence or absence of docents; type and magnitude of disturbance; time of low and high tides; general weather condition. Additional observations were made two or three times per week to check for tagged seals and to provide ground-truthing for data collected by the time-lapse cameras and automated telemetry station.

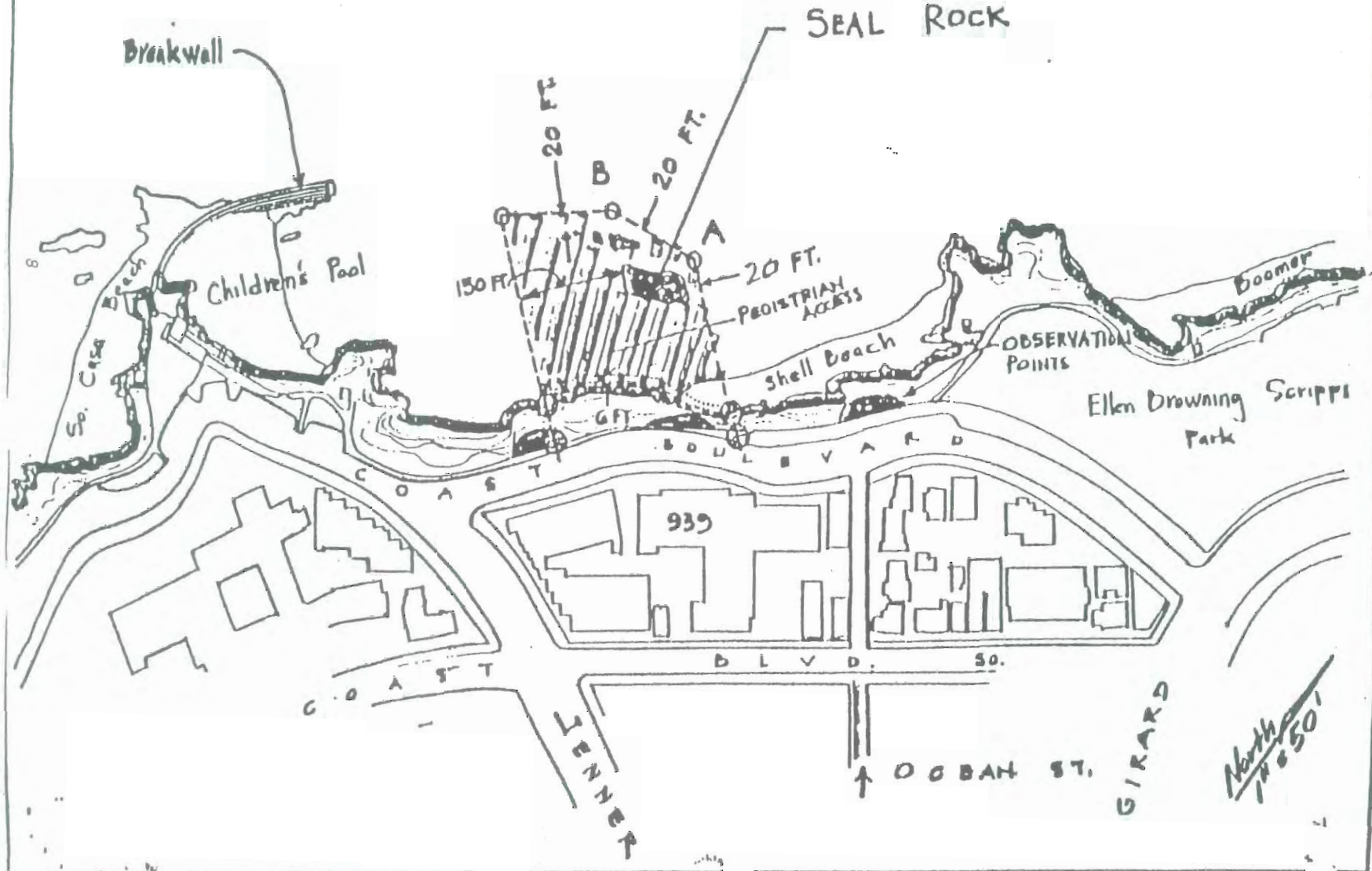
Time-lapse cameras

Ms. Julia Fleet, a resident of Building 939 (Coast Boulevard, La Jolla, California) generously allowed us to install two battery-powered time-lapse cameras on her balcony overlooking

Table 1. Monthly peak counts (based on ground counts) of pinnipeds in the vicinity of the Seal Rock Marine Mammal Reserve (LJT = La Jolla area total, SRMMR = Seal Rock Marine Mammal Reserve, CPB = Children's Pool Beach, OLJ = other La Jolla [e.g., rocky ledge connected to jetty]; CSL = California sea lion, NES = northern elephant seal). Months in which nursing pups were observed are marked with an asterisk (*).

Month and year	LJT	SRMMR	CPB	OLJ	Other pinnipeds observed
Nov 1995	44	25	11	8	1 CSL
Dec 1995	76	7	50	19	1 CSL
Jan 1996	113	4	107	2	1 CSL
Feb 1996	90	23	66	1	2 CSL, 1 NES
Mar 1996	134	17	106	11	1 CSL, 1 NES
Apr 1996*	150	62	85	3	1 CSL, 1 NES
May 1996*	158	57	84	17	1 CSL
June 1996*	166	21	142	3	1 CSL
July 1996	128	43	79	6	1 CSL
Aug 1996	93	32	52	9	1 CSL
Sept 1996	101	36	61	4	1 CSL
Oct 1996	81	50	20	11	1 CSL
Nov 1996	52	40	11	1	1 CSL, 1 NES
Dec 1996	65	36	23	6	1 CSL. 1 NES
Jan 1997	92	32	50	10	1 CSL, 1 NES
Feb 1997	77	20	55	2	1 CSL, 1 NES
Mar 1997*	115	23	89	3	1 CSL, 1 NES
Apr 1997*	94	19	70	5	1 CSL
May 1997*	132	65	60	7	1 CSL
June 1997*	167	33	120	14	1 CSL
July 1997	172	40	110	22	1 CSL
Aug 1997	80	27	44	9	1 CSL
Sept 1997	123	58	65	0	1 CSL, 1 NES

SEAL ROCK MARINE MAMMAL RESERVE



Design Associates
ARCHITECTURE

SEAL ROCK
MARINE MAMMAL RESERVE
LA JOLLA, CALIFORNIA

Date 9-10-92

Hubbs-Sea World Research Institute
Seal Rock Pinniped Survey Form

bserver:_____ Date/Day of Week_____
ocation (rocks or beach): _____ Page _____ of _____
ecord Weather and Tides on Reverse

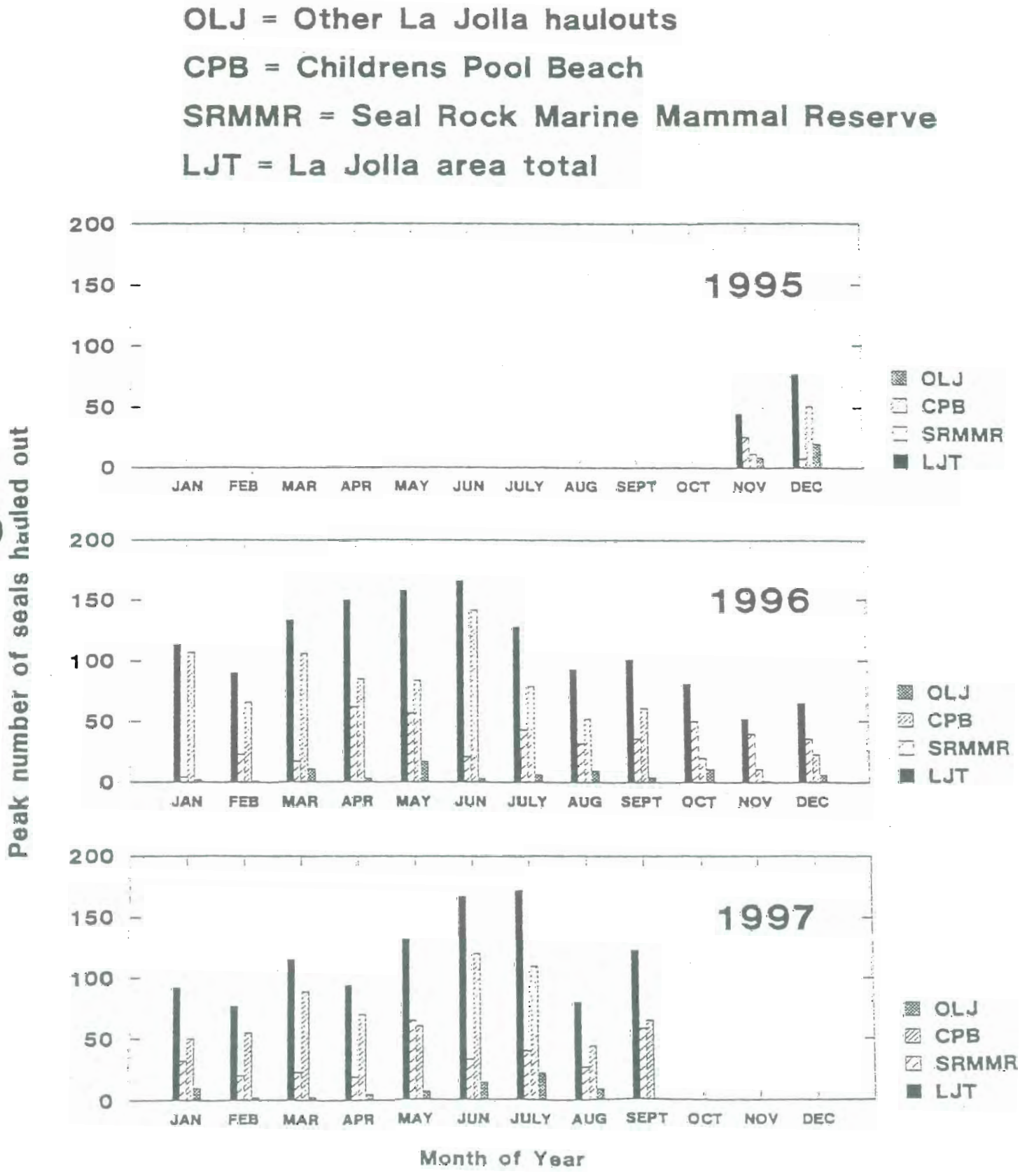
TIME			Harbor Seals Total	Harbor Seals Adults	Harbor Seals Imm.	Harbor Seals Pups	Entangled or Scarred Animals Total	Comments (e.g., Tag Numbers, Presence of Other Pinniped Species or Docents)
:00								
:30								
:00								
:30								
:00								
:30								
:00								
:30								
:00								
:30								
:00								
:30								
:00								
:30								
:00								
:30								

cify age classes only if you are certain, otherwise just report total number. Don't count seals in the water.

narks:

Figure 2. Data form used during twice-monthly observations at Seal Rock Marine Mammal Reserve.

Figure 4. Seasonal abundance of harbor seals at the Seal Rock Marine Mammal Reserve and nearby haul-out sites (based on monthly peak ground counts).



Appendix D
Potential Sources of Escherichia coli (E. coli) to Children's Pool in La Jolla, CA by George M. Simmons, Jr. Virginia Polytechnic Institute, revised October 18, 1998.

DNA Tes.
Done by County of San Diego using a private Lab.

FINAL REPORT

Potential Sources of Escherichia coli (E.coli) to Children's Pool in LaJolla, California

for

City of San Diego
Metropolitan Wastewater Department
and
County of San Diego
Department of Environmental Health

by
George M. Simmons, Jr.
Alumni Distinguished Professor
and
Sue Herbein
Research Associate

Biology Department
Virginia Polytechnic Institute and State University
Blacksburg, VA 24061

June 10, 1998
(revised October 18, 1998)

TABLE OF CONTENTS

TOPIC	Page
EXECUTIVE SUMMARY	1
INTRODUCTION	3
OBJECTIVES	3
STUDY SITES	3
METHODS	4
Isolation of E. coli from Water and Seal Scat	4
Tracking Nonpoint Fecal Coliform Sources	4
Genetic Fingerprinting	4
RESULTS	6
Question 1	6
Question 2	6
DISCUSSION	10
Resolution of Nonpoint Sources by Field Tracking Techniques	10
Resolution of Nonpoint Sources using Molecular Biology Tools - Background	10
The Issue of Variability	10
Statistical Variability	12
Taxonomic, Ecological, and Statistical Significance	12
Identifying the Probable Origin of *E. coli* from Nonpoint Sources	13
SUMMARY	15
REFERENCES CITED	16
ACKNOWLEDGEMENTS	18

TABLES

Table 1. Samples Received from the San Diego Health Dept.	5
Table 2. Summary of Water Isolate Identifications	7
Table 3 . Laboratory Variability of DNA Kilobase Pairs in *S. cerevisiae*	11
Table 4. Laboratory Variability of DNA Kilobase Pairs in *E. coli* JM107	11
Table 5. $\chi 2$ Goodness-of-Fit Analyses for E. coli Strains in Virginia Tech Library.	14

FIGURES

Figure 1. Histogram of DNA Kilobase Pair Distribution of *E. coli* from Known Sources
Figure 2. Histogram of DNA Kilobase Pair Distribution of *E. coli* from Known Sources

APPENDIX 1: Discussion of Strain Identifications
APPENDIX 2: Cross Reference Table for San Diego Isolates and Virginia Tech PFGE Patterns

Resolution of Nonpoint Fecal Coliform Contamination in Children's Pool, La Jolla, California

George M. Simmons, Jr.
Alumni Distinguished Professor
Biology Department
Virginia Tech, Blacksburg, VA 24061

EXECUTIVE SUMMARY

During the fall of 1997, collaborative efforts between the County of San Diego, Department of Environmental Health, and my laboratory initiated studies to investigate potential sources of fecal coliform contamination to Children's Pool in La Jolla, California. Based on observations by individuals from the Department of Environmental Health, the source of contamination was believed to be from seals which frequented the beach after feeding offshore. Staff with the Department of Environmental Health collected water samples at their offshore monitoring sites, as well as seal scat. Ten colonies of the fecal coliform bacterium, *Escherichia coli* (*E. coli*) were isolated from 10 water samples and 18 seal scat samples. These isolates were sent to my laboratory in December, 1997 for further analyses.

The DNA from each isolate was cut with a *Not* I restriction enzyme, and the resulting chromosome segments were separated by pulsed field gel electrophoresis (PFGE) to create restriction endonuclease digestion profiles, or DNA fingerprints, for each isolate. The fingerprint of each isolate could then be used for comparative purposes. There were two levels of investigation in this project. One level was to compare the *E. coli* strains from the water with the *E. coli* strains from the seal scat. On a second level, I wanted to compare the *E. coli* strains from the water in Children's Pool with *E. coli* strains in our library from known animals, including humans, from the southern Chesapeake Bay area. At this stage of the research, I do not know how useful, or valid, the DNA fingerprints are in my library in trying to identify *E. coli* strains from the west coast.

We used the entire bacterial chromosome in our analyses. The chromosome was cut into approximately 12-18 segments by the restriction enzyme. Each segment consisted of a number of nucleotide base pairs, or each segment had a certain molecular weight. When the electrical field was applied to the gel, the larger, or heavier, segments of DNA remained near the original end of the lane where the migration began, while the lighter segments moved through the gel to the distant end of the lane. The actual weight of each band was calculated from standards which were also run with the samples. One standard consisted of a pre-cut chromosome from the yeast, *Sacchaaromyces cerevisiae* , whose bands were of known kilobase pair composition, while the second standard consisted of a chromosome from a known *E. coli* strain (JM107) which was cut and processed along with the DNA material from all the other isolates. It is known from replicate runs of these standards, as well as replicate runs with the same sample, that the numerical value for a particular band may vary +/- 10 kilobase pairs. That means that at one end of the extreme two bands might vary by a difference of 20 kilobase pairs, and at the other extreme vary as little as 5 kilobase pairs, or have exactly the same numerical value. To err on the conservative side, a range of +/- 5 kilobase pairs was used for comparison. Therefore, if two bands were within 10 kilobase pairs of each other, they were considered to be the same band.

If all DNA bands in the profile matched each other, then it would be concluded that there was a 100% similarity of banding patterns between two strains. However, in most cases there was not an exact 100% match. If there has been a mutation in one of two identical strains being compared - three bands will not now match. In clinical studies, it is generally accepted that if two strains match within three bands of each other, they are substrains of an original strain. Given a comparison where there are 15 bands in each strain, and all bands match except three, then there will be an 87% similarity (26/30). It seems reasonable to assume that if a mutation could occur in one strain over a given time period, it is equally likely to have a mutation in the second strain. Therefore, within the same time period with a mutation in each strain, there is the potential for six bands not to match.

situation, environmental scientists familiar with the problem would have to make a judgment based on the ecology of the situation about the more likely candidate for the source.

Of the 100 water isolates that we received, 17 isolates could not be printed because the restriction enzyme produced only two bands. That left 83 isolates which did produce an acceptable banding profile. Of those 83 isolates from water, 72 isolates could be matched with a seal isolate at an 80% similarity or better. In three cases the envelope of acceptability was extended to a 75% match because a seal isolate was the only thing which showed any similarity. These three water isolates were considered to be "possibly" of seal origin. If these matches are included, then 75 of the 83 isolates, or 90%, could be matched with a strain from seal scat. Of the eight water isolates which did not have a similarity to a seal strain, seven could not be matched with anything in our library. The one remaining isolate showed an 80% similarity with a raccoon strain and only that strain, and that was the only match with any similarity.

As discussed earlier, the second objective was to evaluate how well isolates from the water would match with other *E. coli* strains from known animals in the Chesapeake Bay region. There were some very good matches with some of the animal strains in our library. For example, in addition to matching with a seal strain at an 84% similarity, one water strain matched a beaver strain at a 90% similarity and a merganser strain at an 82% similarity. Ecologically speaking, a seal source would be suspected first and a waterfowl source second unless beaver were known to exist in the area. In another example, one water strain matched an *E. coli* strain from a mallard duck with a 93% similarity and a seal strain at an 88% similarity. One would have to conclude that if the nonpoint source was not seal, then there would be a high probability that the nonpoint source was from waterfowl, such as ducks. And lastly, there was one strain which shared similarities with a human strain (87%), a beaver strain (84%), a merganser strain (82%), and a seal strain (77%). This *E. coli* strain (and its relatives) is probably a "garden-variety-type" strain that may have similarities to strains from many animals and would not provide very much information about a potential source, other than there were more nonhuman strains with a potential match, then human strains. Unless potential human inputs were suspected or beaver were known to exist in the area, the data would suggest a seal or waterfowl origin.

Our library and the dichotomous key used for identifications is based on approximately 400 distinct DNA fingerprints from known animal sources. Compared to the total number of possible *E. coli* strains in nature, our library is quite small. For example, we have not added strains from domestic animals and extensive seabird isolates. Therefore, it is difficult to list other potential sources when those strains do not now exist in the library for identification purposes, i.e., other potential sources cannot be excluded. Also, because of the newness of this technology for ecological analyses, the understanding of strain fidelity with respect to specific animal groups across wide geographic areas is also limited.

However, based on the isolates that were collected and presented, the first objective of this project was quite clear. Eighty seven percent (87%) of all water strains that could be printed showed an 80% similarity or greater with a seal strain. If three additional strains with a 77% similarity are included, then 90% of potential identifiable strains showed a seal signature. The second level of this project considered additional *E. coli* strains in our library. Given the availability of strains in our library, and considering ecological factors of potential sources, we would conclude that , of the strains that could be identified, all suggested a nonhuman origin, all but one suggested a seal origin, and that strain suggested a raccoon origin. In situations where more than one source may be possible, there is a suggestion that waterfowl may be a contributor as well.

INTRODUCTION

The purpose of this research project was to identify potential sources of *E. coli* isolates from Children's Pool in La Jolla, California that had been collected in routine water quality surveys and isolated by staff with the County of San Diego. Previous field observations by County of San Diego, Department of Environmental Health staff suggested that seals were the more likely source because after feeding, many individuals would lounge on the beach and defecate at the water's edge. Our laboratory at Virginia Tech was invited to participate in the resolution of this issue by employing molecular techniques that we have been using in the southern Chesapeake Bay to identify and resolve nonpoint fecal coliform sources to tidal creeks and estuaries that threaten the aquaculture industry. Our approach at Virginia Tech has involved the development of a DNA library of genetic fingerprints (Restriction Endonuclease Digestion Profiles - REDP's) of *E. coli* from known animals in our study area, including humans. The microbiologists with the County of San Diego, Department of Environmental Health isolated *E. coli* from seal scat on Children's Pool, the DNA fingerprint of these isolates were added to our DNA library, and the entire library was then used to assess potential animal sources for the *E. coli* in the water samples off Children's Pool.

Fecal contamination from nonpoint sources has been recognized as a major threat to water quality for all types of surface water (Geldrich *et al.*, 1968; Kay, *et al.*, 1994, and others). In many cases, closure of an inlet, or recreational area, has serious economic consequences for the local area. The number of acres condemned over the past decade for shellfish harvest in Virginia alone increased approximately 55% from 1970 levels (62,272 acres condemned in 1970 vs 96,826 acres in 1994; data kindly provided by Division of Shellfish Sanitation, Richmond, VA). Identifiable sources have not been evident for a large number of these condemnations (Schima *et al.*, 1994).

The major identifiable source generally regarded to be the cause of closure for shellfish waters is improperly functioning On-Site-Waste-Disposal-Systems (OSWDS) (Reneau and Pettry 1975; Kator and Rhodes, 1993). While many studies have indicated that OSWDS can be a source of potential contamination (Hayes, *et al.*, 1990, and others), many of the inlets in our studies on the Chesapeake Bay's Eastern Shore had few or no homes associated with them. Other potential nonpoint sources have been identified as run-off from agricultural areas (Faust, 1976; Faust and Goff, 1977), from wild animals (Leonard, *et al.*, 1989), and from seagulls (Levesque, *et al.*, 1993).

OBJECTIVES

Question 1: Using DNA fingerprint technology, are the *E. coli* isolates from the water off Children's Pool related to the *E. coli* isolates from seal scat collected from the water's edge at Children's Pool?

Question 2: If *E. coli* from the water off Children's Pool are not related to seal *E. coli*, could these isolates be related to any other animal groups in the Virginia Tech DNA library, including humans?

STUDY SITES

All islolates used in this study came from the area in La Jolla, California known as Children's Beach. Additional material (*E. coli* isolates) used to identify potential animal sources came from scat samples collected in and around the southern Chesapeake Bay.

METHODS

Isolation of *E. coli* from Surface Water Samples and Seal Scat: Fecal coliforms were isolated and verified from water and seal scat by personnel with the County of San Diego. After collection, isolation, and verification, representative samples of these isolates were shipped via overnight express mail to our laboratory in Blacksburg, Virginia. Samples were collected on and off Children's Pool between October 15 - 31, 1997. Samples were received at Virginia Tech on November 20, 1997.

Ten isolates from each of 10 water samples along with 10 isolates from 20 seal scat samples for a total of 280 isolates were used in this study (Table 1).

Tracking NonPoint Fecal Coliform Sources: A very valuable method to identify nonpoint fecal coliform sources is that of microbial source tracking. This method may utilize either one of serval approaches or a combination of approaches. For example, field tracking might utilize shoreline survey techniques and discrete sampling methods over small areas (on a scale of centimeters or meters) at land/water interfaces. This type of sampling should be collected by wading or walking, and when necessary, using sterilized 60 milliliter hypodermic syringes for water collection (because the streams or rivulets will be too small and/or shallow to immerse an entire bottle). Sampling over small scale distances might employ sample collection in a sequential fashion across marshes or up creeks, following the coliform signal to a potential source. Areas that consistently show few or no coliforms should be abandoned in favor of rivulets that do show high fecal coliform densities. Once the coliform source or sources are identified, the area should be monitored for an extended time period to verify its nature and degree of consistency. The importance of collecting at the land/water interface cannot be overemphasized (Simmons *et al.*, 1995). Field tracking should also utilize observation of animal signs such as the actual presence of specific animals, or their tracks, trails, scat, lounging areas, defecation areas, or feeding activities.

Genetic Fingerprinting: *E. coli* from known animals such as: raccoon, goose, otter, muskrat, deer, beaver and humans in the vicinity of our study sites in the Chesapeake Bay have been characterized by contour-clamped homogenous electric field (CHEF) pulsed field gel electrophoresis (PFGE) (Burchreiser, et al., 1995; Edberg, et al., 1994; Goering, 1993; Maslow, 1993; and others) . Fresh fecal samples were collected and stored in sealed sterile plastic bags at 4^0C until analyses. A 0.5-1.0 g aliquot was placed in 20 ml sterile, buffered distilled water for inoculation into A-1 Broth with MUG (4-methylumbelliferyl-β-D-glucuronide). Following standard incubation time, the broth sample was diluted 10^{-6} to 10^{-8} and spread-plated to Violet Red Bile Agar. The plate containing approximately 15-50 colonies was selected, each colony subcultured to nutrient agar, preserved in glycerol, identified by API 20E as *E. coli*, and prepared for PFGE according to the protocol of GenePath Group 2 Reagent Kit, Bio-Rad Laboratories (1994). The DNA from each strain was cut with the *Not*I I restriction enzyme, the DNA fragments were separated at 6V/cm (200v), at 14°C, and ramped pulsed 5.3-49.9 seconds for 20 hrs. The 1% agarose gel was stained with ethidium bromide, de-stained in distilled water, and photographed on a long-wave UV transilluminator with a Polaroid camera (aperture setting 7.5, shutter speed 1). The *NotI* fingerprint of each *E.coli* isloate could then be compared with the other isolates, both within each animal species and between animal species.

This same approach was used for the isolates received from the County of San Diego.

TABLE 1

Samples Received from the County of San Diego November 20, 1997
(Re-typed from the original packing sheet sent with samples)

Culture #	Specimen	Date	ID	Frozen/Stock
M98-0223	Stool	10/15/97	*E. coli*	Y/Y
M98-0224	Stool	10/15/97	No *E. coli* Isolated	
M98-0225	Stool	10/15/97	*E. coli*	Y/Y
M98-0226	Stool	10/15/97	*E. coli*	Y/Y
M98-0227	Stool	10/15/97	*E. coli*	Y/Y
M98-0228	Stool	10/15/97	*E. coli*	Y/Y
M98-0229	Stool	10/15/97	*E. coli*	Y/Y
M98-0230	Stool	10/15/97	*E. coli*	Y/Y
M98-0231	Water	10/15/97	*E. coli*	Y/Y
M98-0232	Water	10/15/97	*E. coli*	Y/Y
M98-0233	Water	10/15/97	*E. coli*	Y/Y
M98-0234	Water	10/15/97	*E. coli*	Y/Y
M98-0235	Water	10/15/97	*E. coli*	Y/Y
M98-270	Stool	10/28/97	*E. coli*	Y/Y
M98-271	Stool	10/28/97	*E. coli*	Y/Y
M98-272	Stool	10/28/97	*E. coli*	Y/Y
M98-273	Stool	10/28/97	*E. coli*	Y/Y
M98-275[1]	Water	10/28/97	*E. coli*	Y/Y
M98-276	Water	10/28/97	*E. coli*	Y/Y
M98-294	Water	10/31/97	*E. coli*	Y/Y
M98-295	Water	10/31/97	*E. coli*	Y/Y
M98-296	Water	10/31/97	*E. coli*	Y/Y
M98-297	Stool	10/31/97	No *E. coli* Isolated	
M98-298	Stool	10/31/97	*E. coli*	Y/Y
M98-299	Stool	10/31/97	*E. coli*	Y/Y
M98-300	Stool	10/31/97	*E. coli*	Y/Y
M98-301	Stool	10/31/97	*E. coli*	Y/Y
M98-302	Stool	10/31/97	*E. coli*	Y/Y
M98-303	Stool	10/31/97[2]	*E. coli*	Y/Y
M98-304	Stool	10/31/97	*E. coli*	Y/Y

NOTE: 10 *E. coli* islates submitted per specimen

[1] No M98-274 sent to Va Tech Lab

[2] The date 10/30/97 was listed - assume a typographical error and the date 10/31/97 was substituted for consistency with remainder of data.

RESULTS

The results in Appendices 1 and 2 show that of the 100 isolates from water sent to our laboratory, 18 isolates could not be printed due to smearing of the DNA and/or the presence of only two bands (incomplete cutting by the restriction enzyme). Of the 82 remaining bands, there appeared to be 35 distinct banding patterns, i.e., many isolates were identical to each other, which also suggests one major nonpoint source.

Question 1: Table 2 summarizes the *E. coli* DNA fingerprints from Children's Pool. Based on the first level of comparisons, i.e., *E. coli* from the water versus *E. coli* from seal scat, one would have to conclude that most of the water isolates shared similarities with *E. coli* from seal scat on the beach.

Question 2: Table 2 also summarizes the comparison of *E. coli* isolates from water off Children's Beach with other *E. coli* strains in the Virginia Tech library. These data indicate a very low probability of a human source.

Details of band-to-band comparisons with *E. coli* from seal scat and from other animals represented in our library is presented in Appendix 1.

TABLE 2

SUMMARY OF WATER ISOLATE IDENTIFICATIONS

SAN DIEGO WATER ISOLATE		DATE	POTENTIAL SOURCE(S)
M98-0231	-1	10/15/97	Seal
	-2	10/15/97	Seal
	-3	10/15/97	Seal
	-4	10/15/97	Seal
	-5	10/15/97	Seal
	-6	10/15/97	Seal
	-7	10/15/97	No Identification - 2 bands only
	-8	10/15/97	Seal
	-9	10/15/97	Seal
	-10	10/15/97	Seal
M98-0232	-1	10/15/97	Seal - If not seal, then waterfowl, i.e., ducks
	-2	10/15/97	Seal - If not seal, then waterfowl, i.e., ducks
	-3	10/15/97	Seal
	-4	10/15/97	Seal - If not seal, then waterfowl, i.e., ducks
	-5	10/15/97	Seal - If not seal, then waterfowl, i.e., ducks
	-6	10/15/97	Seal - If not seal, then waterfowl, i.e., ducks
	-7	10/15/97	Seal - If not seal, then waterfowl, i.e., ducks
	-8	10/15/97	Seal - If not seal, then waterfowl, i.e., ducks
	-9	10/15/97	Seal
	-10	10/15/97	Seal
M98-0233	-1	10/15/97	Seal
	-2	10/15/97	Seal
	-3	10/15/97	Seal
	-4	10/15/97	Seal
	-5	10/15/97	Seal
	-6	10/15/97	Seal
	-7	10/15/97	Seal
	-8	10/15/97	Seal
	-9	10/15/97	Seal
	-10	10/15/97	Seal
M98-0234	-1	10/15/97	Seal
	-2	10/15/97	Unknown (Nothing in my library -no match to seal)
	-3	10/15/97	Unknown (Nothing in my library -no match to seal)
	-4	10/15/97	Seal
	-5	10/15/97	Unknown (Nothing in my library -no match to seal)
	-6	10/15/97	Seal
	-7	10/15/97	Unknown (Nothing in my library -no match to seal)
	-8	10/15/97	Seal
	-9	10/15/97	Unknown (Nothing in my library -no match to seal)
	-10	10/15/97	Unknown (Nothing in my library -no match to seal)

SAN DIEGO WATER ISOLATE		DATE	POTENTIAL SOURCE(S)
M98-0235	-1	10/15/97	Seal
	-2	10/15/97	Unknown (Nothing in my library -no match to seal)
	-3	10/15/97	Seal and also possibly Human, Beaver, and Merganser
	-4	10/15/97	Seal
	-5	10/15/97	Seal, if not seal, then waterfowl, i.e., ducks
	-6	10/15/97	Seal and also possibly Human, Beaver, and Merganser
	-7	10/15/97	Seal
	-8	10/15/97	Seal
	-9	10/15/97	Seal
	-10	10/15/97	Seal
M98-0275	-1	10/28/97	No Identification - 2 bands only
	-2	10/28/97	**Seal**
	-3	10/28/97	No Identification - 2 bands only
	-4	10/28/97	No Identification - 2 bands only
	-5	10/28/97	No Identification - 2 bands only
	-6	10/28/97	No Identification - 2 bands only
	-7	10/28/97	No Identification - 2 bands only
	-8	10/28/97	No Identification - 2 bands only
	-9	10/28/97	No Identification - 2 bands only
	-10	10/28/97	No Identification - 2 bands only
M98-0276	-1	10/28/97	No Identification - 2 bands only
	-2	10/28/97	No Identification - 2 bands only
	-3	10/28/97	No Identification - 2 bands only
	-4	10/28/97	**Raccoon - No Seal Similarity**
	-5	10/28/97	No Identification - 2 bands only
	-6	10/28/97	No Identification - 2 bands only
	-7	10/28/97	No Identification - 2 bands only
	-8	10/28/97	**Possibly Seal (75% similarity)**
	-9	10/28/97	**Possibly Seal (75% similarity)**
	-10	10/28/97	No Identification - 2 bands only
M98-0294	-1	10/31/97	Seal
	-2	10/31/97	Seal
	-3	10/31/97	Seal
	-4	10/31/97	Seal
	-5	10/31/97	Seal
	-6	10/31/97	Seal
	-7	10/31/97	Seal
	-8	10/31/97	Seal
	-9	10/31/97	Seal
	-10	10/31/97	Seal
M98-0295	-1	10/31/97	Seal
	-2	10/31/97	Seal

	-3	10/31/97	Seal
	-4	10/31/97	Seal
	-5	10/31/97	Seal
	-6	10/31/97	Seal
	-7	10/31/97	Seal
	-8	10/31/97	Seal
	-9	10/31/97	Seal
	-10	10/31/97	Seal
M98-0296	-1	10/31/97	Seal
	-2	10/31/97	Seal
	-3	10/31/97	Seal
	-4	10/31/97	Seal
	-5	10/31/97	Seal
	-6	10/31/97	Possibly Seal (@75% similarity)
	-7	10/31/97	Seal
	-8	10/31/97	Seal
	-9	10/31/97	Seal
	-10	10/31/97	Seal

DISCUSSION

Resolution of Nonpoint Sources by Field Tracking Techniques:
Observations and knowledge by County of San Diego staff suggested other potential nonpoint sources of *E. coli* from sea birds, a nearby storm drain outlet, and nearby sanitary sewer infrastructure.

Resolution of Nonpoint Sources Using Molecular Biology Tools - Background: The use of "genetic fingerprints" from pulsed field gel electrophoresis is currently a popular analytical tool for studying bacterial genomes in various clinical and field settings (Allardt-Servent *et al.*, 1989; Buchrieser *et al.*, 1995; Edberg *et al.*, 1994; Goering 1993; Maslow *et al.*, 1993;). The basis of this technology is the principle that: 1)the DNA chromosome can be cut at specific locations by a restriction enzyme; 2) which results in DNA segments of different sizes, or weights; 3) and when all these pieces are placed in the well of an argarose gel and subjected to an electrical field; 4) the DNA segments migrate down the gel; and, 5) the heavier DNA segments do not move as far as the lighter DNA segments. When stained, the resulting DNA "bands" produce Restriction Endonuclease Digestion Profiles (REDPs) or are referred to as the "fingerprint." The resulting banding pattern is unique for each strain.

The banding pattern, or REDP, is a taxonomic tool that is used to provide information about strain similarity. However, a given bacterial species may have several strains. For example, the bacterium, *Escherichia coli* , which is **THE** biological indicator of fecal contamination of water quality, may have several hundreds, or possibly thousands of "strains" as determined by DNA banding patterns. At the present time, the ecological and pathological significance of all possible banding patterns is not clear simply because this technology is new and the number of potential strains and the relationship to their known animal sources is not known.

The selection of the restriction enzyme is also made for taxonomic reasons. Restriction Enzyme A might result in only 2-5 pieces of DNA which would provide too few bands for comparative purposes. Restriction Enzyme B might result in hundreds of bands which would cause each isolate to be different from every other isolate sampled and it would be impossible to detect similairty between any two isolates. It turns out that the *Not*I restriction enzyme, used in this study, seems to provide a reasonable number of bands that allows for adequate interpretation of similarity as well as differences between strains.

The Issue of Variability: There is always the question of variability. For example, what is the variability of a given strain in the field, what is the variability of measurement of the DNA banding patterns in the laboratory on a day-to-day basis, and what is the variability in different lanes in the pulsed field electrophoretic unit itself? At the present time, the variability of a given strain in the field is not completely known, but may be quite high. Analytical variability in our laboratory of a *Sacchaaromyces cerevisiae* (*S. cerevisiae*) chromosome standard and an *E. coli* JM107 control is shown in Tables 3 and 4, respectively. Variability is greater in the heavier DNA segments than in the lighter segments, but laboratory analytical variability is quite reproducible and very low. In trying to assign a given size, or weight, to a DNA band, the present DNA key assumes that a given numerical value may be ± 5 kilobase pairs of the recorded measurement. **Therefore, if two DNA bands are within 10 kilobase pairs of each other, they are assumed to be the same size, and therefore, the same band.**

TABLE 3. Laboratory Variability of Known DNA Bands in *S. cerevisiae* [1]							
Statistic	680 kb	610 kb	564 kb	450 kb	365 kb	285 kb	225 kb
Mean	674.3	608.4	566.2	453.1	355.1	280.6	220.1
Std.Dev.	16.1	12.9	11.0	10.6	7.3	5.8	6.4
Std. Error	2.3	1.8	1.6	1.5	1.0	0.8	0.9
95% C.I.	4.6	3.7	3.1	3.0	2.1	1.6	1.8
99% C.I.	6.1	4.9	4.1	4.0	2.8	2.2	2.4
# Replicates	50	50	50	50	50	50	50

[1] The chromosome of *S. cerevisiae* is received from BioRad, precut, and with the number of kilobase pairs in each segment already known. Hence, each time this standard is used in a pulsed field exercise, the distance that each band migrates is independent of restriction enzyme activity.

TABLE 4. Laboratory Variability of Measured Bands (Kb) in *Escherichia coli* JM107 [2]												
Statistic	Band 1	Band 2	Band 3	Band 4	Band 5	Band 6	Band 7	Band 8	Band 9	Band 10	Band 11	Band 12
Mean	730.4	502.3	356.1	270.8	243.3	206.9	188.9	151.6	133.0	103.0	83.1	30.1
Std.Dev	26.6	10.6	7.4	5.7	5.6	4.8	5.1	5.1	4.1	3.6	3.1	4.8
Std.Err	5.8	2.3	1.6	1.3	1.2	1.1	1.1	1.1	0.9	0.8	0.7	1.1
95% CI	12.1	4.8	3.3	2.6	2.6	2.2	2.3	2.3	1.9	1.7	1.4	2.2
99% CI	16.5	6.6	4.6	3.6	3.5	3.0	3.2	3.1	2.6	2.3	1.9	3.0
# Reps	21	21	21	21	21	21	21	21	21	21	21	21

[2] The chromosome of this *E. coli* strain is received in one piece and must be cut with the *Not*I restriction enzyme in the same manner as all other strains being analyzed at the same time. Hence, this strain is referred to as a "control" rather than as a "standard."

There is also the question of variability of *E. coli* strains within an animal. For example, one could ask whether there is more than one *E. coli* strain in a given animal and do these strains possess a high degree of similarity to each other based on the similarity of banding patterns which would suggest they are genetically similar, or evolutionarily similar, to each other. The rationale might be that a given *E. coli* strain initially colonized the intestinal tract, but over time mutated, which resulted in the adult animal having several closely related strains of the same species of *E. coli*..

Previous work (Simmons and Herbein, 1997) indicated that the number of strains in a given animal ranged from a low of one, i.e. only one strain of *E. coli* was found in the feces, to a high of 17 strains. The similarity between the strains in a given animal is also quite variable. Most scat samples have several *E. coli* strains. For example, one simple analytical approach is to use "similarity" in the sense of the percentage of strains that were within ± 10 kilobase pairs of each other. If this approach is used to compare four strains of *E. coli* from an otter scat sample collected on Fisherman Island at the Eastern Shore of Virginia National Wildlife Refuge, the similarity of these four strains ranged between 48 - 77%. Strain comparison of *E. coli* from a raccoon scat sample collected at the Refuge had a total of 14 different *E. coli*. strains and similarity was as low as 48% and as high as 100%.

The greatest issue of variability in using DNA molecular techniques is the question of transmissibility of the same *E. coli* strain between different animal species. If this situation is the norm rather than the exception, then the conceptual framework of using DNA type strains to identify nonpoint sources would be meaningless. In our studies to date (Simmons and Herbein, 1997), we have found instances in which the same *E. coli* strain **did occur** in different animals, but the occurrence of crossover of the same *E. coli* strain between different animal species **is the exception** rather than the norm and the conceptual hypothesis seems to be valid at this point. Examples of crossover to date occurred between a Green Winged Teal and a Deer on Fisherman Island (93% similarity of bands), between an otter and raccoon strain (91% similarity), and between a deer and muskrat strain (86% similarity).

Statistical Variability: In a study such as this one, it is important to also have some statistical information related to the variability of *E. coli* strains within and among known sources. Figures 1 and 2 show a histogram of the distribution of molecular sizes of *E. coli* strains from known sources in the Virginia Tech DNA library used to analyze the data for this study. In this case, the total range of DNA kilobase pair sizes (~780 - 20 kilobase pairs) was divided into six equal units and the numerical values on the x axis represents the midpoint of each group. The number of bands in each unit was then expressed as a percentage of the whole. Figure 1 visually suggests differences in banding patterns of *E. coli* among the different animal species, even though the data suggests there can be considerable differences in banding patterns among *E. coli* strains in the same animal. Using the data in Figures 1 and 2 and a χ^2 Goodness-of-fit analysis, Table 5 shows that the *E. coli* strains from humans are distinctly different than the *E. coli* from any other animals collected at this time, except canines (dogs). Whether this association is real or due to the fact that we presently have only a few canine strains remains to be investigated. Seal *E. coli* are also very distinct from the *E. coli* of most other animal groups, except canine as well.

Taxonomic, Ecological, and Statistical Significance: The data presented thus far suggest that: 1) more than one *E. coli* strain can be collected in a fecal sample, 2) the strains can be quite different from each other; 3) the same strain **may occur** in two different animal species, even though this case is **very rare**; 4) there may be more similarity between two *E. coli* strains in different animal species than among *E. coli* strains in the same animal; but 5) a statistical analysis of *E. coli* banding patterns, or REDP's, suggest significant differences between human versus nonhuman *E. coli* strains, significant differences among the Canada goose and other *E. coli* strains, and significant differences between seal *E. coli* and strains from most other animal groups, including raccoon, presently in our library.

Given the variability that is being seen among *E. coli* strains in nature, the ability to identify the origin of *E. coli* from nonpoint sources is more art than science at the present time, even though some very sophisticated science is used to provide the information to make such decisions. If an *E. coli* strain from an unknown source keys to a known source with 100% similarity, then one would have to conclude there was a very high probability the unknown *E. coli* did come from that source. However, one could not discount the possibility that the strain in question also occurred in another animal species, i.e., one could not say with absolute certainty that the strain in question occurred **only** in one animal species.

In most cases of band-to-band comparisons, identification of potential sources may have to be made with data with less than 100% similarity of banding patterns. If there has been a mutation in one of two identical strains being compared - three bands will not now match. In clinical studies, it is generally accepted that if two strains match within three bands of each other, they are substrains of an

original strain (Goering, 1993; Maslow *et al.*, 1993). Given a comparison where there are 15 bands in each strain, and all bands match except three, then there will be an 87% similarity (26/30). It seems reasonable to assume that if a mutation could occur in one strain over a given time period, it is equally likely to have a mutation in the second strain. Therefore, within the same time period with a mutation in each strain, there is the potential for six bands not to match. Given the example above of each strain having 15 bands, with six nonmatching bands, there would be a similarity of 80% (24/30). Therefore, in these analyses if there was an 80% similarity, or greater, between a given water isolate and a strain from a known source, then it was concluded that there was a high probability that the strain from the water was related to, or from, that animal source. In some cases, there was a suggestion of more than one possible source. In this situation, environmental scientists familiar with the problem would have to make a judgment based on the ecology of the situation about the more likely candidate for the source. Using this approach, and keeping in mind that the statistical analyses to date do suggest significant differences between Human and Nonhuman strains at least, the follwing interpretation for identifcation is being used. **If an *E. coli* strain from an unknown source keyed to a known strain in our library, there is a suggestion of origin based on taxonomic relationships and the unknown strain is labeled as "POSSIBLY FROM THAT SOURCE." If further comparison shows at least a 75% similarity (approximately a two band mutation), the unknown is labeled as "GOOD PROBABILITY FROM THAT SOURCE."**

The χ^2 statistic is based on populations. At the present time, and because we have more human strains of *E. coli* than any other group, "human" is considered to be the known population. However, it is not possible to take a single unknown strain and compare the banding pattern to a known population with statistical inference because estimates of population variability do not exist with a single strain.

In cases where a given *E. coli* strain from an unknown source might share similarities to more than one *E. coli* strain from known sources, the importance of ecological significane comes into play. For example, if a strain from an unknown source showed similarities to both seal and beaver *E. coli* strains, one would then have to consider whether beaver scat might play a significant role in nonpoint source contamination of Children's Pool. If the ecological evidence suggested there were no beaver in the watershed, then the gravity of the data would rest with seal sources. If an unknown strain showed similarities to known raccoon and seal strains, and raccoon were known to frequent the area, then one would have to conclude that raccoons could also play a role in contamination even though the greatest volume of scat might emanate from seals.

At the present time, we do not know about the fidelity of *E. coli* strains from a given animal group on a continental geographic basis. For example, we do not know that *E. coli* from raccoons on Virginia's Eastern Shore will show greater similarity to *E. coli* from raccoons on the California coast than another animal group. This is not a fault of the DNA technology but rather a limitation based on the lack of knowledge about the ecology of *E. coli* and their hosts in general.

Identifying the Probable Origin of *E. coli* from Nonpoint Sources:
Based on the samples sent to our lab, the field observations of biologists sampling Children's Beach, and the results of the DNA RFLP's, **it would appear that the major nonpoint fecal coliform source for the elevated fecal coliform counts in the water off Children's Pool is from seals.** However, we cannot say that there are not other potential sources for which we do not have DNA signatures of their *E. coli*.

This does not discount the possibility of contamination from other sources, but to achieve a greater degree of quantification would require establishing a DNA library of *E. coli* from the scat of known animals that frequent the area.

TABLE 5

χ^2 Goodness-of-Fit Analyses for *E. coli* strains With Respect to Animal Hosts in the Virginia Tech Library

HUMAN	*E. coli*	is NOT	raccoon, deer, seal, beaver, muskrat, otter, goose
RACCOON	*E. coli*	is NOT	human, beaver, muskrat, otter, canine, goose
CANINE	*E. coli*	is NOT	raccoon, beaver, muskrat, otter, goose, deer
MUSKRAT	*E. coli*	is NOT	human, raccoon, canine, seal, beaver, goose
SEAL	*E. coli*	is NOT	human, muskrat, deer, beaver, otter, goose
GOOSE	*E. coli*	is NOT	human, raccoon, canine, muskrat, seal, deer, beaver, otter
DEER	*E. coli*	is NOT	human, seal, goose, beaver, canine
BEAVER	*E. coli*	is NOT	human, raccoon, canine, muskrat, seal, goose, deer
OTTER	*E. coli*	is NOT	human, raccoon, canine, seal, goose

Presently, *E. coli* strains between the following groups cannot be distinguished on a stastical basis at $P = 0.1$.
Human vs Canine; Seal vs Canine; Deer vs Raccoon and Muskrat; and Otter vs Muskrat, Deer, and Beaver

SUMMARY

1. The County of San Diego, Departmental of Environmental collected 280 *E. coli* isolates from water and seal scat off Children's Pool in La Jolla, California. One hundred of these isolates were from water.

2. Of the 100 water isolates, 18 could not be printed, and there appeared to be ~ 35 distinct DNA banding patterns out of the remaining 82 isolates that could be printed. The fact that there were so many isolates which were identical to each other also suggests one major nonpoint source.

3. These isolates were sent to Virginia Tech for DNA profile analyes. The first question considered was the similarity of DNA banding patterns between the *E. coli* in seal scat versus that from the adjacent water. The second question considered the DNA banding pattern of *E. coli* from the water in comparison to other *E. coli* strains in the Virginia Tech library that had been collected from animals in the sourthern Chesapeake Bay area.

4. Even though some of the water strains could not be correlated with strains from seal scat or from other animal sources in the Virginia Tech library, and some of the DNA smeared rather than showing distinct banding patters, of those isolates that could be printed, eighty seven percent (87%) of the water strains showed an 80% similarity or greater with a seal strain. If three additional strains with a 77% similarity are included, then 90% of the identifiable water strains showed a seal signature.

5. The question considered additional *E. coli* strains in our library. Given the availability of strains in our library, and considering ecological factors of potential sources, it would be concluded that , of the strains that could be identified, all suggested a nonhuman origin, all but one suggested a seal origin, and that strain suggested a raccoon origin. In situations where more than one source may be possible, there is a suggestion that waterfowl may be a contributor as well.

6. One of the serious limitations of our library at the present time, particularly in reference to this particular study, is the inability to distinguish between human vs canine and seal vs canine *E. coli* strains. This may be due to the fact that the *E. coli* from canines are quite similar to the *E. coli* from humans and seals, or the lack of separation may be due to the low number of canine isolates presently in our library.

REFERENCES CITED

Allardt-Servent, A, N Bouziges, M-J Carles-Nurit, G Bourg, A Gouby, and M Ramuz. 1989. Use of low-frequency-cleavage restriction endonucleases on DNA analysis in epidemiological investigations of nosocomial bacterial infections. J.Clin.Microbiol. 27:2057-2061.

Buchrieser, C, VV Gangar, RL Murphree, ML Tamplin, and CW Kaspar. 1995. Multiple *Vibrio vulnificus* strains in oysters as demonstrated by clamped homogenous electrid field gel electrophoresis. Appl. and Environ. Microbiol. 61: 1163-1167.

Edberg, SC, JE Patterson, and DB Smith. 1994. Differentiation of distribution systems, source water, and clinical coliforms by DNA analysis. J. Clin. Microbiol. 32:139-142.

Faust, M. 1976. Coliform bacteria from diffuse sources as a factor in estuarine pollution. Wtr. Res. 10:619-627.

Faust, MA and NM Goff. 1977. Basin size, water flow and land-use effects on fecal coliform pollution from a rural watershed. Watershed Res. II:611-634.

Geldreich, EE, LC Best, BA Kenner, and DJ vanDonsel. 1968. The bacteriological aspects of stormwater pollution. J. Water Pollut. Control Fed. 40:1861-1872.

Goering, R. 1993. Molecular epidemiology of nosocomical infection: Analysis of chromosomal restriction fragment patterns by pulsed-field gel electrophoresis. Infect. Control Hosp. Epidemiol. 14:595-600.

Hayes, S, L Newland, K Morgan, and K Dean. 1990. Septic tank and agricultural non-point source pollution within a rural watershed. Toxicol. Environ. Chem. 26: 137-155.

Herbein, SL, GM Simmons,Jr. and SL Myers. 1996 Use of (PFGE) to investigate nonpoint fecal coliform sources to tidal inlets on the Eastern Shore of the Chesapeake Bay. Poster presented at the 1996 Annual Meeting of the American Society of Microbiology, New Orleans, LA. (Abstract with data available).

Kator, H and M Rhodes. 1993. Comprehensive Literature Review of Indicators in Molluscan Shellfish and Their Growing Waters. In M. Pierson and C. Hackney (editors). Indicators of Shellfish Safety. VanNostrand and Rheinhold, New York, NY (In Press).

Kay, D, JM Fleisher, RL Salmon, F Jones, MD Wyer, AF Godfree, Z Zelenauch-Jacquotte, R Shore. 1994. Predicting likelihood of gastroenteritis from sea bathing: results from randomised exposure. Lancet 334:905-909.

Leonard, DL, MA Broutman, and KE Harkness. 1989. The quality of shellfish growing waters on the east coast of the United States. NOAA. Ocean Assessments Division. Rockville, MD 45 pp.

Levesque, B, P Broussequ, P Simard, E Dewailly, M Meisels, D Ramsay, and J Joly. 1993. Impact of the Ring-Billed gull (*Larus delawarensis*) on the microbiological quality of recreational water. Appl. Environ. Microbiol. 59:1228-1230.

Maslow, JN, AM Slutsky, and RD Arbeit. 1993. Application of Pulsed-Field Gel Electrophoresis to Molecular Epidemiology, pp. 563-572. *In* DH Persing, TF Smith, FC Tenover, and TJ

White (eds.), *Diagnostic Molecular Biology Principles and Applications*. American Society of Microbiologists, Washington, DC.

Reneau, RB. Jr, and DE Pettry. 1975. Movement of coliform bacteria from septic tank effluent through coastal plain soils of Virginia. J. Environ. Qual. 4:41-44.

Schima, FJ, WG Reay, DL Gallagher, GM Simmons, Jr., JL Waldon, and KK Reay. 1994. Groundwater transport of fecal coliform bacteria to open coastal waters of Virginia's coastal plain: a GIS approach. Unpublished final report. 100p.

Simmons, GM, Jr., SA Herbein, and CA James. 1995. Managing nonpoint fecal Coliform sources to tidal inlets. Wtr. Res. Update. Issue 100: 64-74.

ACKNOWLEDGEMENTS

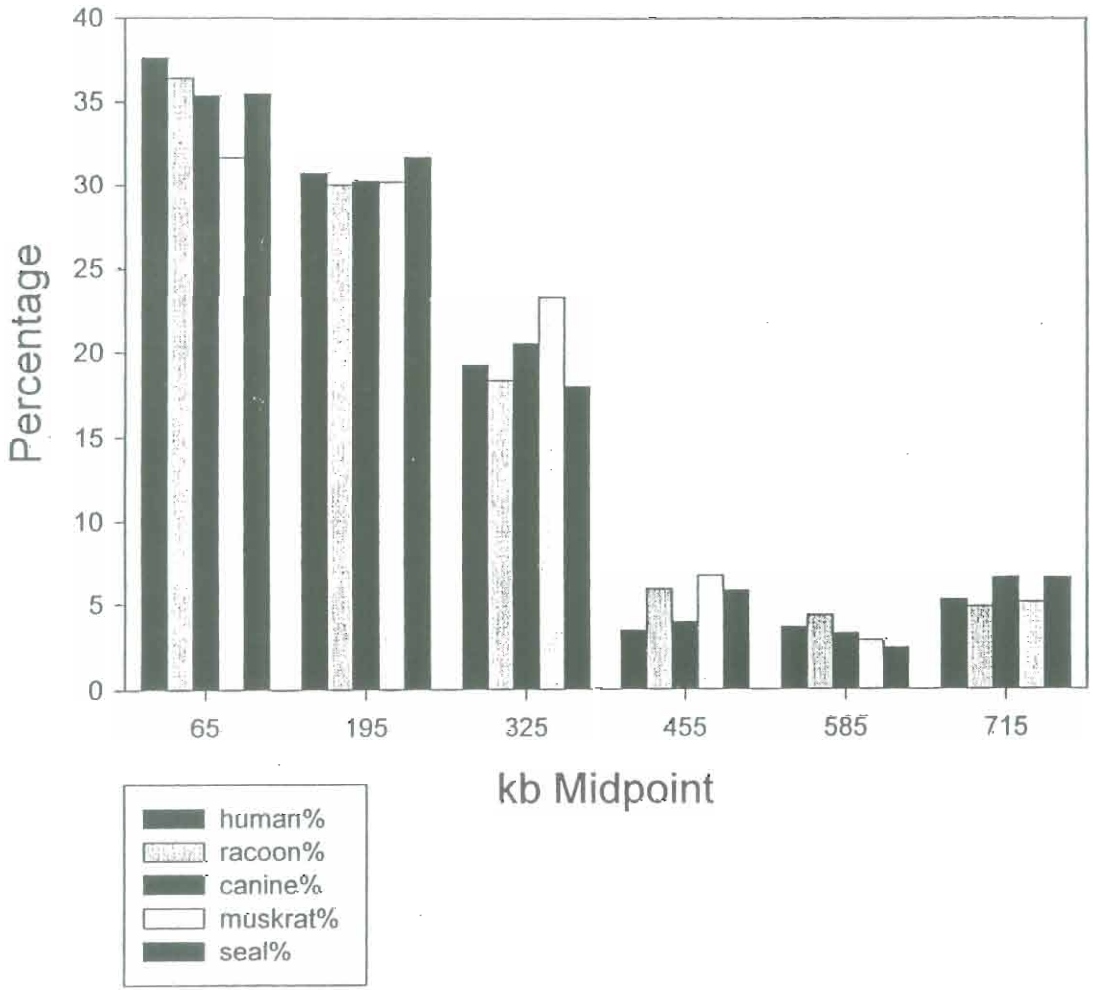
We wish to acknowledge the collaboration of Mr. Chris Gonaver, Division Chief, Department of Environmental Health for initiating this project. We also appreciate the cooperation of Mr. Larry Sammons, Supervising Public Health Microbiologist, County of San Diego Public Health Laboratory and his staff who collected the water and scat isolates, verified the presence of *E. coli* , and sent samples to our laboratory. Sharon Meyers at Virginia Tech deserves special thanks for assisting us with our statistical analyses and transferring our data sets to our new computer system. Recognition should also go to Dr. Rich Walker and Ellen Walker at Virginia Tech for developing a new computer search program for our *E. coli* strains.

Special appreciation should go to the City of San Diego, Metropolitan Wastewater Department for funding the DNA testing, and the County of San Diego, Department of Environmental Health for funding sample collections and preparations.

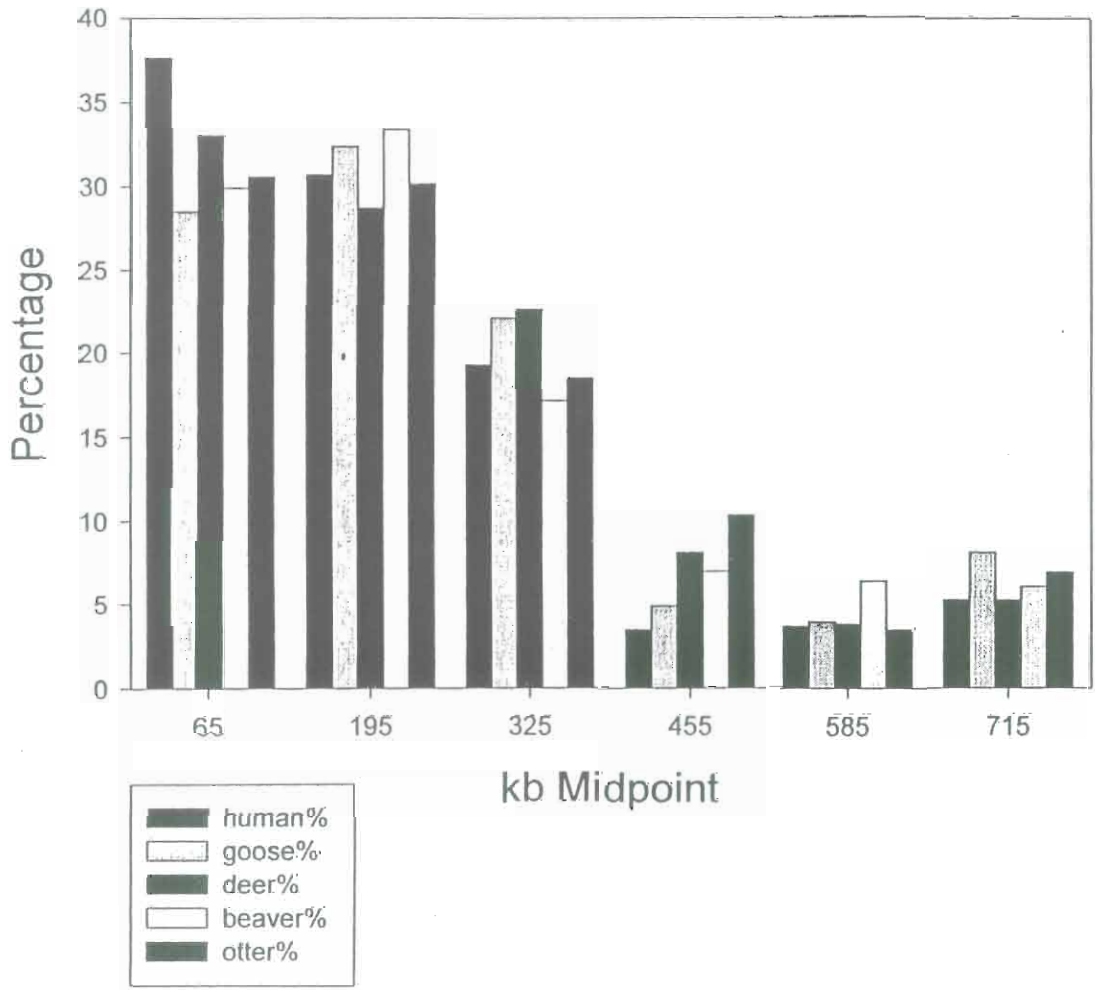
Figures 1 and 2

Histogram of DNA Kilobase Pair Distributions of *E. coli* from Known Sources in the Virginia Tech Library

Comparison of Molecular Sizes



Comparison of Molecular Sizes



APPENDIX 1

Discussion of Strain Identification of *E. coli* isolates from water off Children's Beach

(water sample codes listed here are specific for our laboratory)

SEAL PROJECT

Water Samples

Sample 0231-W1: No specific or general identification in our library. This water strain has a 94% similarity to water strain 0231-W3. I consider them to be the same. Both have band-to-band similarity with Seal Strains 0223-S2 **(81%)** and 0226-S4b **(74-78%)**. It also has general smilarity to Seal Strains 0273-S10b and 0273-10d. **Most probable source is of seal origin.**

0231-W1: 686 - 480 - 407 - 314 - 284 - 272 - 240 - 209 - 192 - 176 - 166 - 153 - 130 - 97 - 84 - 78 - 69 - xx - 32
0223-S2: 672 - xxx - 398 - 303 - 284 - xxx - 237 - 208 - xxx - 175 - xxx - 135 - 122 - 97 - xx - 77 - 64 - 46 - 33//29 (81%)

0226-S4b: 701 - 482 - xxx - 390 - 319 - 304 - xxx - 272 - 245 - 230 - xxx - 188 - xxx - 162 - 150 - 142 - 132 - 109 - 94 - 81 - xx - 53 - 31 (74%)

0273-S10b: 660 - 498 - 413 - 384 - 265 - 232 - 212 - 181 - 164 - 148 - 131 - 123 - 93 - 73 - 59 - 51 - 31 - 24
0273-S10d: 653 - 492 - 408 - 376 - 288 - 260 - 231 - 211 - 179 - 163 - 146 - 130 - 121 - 76 - 60 - 51 - 32 - 21

Sample 0231-W2a: This water strain keyed to Deer Strain 25 (67% similarity) and Otter Strain 7 (86% similarity) in our library. It also was similar to Deer Strain 30 and Muskrat Strain 12. Also this water strain was similar to Sample 0232-W2a **(97% similarity)** and 0232-W2b **(100% similarity)**. **These three strains are considered to be the same. All possess an ~ 89% similarity to Seal Strain 0226-S4b in a band-to-band comparison. Most probable source is Seal.**

0231-W2a: 719 - 448 - 396 - 316 - 300 - 273 - 251 - 236 - xxx - 190 - 159 - 141 - 126 - 110 - 102 - 95 - 81 - 49 - 27
0232-W2a: 721 - 449 - 398 - 321 - 302 - 275 - 252 - 237 - 225 - 194 - 153 - 143 - 130 - 117 - 110 - 99 - 84 - 55 - 34 (97%)
0232-W2b: 714 - 449 - 398 - 321 - 302 - 275 - 259 - 239 - xxx - 194 - 163 - 146 - 133 - 117 - 110 - 97 - 84 - 55 - 32 (100%)

0231-W2a: 719 - xxx - 448 - 396 - 316 - 300 - 273 - 251 - 236 - 190 - 159 - xxx - 141 - 126 - 110 - 102 - 95 - 81 - 49 - 27
0226-S4b: 701 - 482 - xxx - 390 - 319 - 304 - 272 - 248 - 230 - 188 - 162 - 150 - 142 - 132 - 109 - xxx - 94 - 81 - 53 - 31 (89%)

0231-W2a: 719 - 448 - 396 - xxx - 316 - 300 - 273 - 251 - 236 - 190 - 159 - 141 - 126 - 110 - 102 - 95 - 81 - xx - 49 - 27
Otter 7: 721 - 433 - 402 - 359 - 330 - 288 - 262 - 251 - 235 - 191 - 151 - 133 - xxx - 109 - 102 - xx -84 - 66 - xx - 26 (86%)
Deer 25: 723 - xxx - 422 - xxx - 366 - 341 - 312 - xxx - 276 - 251 - 227 - 185 - xxx - 145 - 126 - xxx - xxx - xx - 83 - 76 - 48 - 23 (67%)

Deer 30: 728 - 468 - 382 - xxx - xxx - 327 - 304 - 276 - xxx - xxx - 212 - xxx - xxx - 169 - 150 - xxx - xxx - xx - xx - 41 - 34//
Musk 12: 728 - xxx - 423 - 397 - xxx - 361 - 332 - 281 - 252 - 236 - 192 - 140 - 131 - xxx - 99 - xx - 81 - 32 - 26

Sample 0231-W4: This water strain keyed to Raccoon Strains 7 (65% similarity) and 50 (73%) and Otter Strain 4 (65%). It is also **identical (100% similarity)** to Sample 0232-W4 (shown below) and I consider both of these water strains to be the same. **Water strain 0231-W4 also has a 100% similarity in band-to-band comparison with Seal Strain 0223-S1 and therefore I consider both of these water strains to be of seal origin.**

0231-W4: 721 - 576 - 398 - 356 - 317 - 302 - 281 - 259 - 246 - 189 - 141 - 133 - 102 - 91 - 82 - 63 - 53 - 29
0232-W4: 728 - 589 - 403 - 359 - 321 - 309 - 281 - 262 - 246 - 192 - 145 - 138 - 105 - 93 - 86 - 63 - 55 - 32 (100%)

0231-W4: 721 - 576 - 398 - 356 - 317 - 302 - 281 - 259 - 246 - 189 - 141 - 133 - 102 - 91 - 82 - 63 - 53 - 29
0223-S1: 713 - 575 - 392 - 356 - 320 - 303 - 278 - 256 - 240 - 189 - 140 - 130 - 105 - 93 - 81 - 62 - 51 - 24 (100%)

0231-W4: 721 - 576 - xxx - 398 - 356 - 317 - 302 - 281 - 259 - 246 - xxx - 189 - xxx - 141 - 133 - 102 - 91 - 82 - 63 - 53 - 29
Rac. 50: 711 - xxx - 548 - 382 - 353 - 307 - xxx - 282 - 254 - xxx - 217 - 190 - 155 - xxx - 136 - 110 --xx - xx - 55 - 50 - 33 //- 17
Rac. 7: xxx - 692 - 584 - 424 - xxx - 361 - 342 - 323 - xxx - 288 - xxx - 240 - 216 - 187 - 172 - 157 - xxx - xxx - xx - 83 - 60 - 46 - 29// - 16
Otr 4: 707 - xxx - 509 - 449 - 398 - 362 - xxx - 306 - 284 - xxx - 242 - 220 - 204 - xxx - xxx - 136 - 128 - 114 - 96 - 79 - 66 - xx - xx (65%)

Sample 0231-W5: Keyed to Muskrat Strain 12 (73%), Merganser Strain 2 (67%), and Deer Strain 30 (46%) in our library. This water strain also has general similarity properties to Deer Strain 25 and Otter Strain 7. **It also is similar to Seal Strains 0230-S7 (64%), Seal Strain 0298-S11 (71%) and Seal Strain 0299-S12 (85%). I would consider this stran to be of seal origin.**

0231-W5: 728 - 437 - 380 - 359 - 309 - 278 - 265 - 246 - 225 - xxx - xxx - 143 - 130 - xx - 91 - xx - 76 - 57 - 27
0299-S12: 728 - xxx - 393 - 357 - 318 - 278 - 258 - 238 - 212 - 192 - 179 - 156 - 131 - 106 - 99 - 82 - 73 - 59 - 35 - //20 (85%)
0298-S11: 743 - xxx -xxx - 352 - 329 - 291 - 274 - 251 - 241 - xxx - 200 - 179 - 153 - xxx - 99 - 90 - 82 - 73 - 42 - 33 (71%)
0230-S7: 715 - xxx - 419 - 378 - 349 - 330 - xxx - 272 - xxx - 248 - xxx - 199 - xxx - 132 - 102 - 86 - 77 - xx - 26 (64%)
Musk 12: 728 - 423 - 397 - xxx - 361 - 332 - xxx - 281 - xxx - 252 - 236 - 192 - 140 - 131 - 99 - 81 - xx - 32 - 26 (73%)
Mer 2: 734 - 472 - xxx - 395 - 382 - 360 - xxx - 286 - 264 - 241 - xxx - 198 - xxx - 128 - 114 - 101 - 90 - 82 - xx - 36 (67%)
Deer 30: 728 - 468 - xxx - 382 - xxx - 327 - 304 - 276 - xxx - xxx - xxx - 212 - 169 - 150 - xxx - xxx - xx -xx -41 - 34 (46%)

Sample 0231-W6: This water strain is **similar to Seal Strain 0299-S12 at an 81% similarity in band-to-band comparison. I would consider this strain to be of seal origin.**

0231-W6: 733 - 383 - 357 - xxx - 273 - 247 - xxx - 209 - xxx - 179 - 151 - xxx - xxx - 98 - 76 - 70 - 55 - 43 - 30 - 15
0299-S12: 728 - 393 - 357 - 318 - 278 - 258 - 238 - 212 - 192 - 179 - 156 - 131 - 106 - 99 - 82 - 73 - 59 - xx - 35 - //20 (81%)

Sample 0232-W7: This strain keyed to **Beaver Strain 6 (90% similarity in band-to-band comparisons), Merganser Strain 3 (82%),** Human Strain 40 (77% similarity), and Raccoon Strain 42 (60%). **It also had an 84% similarity with Seal Strain 0226-S5. The source of this water strain is probably seal. But if not seal then probably beaver if such exist in the area or waterfowl.** Probably of nonhuman origin given similarity with known *E.coli* strains from animals.

0232-W7: 651 - 521 - xxx - 335 - 309 - 281 - 249 - 222 - 200 - 186 - 171 - 143 - 133 - 102 - xx - 89 - 55 - 32
0226-S5: 658 - 533 - 392 - 348 - 302 - 281 - 243 - xxx - xxx - xxx - 165 - 140 - 130 - 112 - 97 - 81 - 66 - 28 (84%)

0232-W7: 651 - 521 - 335 - 309 - 281 - xxx - 249 - 222 - 200 - 186 - 171 - 143 - 133 - 102 - 89 - 55 - 32
Beaver 6: 655 - 512 - 340 - 307 - 288 - 274 - 240 - 228 - 209 - 182 - 162 - 146 - xxx - 97 - 79 - xx - 30 (90%)
Mer. 3: 643 - 527 - 328 - 313 - 275 - 262 - 249 - 235 - 217 - 194 - xxx - 171 - 154 - 141 - 124 - 130 - 97 - 89 - xx - 38(82%)
Human 40: 640 - 537 - xxx - 338 - 318 - xxx - 250 - 226 - 198 - 185 - 168 - xxx - 131 - 105 - 93 - xx - 40 - 29 - 18 - 11 (77%)
Rac 42: xxx - 685 - 576 - xxx - 356 - xxx - 305 - 270 - 253 - 237 - 216 - 197 - xxx - xxx - 148 - 126 - xxx - xxx - 66 - 53 - 24 - 18 (60%)

Sample 0233-W8: This water strain keyed to Muskrat Strain 12 (77% similarity in band-to-band comparisons) and Deer Strain 25 (74% similarity). It was also similar in a general sense to Deer Strain 30, Otter Strain 7, and Merganser Strain 2 with lower levels of similarity. **The highest levels of similarity were with Seal Strain 0300-S19 (~85% similarity) and Seal Strain 0230-S7 (80% similarity). The most probable source is of Seal origin.**

0233-W8: 741 - 412 - 376 - 348 - 314 - 259 - 237 - xxx - 192 - 171 - 135 - 99 - xx - xx - 29
0300-S19: 727 - 397 - xxx - 332 - 309 - 263 - 246 - 222 - 205 - 183 - 135 - 97 - 83 - 67 - 32 (85%)
0230-S7: xxx - 714 - 419 - 378 - 349 - 330 - 271 - 247 - 199 - xxx - 132 - 102 - 86 - 77 - 26(80%)
0295-S22: 722 - 398 - xxx - 352 - xxx - 271 - 254 - 235 - xxx - 173 - 153 - 138 - 118 - 101 - 85 - 73 - 62 - 46 - 31 (64%)

Musk 12: 728 - 423 - 397 - 361 - 332 - xxx - 281 - 252 - 236 - 192 - xxx - 140 - 131 - 99 - 81 - 32 - 26 (77%)
Deer 25: xxx - 723 - 422 - 366 - 341 - 312 - 276 - 251 - 227 - 185 - xxx - 145 - 126 - 83 - 76 - 48 - 23 (74%)
Deer 30: 728 - 468 - 382 - 327 - 304 - 276 - 212 - 169 - 150 - 41 - 34//
Otter 7: 721 - 433 - 402 - 359 - 330 - 288 - 262 - 251 - 235 - 191 - 151 - 133 - 109 - 102 - 84 - 66 - 26
Mer 2: 734 - 472 - 395 - 382 - 360 - 286 - 264 - 241 - 198 - 128 - 114 - 101 - 90 - 82 - 36

Sample 0233-W9: This water strain was unusual because there were so few bands - only 10. It did have similarity to several strains in our library: Deer Strains 6, 12, 13, 23, 24; Goose Strain 7; and Human Strains 12, 25, 33, and 34. The lowest similarities were with the human strains (58-64%). Goose Strain 7 had a band-to-band similarity of 72%. **The highest similarities are with Deer Strain 12 and 13 (80%) and with Seal Strain 0304-S18 (80% in band-to-band comparisons). There also was a 78% similarity to Seal Strain 0300-S21. Most probable source is Seal.**

0233-W9: 748 - xxx - 340 - 309 - xxx - 249 - 205 - 181 - xxx - 128 - 105 - xx - xx - 69 - 34
0304-S18: 735 - 398 - 335 - 315 - 273 - 250 - 208 - 191 - 178 - 126 - 112 - 97 - 84 - 70 - 33 (80%)
0300-S21: 720 - 335 - 310 - 295 - 281 - 260 - 216 - 189 - 176 - 130 - 119 - 95 - xx - 30 (78%)
0298-S11:743 - 352 - 329 - 291 - 274 - 251 - 241 - 200 - 179 - 153 - xxx - 99 - 91 - 81 - 73 - 42 - 33 (69%)

0233-W9: 748 - 340 - 309 - 249 - 205 - 181 - xxx - 128 - 105 - xx - 69 - 34
Deer 12: 739 - 343 - 313 - 253 - xxx - 184 - 171 - 124 - 107 - 86 - xx - 30 (80%)
Deer 23: 733 - 346 - 314 - 257 - xxx - 184 - 167 - 127 - 109 - 86 - xxx - 33 (80%)
Goose 7: 762 - xxx - 341 - 301 - 279 - 244 - 205 - 180 - 165 - 136 - 106 - 93 - 82 - 77 - 58 - 34 (72%)
Deer 24: 746 - 346 - 336 - xxx - 288 - 267 - 252 - 225 - 214 - 186 - 158 - 136 - 111 - 95 - 86 - 75 - 52 - 42 - 35 (64%)
Human 12: xxx - 716 - 328 - 302 - 285 - 240 - 226 - 194 - xxx - 167 - 145 - 138 - 124 - 114 - 99 - 77 - 66 - 38 - 22 (62%)
Human 25: xxx - 701 - 371 - 332 - xxx - 288 - 253 - 234 - xxx - 191 - 131 - 99 - 79 - 71 - 63 - 30 (61%)
Human 34: xxx - 706 - 370 - 328 - xxx - 279 - 246 - 227 - xxx - 187 - 133 - 128 - 97 - 75 - 66 - 60 - 24 (61%)
Human 33: xxx - 711 - 373 - 336 - xxx - 282 - 249 - 224 - xxx - 191 - 138 - 131 - 99 - 77 - 68 - 60 - 22 (58%)

Sample 0234-W8: Keyed to Otter Strain 8 (80% similarity) and Human Strain 6 (76%). There is also similarity to Seal Strains 0300-S21 (80% similarity) and 0300-S21(76%). **Most probable source is nonhuman in origin, probably Seal or Otter.**

0234-W8: xxx - 709 - 398 - 364 - 340 - 306 - xxx - xxx - 249 - 228 - 185 - 167 - 133 - xxx - 97 - 23
0300-S21: 720 - xxx - xxx - xxx - 335 - 310 - 295 - 281 - 260 - 216 - 189 - 176 - 130 - 119 - 95 - 30 (80%)
0300 - S14: xxx - 381 - 365 - 329 - 311 - 295 - 254 - 230 - 206 - 189 - 166 - 153 - 134 - 99 - 73 - 55 - 33 - 24 (76%)
0300-S19: 726 - xxx - 397 - xxx - 332 - 310 - 264 - 246 - 222 - 205 - 184 - xxx - 135 - 97 - 83 - 67 - 32 (69%)
0302-S4a: 715 - 452 - 398 - xxx - 322 - 307 - 271 - 251 - 232 - 189 - xxx - 151 - 139 - 129 - 108 - 97 - 84 - 53 - 31 (69%)
0304-S18: 735 - xxx - 398 - xxx - 335 - 315 - 273 - 250 - xxx - 208 - 191 - 178 - 126 - 112 - 97 - 84 - 70 - 33 (67%)

0234-W8: xxx - 709 - 398 - 364 - 340 - 306 - 249 - 228 - 185 - 167 - 133 - 97 - xx - xx - 23
Otter 8: 727 - xxx - 397 - 364 - 337 - 311 - 260 - xxx - 196 - 153 - 136 - 104 - 86 - 69 - 26 (80%)
Hum 6: 778 - xxx - 398 - 369 - 340 - 317 - 282 - 270 - xxx - xxx - 187 - xxx - 119 - 101 - 86 - 71 - 34 (76%)

Sample 0234-W9: **Similar to Sample 0233-W9 with a 78% similarity.** This water strain did not key to any existing strains in our library, **but it did have similarity to three Seal Strains: 0300-S21 (85% similarity), 0300-S19 (81% similarity) and 0302-S4a (73% similarity). The most probable source is from Seal.**

0234-W9: xxx - 715 - 328 - 302 - 252 - 240 - 205 - 194 - 175 - 130 - 123 - 102 - 62 - 23
0233-W9: 748 - xxx - 340 - 309 - xxx - 249 - 205 - xxx - 181 - 128 - xxx - 105 - 69 - 34 (78%)

0234-W9: 715 - 328 - 302 - xxx - xxx - 252 - 240 - 205 - 194 - 175 - 130 - 123 - 102 -62 - 23
0300-S21: 720 - 335 - 310 - 295 - 281 - 260 - xxx - 216 - 189 - 176 - 130 - 119 - 95 - xx - 30 (85%)
0300-S19: 726 - 397 - 332 - 310 - 264 - 246 - 222 - 205 - 184 - xxx - 135 - xxx - 97 - 83 - 67 - 32 (81%)
0302-S4a: 715 - 452 - 398 - 322 - 307 - 271 - 251 - 232 - xxx - 189 - xxx - 151 - 139 - 129 - 109 - 97 - 84 - 53 - 31 (73%)

Sample 0234-W10a: Identical to Sample 0234-W10b (**92% similarity**) - shown below and I consider them to be the same strain. Keyed to Beaver Strain 7, Goose Strain 8, Human Strains 11 and 20, Raccoon Strain 35, and Teal Strain 1 in our library, but not a very good similarity with any of these (<70%). Moreover, even though there were general similarities to some seal patterns, all band-to-band comparisons were <70%. **Probably still unknown.**

0234-W10a: 703 - 358 - 295 - 269 - 249 - xxx - 162 - 125 - 95 - 78 - 67 - 56 - 37 - 28
0234-W10b: 697 - 351 - 295 - 275 - 245 - 203 - xxx - 128 - 97 - 81 - 67 - 56 - 39 - 28

0234-W10a: 703 - 358 - xxx - xxx - xxx - xxx - 295 - xxx - 269 - 249 - xxx - xxx - 162 - 125 - xx - 95 - 78 - 67 - 56 - 37 - 28
0300-S21: 720 - 335 - 310 - 295 - 281 - 260 - xxx - 216 - 189 - 176 - 130 - 119 - 95 - xx - xx - xx - xx - 30 (62%)
0300-S19: 726 - xxx - 397 - xxx - 332 - 310 - 264 - 246 - 222 - 205 - 184 - xxx - 135 - 97 - 83 - 67 - 32 (%)
0304-S18: 735 - xxx - 398 - xxx - 335 - 315 - 273 - 250 - xxx - 208 - 191 - 178 - 126 - 112 - 97 - 84 - 70 - 33 (%)

Sample 0234-W11: **This water sample is identical to Seal Strain 0226-S5 (100% similarity in band-to-band comparisons).**

0234-W11: 643 - 544 - 393 - 345 - 304 - 280 - 247 - 166 - 138 - 131 - 110 - 95 - 81 - 62 - 23
0226-S5: 658 - 534 - 392 - 348 - 302 - 281 - 243 - 165 - 140 - 130 - 113 - 97 - 81 - 66 - 28

Sample 0234-W12: Keyed to Mallard Strain 9, and Human Strains 30 and 32; and Human Strain 5 and Raccoon Strain 50, but all had similarities of <70%. There are general similarities with two Seal Strains, but band-to-band comparisons are weak (<70%). **Probably an unknown at this time.**

0234-W12: 697 - xxx - 517 - xxx - 364 - 340 - 328 - xxx - 265 - 242 - xxx - xxx - 148 - 130 - 97 - 76 - 64 - xx - 26

Sample 0235-W10a: **Identical to Sample 0235-W10b below at 92% similarity.** I consider these strains to be the same. General similarity to Otter Strain 14, Mallard Strains 3, 4, and Wood Duck 2; Human Strains 51 and 55 in our library. However, all have a low correlation with all of these strains (<70%), except Wood Duck Strain 2 (**~80% similarity**)! **This water strain does have an 86% similarity with Seal Strain 0225-S2. The similarity to Water Sample 0235-W10b is 79%. Most probable source is seal.**

0235-W10a: 691 - 355 - 295 - 272 - 245 - xxx - 165 - 128 - 97 - 81 - 67 - 56 - 39 - 26
0235-W10b: 693 - 357 - 297 - 270 - 248 - 201 - xxx - 130 - 97 - 80 - 67 - 55 - 44 - 32 (92%)

0235-W10a: 691 - xxx - 355 - 295 - 272 - 245 - xxx - 165 - xxx - 128 - 97 - 81 - 67 - 56 - 39 - 26
0225-S2: 672 - 398 - xxx - 302 - 284 - 237 - 211 - 175 - 135 - 122 - 97 - 75 - 64 - 44 - 35 - 24 (86%)
Wood Duck 2: 678 - xxx - 336 - 295 - 274 - 242 - 211 - 171 - 133 - 97 - 90 - 79 - 69 - xx - 32 (~80%)

Sample 0235 - W10b: **Identical to Sample 0235-W10a above at 92% similarity. Same as above. Probably a nonhuman source - if not seal, possibly waterfowl.**

0235 - W10b: 693 - xxx - 357 - 297 - 270 - 248 - 201 - xxx - 130 - xxx - 97 - 80 - 67 - 55 - 44 - 32 - xx
0225-S2: 672 - 398 - xxx - 302 - 284 - 237 - 211 - 175 - 135 - 122 - 97 - 75 - 64 - xx - 44 - 35 - 24 (79%)

Sample 0235-W13: **Similar to Sample 0235-W16 below at 83% similarity.** This strain and those similar to it are made difficult to key out because of the 697 and 398 bands. Is the 697 band really a 600 band, or a 700 band. Likewise, is the 398 band really a 300 band or a 400 band? There are many possible combinations. **The best similarity is with two strains of Mallard. One strain matched at 93% similarity and the second matched at 90% similarity. It also had a high similarity with Seal Strain 0226-S4b. Probable source is Seal. If this strain is not from seal, then it is probably from waterfowl.**

0235-W13: 697 - xxx - 398 - 328 - 306 - 275 - 245 - 226 - 182 - xxx - 148 - xxx - 128 - xxx - 95 - 81 - 67 - 21
0226-S4b: 701 - 482 - 390 - 319 - 304 - 272 - 248 - 230 - 188 - 162 - 150 - 142 - 132 - 109 - 94 - 81 - 53 - 31 (88%)

0235-W13: 697 - 398 - 328 - 306 - 275 - 245 - 226 - xxx -xxx - 182 - 148 - 128 - 95 - 81 - 67 - 21
Mallard 8: 692 - 394 - 332 - 302 - 266 - 242 - xxx - 211 - 191 - 182 - 154 - 131 - 102 - 83 - 69 - 35 - 7 (90%)
Mallard 7: 692 - 388 - 332 - 305 - 266 - 246 - xxx - 211 - 180 - 157 - 133 - 104 - 83 - 69 - 32// - 7 **(~93%)**

Sample 0235-W14: Some similarity with Sample 0235-W13 above (76%), but low similarity with Seal Strain 0226-S4b (67%). While many strains share a general similarity, no strains currently available in our library suggest a possible source. **Possibly Seal, but Unknown at present time.**

0235-W14: 697 - xxx - 391 - 353 - xxx - 291 - 260 - xxx - 227 - xxx - xxx - 147 - xxx - 132 - xxx - 97 - 83 - 67 - 57 - 46 - 34 - 28
0226-S4b: 701 - 482 - 390 - xxx - 319 - 304 - 272 - 248 - 230 - 188 - 162 - 150 - 142 - 132 - 109 - 94 - 81 - xx - 53 - xx - 31 - xx (67%)

Sample 0235-W15: This water strain has similarity to several strains in our library **Human Strain 40 (87%), Beaver Strain 6 (84%), and Merganser Strain 3 (82%).** It is also similar to **Seal Strain 0303-S17b (77%).** Given that there are several possible sources, and not knowing the ecological significance of the sources in relation to the water sample, **it is possible that the source is Seal, but other potential sources may be valid also.**

0235-W15: xxx - 630 - xxx - 523 - 332 - 310 - 281 - 245 - 223 - 197 - 184 - 170 - 143 - 130 - 102 - 88 - xx - 48 - 26
0303-S17b: 693 - 631 - 589 - xxx - 323 - 307 - 270 - xxx - 217 - 194 - xxx - 175 - 139 - xxx - 99 - 88 - 71 - 55 - 24 (77%)
Human 40: 640 - 537 - xxx - 338 - 318 - xxx - 250 - 226 - 198 - 185 - 168 - xxx - 131 - 105 - 93 - 40 - 29// - 18 - 11 (87%)
Beaver 6: 655 - xxx - 512 - 340 - 307 - 288 - 274 - 240 - 228 - 209 - 182 - 162 - 146 - xxx - 97 - 79 - xx - 30 (84%)
Merganser 3: 643 - 527 - 328 - 313 - 275 - 262 - 249 - 235 - 217 - 194 - xxx - 171 - 154 - 141 - 124 - 130 - 97 - 89 - 38 - xx (82%)

Sample 0235-W16: **Similar to Sample 0235-W13 above at 83% similarity.** The most similar strains in my library come from Mallards (76 and 73%). The closest seal strain was **Seal Strain 0300-S13 at 77% similarity. If not seal, probably a nonhuman source, possibly waterfowl.**

0235-W16: 704 - 607 - 395 - 338 - xxx - 283 - 248 - 218 - 193 - 154 - xxx - 97 - 85 - 76 - 60 - 39 - 23
0235-W13: 697 - xxx - 398 - 328 - 306 - 275 - 245 - 226 - 182 - 148 - 128 - 95 - 81 - xx - 67 - xx - 21 (83%)

0235-W16: 704 - 607 - 395 - xxx - 338 - 283 - 248 - 218 - 193 - xxx - 154 - xxx - xxx - xxx -97 - 85 - 76 - 60 - 39 - 23
0300-S13; 673 - 612 - 408 - 372 - 337 - xxx - 254 - 230 - 197 - 171 - 151 - 134 - 120 - 104 - xx - 88 - 71 - xx - 33 - 20 (77%)
0226-S4b: 701 - xxx - 482 - 390 - xxx - 319 - 304 - 272 - 248 - 230 - 188 - 162 - 150 - 142 - 132 - 109 - 94 - 81 - xx - 53 - 31 - xx (67%)

Mallard 7: 692 - xxx - 388 - 332 - 305 - xxx - 266 - 246 - 211 - 180 - 157 - 133 - 104 - 83 - xx - 69 - 32 - xx (76%)
Mallard 8: 692 - xxx - 394 - 332 - 302 - xxx - 266 - 242 - 211 - 191 - 182 - 154 - 131 - 102 - 83 - 69 - xxx 35 - xx (73%

Sample 0275-W17: This strain keyed to Mallard Strain 9 (58%) and Human Strains 30 (48%) and 32 (71%) in my library. **The best similarity is with Seal Strain 0228-S5 with an 85% similarity. A 79% similarity also exists with Seal Strain 0226-S5. Most probable source is seal.**

0275-W17: 656 - 559 - xxx - 345 - 326 - 304 - 283 - 248 - 201 - 169 - 137 - 99 - 78 - xx - 28
0228-S5: 660 - 542 - 399 - 345 - xxx - 304 - 283 - 244 - xxx - 168 - 142 - 99 - 86 - 68 - 31 (85%)
0226-S5: 658 - 534 - 392 - 348 - xxx - 302 - 281 - 243 - xxx - 165 - 140 - 130 - 113 - 97 - 81 - 66 - 28 (79%)

0275-W17: xxx - 656 - xxx - 559 - xxx - 345 - 326 - 304 - 283 - xxx - 248 - xxx - 201 - xxx - 169 - xxx - 137 - 99 - 78 - xx - x 28
Human 32: xxx - 630 - 544 - 380 - 360 - 336 - xxx - 288 - 253 - xxx - xxx - 171 - 127 - 97 - 83 - 75 - 54 - 36 - 26 (71%)
Hum 5: 700 - xxx - 593 - xxx - 371 - 356 - 322 - xxx - 280 - 267 - 256 - 236 - 209 - 200 - 180- 139 -120 - 94 - 72 -56 -35-27. (62%)
Mallard 9: 697 - xxx - xxx - 527 - 384 - 352 - xxx - 302 - 280 - 266 - 260 - 237 - 211 - 191 - xxx - 138 - 131 - 102 - 81 - 71 - 34 - 23 (58%)
Human 30: 689 - xxx - 577 - xxx - 384 - 364 - xxx - 309 - xxx - 262 - 242 - 231 - xxx - 184 - xxx - 148 - 127 - 97 - 81 - 69 - 54 - 22 (48%)

Sample 0276-W18: This strain has similarities to several strains in our library, but with similarities <70%. **There was very good similarity with Raccoon Strain 42 (80%). None of the seal strains were similar. Origin is probably nonhuman source such as Raccoon.**

0276-W18: 684 - 588 - 366 - 301 - 281 - 260 - xxx - 208 - 194 - 179 - xxx - xxx - 90 - 79 - 69 - 51 - 26 - 16
Raccoon 42: 685 - 576 - 356 - 305 - 270 - 253 - 237 - 216 - 197 - xxx - 148 - 126 - xx - xx - 66 - 53 - 24 - 18 (80%)

Sample 0276-W19: This strain keyed to Deer Strain 17 at 71% in our library and, this is the only strain in our library with a pattern similar to Sample 0276-W19. **This water strain does have similarity with two seal strains with a 75% similarity. These are Seal Strains 0226-S4b and 0223-S1. This water strain is possibly seal in origin.**

0276-W19: 716 - 637 - xxx - xxx - 352 - 319 - 301 - 271 - 249 - xxx - 191 - 166 - 153 - xxx - 131 - xxx - 99 - 81 - xx - 26// - 11
0226-S4b: 701 - xxx - 482 - 390 - xxx - 319 - 304 - 272 - 248 - 230 - 188 - 162 - 150 - 142 - 132 - 109 - 94 - 81 - 53 - 31 (75%)
0223-S1: 713 - xxx - 575 - 392 - 352 - 320 - 303 - 277 - 257 - 239 - 189 - xxx - 140 - 130 - 104 - 93 - 81 - 62 - 51 - 24 (75%)
Deer 17: 703 - 649 - 392 - xxx - 331 - 310 - xxx - 280 - 267 - 253 - 214 - 194 - 172 - xxx - 136 - 95 - 68 - 56 - 41 - 32 (71%)

Sample 0294-W20: **This water isolate has a similarity with three Seal Strains, 0226-S5 (83%), 0228-S5 (83%), and 0223-S1(75%).** It also had some similarity to Raccoon Strain 50 (79%). **Most probable source is Seal. But if not seal, then probably raccoon.**

0294-W20: 716 - xxx - 539 - 384 - 344 - 316 - 284 - 246 - 191 - 169 - 148 - xxx - xxx - 97 - 81 - 69 -26
0228-S5: xxx - 659 - 542 - 399 - 345 - 304 - 283 - 244 - xxx - 169 - 142 - 130 - 114 - 99 - 86 - 68 - 31
0226-S5: xxx - 658 - 533 - 392 - 348 - 302 - 281 - 243 - xxx - 165 - 140 - 130 - 113 - 97 - 81 - 66 - 28 (83%)
0223-S1: 713 - 575 - xxx - 392 - 352 - 320 - 303 - 277 - 257 - 239 - 189 - xxx - 140 - 130 - 104 - 93 - 81 - 62 - 51 - 24 (75%)

Raccoon 50: 711 - 548 - 382 - 353 - 307 - 282 - 254 - 217 - 190 - xxx - 155 - 136 - 110 - xx - 55 - 50 - 33 - 17 (83%)

Sample 0294-W21: This strain had similarities with three Seal Strains, 0299-S12 (81%), 0300-S19 (79%), and 0301-S16a (78%). It also had similarities to several strains in our library: Human Strains 59 (82%) and 19 (80%); and Deer Strain 9 at 76%. **In the absence of potential human inputs, the most probable source is of Seal origin.**

0294-W21: 722 - 690 - 397 - xxx - 336 - xxx - 291 - 277 - 246 - xxx - 214 - 197 - 186 - 169 - 153 - 136 - 107 - 97 - 83 - 71 - 58 - 28
0299-S12: 728 - xxx - 393 - 357 - xxx - 318 - xxx - 277 - 258 - 238 - 211 - 192 - 179 - xxx - 156 - 131 - 106 - 99 - 82 - 73 - 59 - 35 (81%)
0301-S16a: 734 - 687 - xxx - xxx - 298 - 265 - 248 - 238 - 214 - xxx - 186 - xxx - 150 - 138 - 129 - 115 - 99 - 86 - xx - 59 - 35 - 27 (78%)
0300-S19: 727 - xxx - 397 - 332 - 310 - xxx - 264 - 246 - 222 - 205 - 184 - xxx - xxx - 135 - xxx - 97 - 83 - 67 - xx - 32 (79%)

Human 59: 715 - 678 - xxx - 332 - 305 - 274 - 250 - 225 - xxx - 189 - xxx - 145 - 129 - 109 - 97 - xx - xx - 60 - 44 - 30 - 14 (82%)
Human 19: 716 - 679 - xxx - 335 - 306 - 268 - 253 - 240 - 226 - xxx - 189 - xxx - 145 - 126 - 104 - 93 - xx - xx - 57 - 44 - 24// - 4 (80%)

Sample 0295-W22: **This water strain had strong similarities with two Seal Strains, 0223-S1 (88%) and 0299-S12 (88%).** This water sample also had similarity to Beaver Strain 4, Human Strain 8, Raccoon Strain 19, and Merganser Strain 1 in our library, but all were <70% except for Beaver Strain 4 which had a similarity of 75%. **Most probable source is from Seal.**

0295-W22: 721 - 397 - 352 - xxx - 271 - 254 - 235 - xxx - xxx - 173 - 153 - 139 - 118 - 101 - 86 - 73 - 62 - 46 - 31
0299-S12: 728 - 393 - 357 - 318 - 277 - 258 - 238 - 211 - 192 - 179 - 156 - 131 - 106 - 99 - 82 - 73 - 59 - xx - 35 (88%)
0223-S1: 713 - 575 - 392 - 351 - 320 - 302 - 278 - 257 - 240 - 189 - xxx - 140 - 130 - 104 - 92 - 81 - 62 - 51 - 24 (88%)

0295-W22: 721 - 397 - 352 - xxx - 271 - 254 - 235 - 173 - 153 - 139 - 118 - 101 - 86 - 73 - 62 - 46 - 31
Beaver 4: xxx - 702 - 411 - 383 - xxx - 326 - 282 - 251 - 226 - 180 - 154 - xxx - 131 - 113 - 97 - 89 - 68 - xx - 47 - 32 (75%)

Sample 0295-W23: This water sample had similarities with several strains in our library, but all with <70% similarity. It did have an **80% similarity with Sample 0228-S5. The most probable source is Seal.**

0295-W23: 649 - 576 - xxx - xxx - 366 - 344 - 301 - 284 - 249 - 206 - 151 - 136 - 126 - 114 - 102 - 86 - xx - 30
0228-S5: 660 - xxx - 541 - 399 - xxx - 345 - 304 - 282 - 244 - xxx - 168 - 142 - 129 - 114 - 99 - 86 - 68 - 31 (80%)

Sample 0296-W2c: This strain had general similarity to Raccoon Strains 10 (69%) and 25 (75%) in our library. **However the greatest correlations were with Seal Strains 0226-S4b (91%) and 0228-S5 (81%). The most probable source is Seal.**

0296-W2c: 698 - xxx - 446 - 393 - 319 - 301 - 274 - 253 - 237 - 194 - 158 - 146 - xxx - 134 - 114 - 99 - 86 -56 - 30
0226-S4b: 701 - 482 - xxx - 390 - 318 - 304 - 272 - 248 - 230 - 188 - 162 - 150 - 142 - 132 - 109 - 94 - 81 - 53 - 31 (91%)
0228-S5: 660 - 541 - xxx - 399 - 345 - xxx - 304 - 282 - 244 - xxx - xxx - 168 - 142 - 129 - 114 - 99 - 86 - 68 - 31 (81%)

Raccoon 10: xxx - 659 - 461 - 390 - 342 - xxx - 310 - 274 - 244 - 235 - 209 - 195 - xxx - xxx - 136 - xxx - 93 - xx - 69 - 59 - 39 - 26 (69%)
Raccoon 25: xxx - 669 - 454 - xxx - 373 - 330 - 303 - 276 - 252 - xxx - 202 - 193 - 174 - 143 - xxx - xxx - 92 - 77 - 48 - 29 - 19 (75%)

Sample 0296-W24: This water strain keyed to several strains in our library, but the best correlation was with Beaver Strain 14 (83%). **However, it had an 84% similarity with Seal Strain 0228-S5. The most probable source is Seal.**

0296-W24: 662 - 548 - 463 - xxx - 359 - 317 - 296 - 254 - 196 - 160 - 147 - 135 - xxx - 99 - 85 - 57 - 37 - 27
0228-S5: 660 - 542 - xxx - 399 - 345 - 304 - 283 - 244 - xxx - 169 - 142 - 130 - 114 - 99 - 86 - 68 - xx - 31 (84%)

Beaver 14: 647 - 542 - 479 - 364 - 304 - 284 - xxx - 228 - 200 - 158 - xxx - 133 - 92 - xx - 58 - xx - 30 (83%)

Sample 0296-W25a: This water strain had no strong correlations with any strain in our library, **but it did have an 81% similarity with Seal Strain 0227-S3. Most probable source is Seal.**

0296-W25a: 698 - 533 - 465 - 384 - xxx - 291 - 274 - 253 - 234 - 217 - 186 - 174 - xxx - xxx - 102 - xx - 86 - 71 - 30
0227-S3: 680 - 535 - 444 - xxx - 330 - 292 - 268 - 255 - 233 - 207 - 196 - 183 - 140 - 130 - 109 - 96 - 88 - xx - 31 (81%)

Sample 0296-W25b: There are no known strains in our library for this water strain. **The best correlation is with Seal Strain 0223-S3 with a 77% similarity. The source is possibly Seal.**

0296-W25b: 698 - 661 - 539 - 470 - 384 - 362 - 319 - 294 - 274 - 256 - 237 - 220 - 197 - 186 - 174 - 161 - 151 - 136 - xxx - 99 - xx - 83 - 74 - 30
0223-S3: 678 - xxx - 534 - 437 - xxx - xxx - 320 - 294 - 263 - 249 - 228 - 205 - 192 - xxx - 177 - xxx - xxx - 135 - 122 - 104 - 92 - 84 - xx - 26 (77%)

APPENDIX 2

Cross Reference Between Codes for Water Samples from the San Diego Health Department and Laboratory Codes for PFGE Patterns at Virginia Tech

Cross Reference
Between Codes for Water Samples from the San Diego Health Department
and Laboratory Codes for PFGE at Virginia Tech

San Diego #	Date	Va Tech Code [1]
M98-0231-1	10/15/97	0231-W1
-2	10/15/97	0231-Wa
-3	10/15/97	0231-W6
-4	10/15/97	0231-W3
-5	10/15/97	0231-W3
-6	10/15/97	0231-W3
-7	10/15/97	2 Bands - Discontinue
-8	10/15/97	0231-W4
-9	10/15/97	0231-W5
-10	10/15/97	0231-W6
M98-0232-1	10-15-97	0232-W7
-2	10-15-97	0232-W7
-3	10-15-97	0232-W4
-4	10-15-97	0232-W7
-5	10-15-97	0232-W7
-6	10-15-97	0232-W7
-7	10-15-97	0232-W7
-8	10-15-97	0232-W7
-9	10-15-97	0232-W2a
-10	10-15-97	0232-W2b
M98-0233-1	10-15-97	0233-W9
-2	10-15-97	0233-W8
-3	10-15-97	0233-W9
-4	10-15-97	0233-W9
-5	10-15-97	0233-W8
-6	10-15-97	0233-W8
-7	10-15-97	0233-W8
-8	10-15-97	0233-W9
-9	10-15-97	0233-W8
-10	10-15-97	0233-W9
M980234 -1	10-15-97	0233-W9
-2	10-15-97	0233-W10a
-3	10-15-97	0233-W10b
-4	10-15-97	0233-W11
-5	10-15-97	0233-W12
-6	10-15-97	0233-W8
-7	10-15-97	0233-W10a
-8	10-15-97	0233-W8
-9	10-15-97	0233-W10a
-10	10-15-97	0233-W10b

Cross Reference List Continued

M98-0235-1	10-15-97	0233-W13
-2	10-15-97	0233-W14
-3	10-15-97	0233-W15
-4	10-15-97	0233-W10a
-5	10-15-97	0233-W16
-6	10-15-97	0233-W15
-7	10-15-97	0233-W10b
-8	10-15-97	0233-W10a
-9	10-15-97	0233-W10a
-10	10-15-97	0233-W13
M98-0275-1	10-28-97	2 Bands - Discontinue
-2	10-28-97	0233-W17
-3	10-28-97	2 Bands - Discontinue
-4	10-28-97	2 Bands - Discontinue
-5	10-28-97	2 Bands - Discontinue
-6	10-28-97	Smear
-7	10-28-97	2 Bands - Discontinue
-8	10-28-97	2 Bands - Discontinue
-9	10-28-97	2 Bands - Discontinue
-10	10-28-97	2 Bands - Discontinue
M98-0276-1	10-28-97	2 Bands - Discontinue
-2	10-28-97	2 Bands - Discontinue
-3	10-28-97	2 Bands - Discontinue
-4	10-28-97	0276-W18
-5	10-28-97	2 Bands - Discontinue
-6	10-28-97	2 Bands - Discontinue
-7	10-28-97	2 Bands - Discontinue
-8	10-28-97	0276-W19
-9	10-28-97	0233-W19
-10	10-28-97	2 Bands - Discontinue
M98-0294-1	10-31-97	0294-W20
-2	10-31-97	0294-W20
-3	10-31-97	0294-W20
-4	10-31-97	0294-W20
-5	10-31-97	0294-W21
-6	10-31-97	0294-W20
-7	10-31-97	0294-W20
-8	10-31-97	0294-W20
-9	10-31-97	0294-W20
-10	10-31-97	0294-W20

Cross Reference List Continued

M98-0295-1	10-31-97	0295-W23
-2	10-31-97	0295-W23
-3	10-31-97	0295-W23
-4	10-31-97	0295-W22
-5	10-31-97	0295-W23
-6	10-31-97	0295-W23
-7	10-31-97	0295-W23
-8	10-31-97	0295-W23
-9	10-31-97	0295-W23
-10	10-31-97	0295-W23
M98-0296-1	10-31-97	0296-W24
-2	10-31-97	0296-W24
-3	10-31-97	0296-W24
-4	10-31-97	0296-W25a
-5	10-31-97	0296-W25a
-6	10-31-97	0296-W25b
-7	10-31-97	0296-W25a
-8	10-31-97	0296-W25a
-9	10-31-97	0296-W2c
-10	10-31-97	0296-W25a

[1] The Virginia Tech code used part of the code from the San Diego Health Department, i.e., of the code "M98-0231-1", VT used the "0231" part and linked with our code of "W1" to give a VT code of "0231-W1." The interpretation would be the "0231" is part of the replicate series from the San Diego Health Department and the "W1" means "Water - first PFGE pattern," or "PFGE pattern #1."

Appendix E
La Jolla Children's Pool Sand Excavation and Placement Plan by Coastal Environments, November 20, 2008

LA JOLLA CHILDREN'S POOL

SAND EXCAVATION AND PLACEMENT PLAN



by

Hany Elwany, Ph.D.

Prepared for

Jones & Stokes & Associates, Inc.
9775 Businesspark Avenue, Suite 200
San Diego, CA 92131

COASTAL ENVIRONMENTS
2166 Avenida de la Playa, Suite E
La Jolla, CA 92037

20 November 2008
CE Reference No. 08-36

TABLE OF CONTENTS

EXECUTIVE SUMMARY iii

1.0 INTRODUCTION 1

2.0 PROJECT TEAM 4

3.0 BACKGROUND 4
- 3.1 BEACH ELEVATION SURVEYS AT THE CHILDREN'S POOL (1998, 2003) 4
- 3.2 ANALYSIS OF WATER AND SEDIMENT SAMPLES FOR BACTERIA 4
  - 3.2.1 Bacterial Counts (Water and Sediment) 4
- 3.3 SEDIMENT ANALYSIS FOR GRAIN SIZE 5
  - 3.3.1 Grain Size Analysis 5

4.0 EXCAVATION PLAN FOR CHILDREN'S POOL 12
- 4.1 SAND TRANSPORTATION AND PLACEMENT 17

5.0 SAND PLACEMENT 17

6.0 IMPLEMENTATION 19

7.0 TURBIDITY 19

8.0 CONSTRUCTION SCHEDULE 20

9.0 CONCLUSION 20

10.0 REFERENCES 22

LIST OF FIGURES

Figure 1-1. Location of the Children's Pool, La Jolla, California 3

Figure 3-1. La Jolla Children's Pool beach elevation survey plan relative to California NAD 27 coordinates. The wetted line is approximately the run-up line. 6

Figure 3-2. Comparison between surveys conducted on 15 April 1998 and 15 November 2003 for ranges R1, R2, and R3 7

Figure 3-3. Location map of water and sediment samples collected from the Children's Pool on 2 December 2003 8

Figure 3-4. Location of grain size sediment sample stations at and adjacent to the Children's Pool taken in 2003. Four of the stations are inside of the pool, and two (S22 and S21) are outside of the breakwall. Sample S21 (location not shown) is located on South Casa Beach, and sample S22 is located in front of the breakwall. 10

Figure 4-1. Photograph of the Children's Pool, showing 1940s configuration 13

Figure 4-2. Plan view of the Children's Pool showing the existing and design shorelines (0 ft, NGVD). Sand from the back of the Children's Pool (gray area) will be excavated and placed on South Casa Beach 14

Figure 4-3. Beach profile configuration before and after excavation 15

Figure 5-1. Location of sand placement site 18

Figure 8-1. Construction schedule for excavation of the Children's Pool 21

LIST OF TABLES

Table 3-1. Bacterial concentrations in sediment short core samples taken on 2 December 2003.....9
Table 3-2. Results of sediment grain size analysis for eight samples (December 2003).....11

EXECUTIVE SUMMARY

The La Jolla Children's Pool ("Children's Pool") breakwall was built in 1931 to provide a sheltered swimming area for children. The funds for the breakwall were donated by Ellen Browning Scripps. However, by 1998, the shoreline had advanced to its current state, which now provides only a very small sheltered area for safe recreational swimming. Proximity to an identified rip current near the breakwall opening has created significant concerns about safety (Coastal Environments, 1998; City of San Diego, 2006).

In order to maintain a suitable environment for children to swim, it will be necessary to excavate 3,000 cubic yards (yd^3) of sand. This sand will then be placed on South Casa Beach adjacent to the Children's Pool and located to the southwest. Periodic excavation will be conducted every two to five years, as appropriate, when about 200 yd^3 of sand will be dredged in order to maintain the Children's Pool in its design configuration.

The objective of this report is to present the sand excavation and placement plan for the Children's Pool.

LA JOLLA CHILDREN'S POOL

SAND EXCAVATION AND PLACEMENT PLAN

1.0 INTRODUCTION

Excavation of 3,000 cubic yard (yd^3) of sand from the La Jolla Children's Pool (Children's Pool) is an essential part of the City of San Diego's effort to return the Children's Pool to its 1941 condition. The City of San Diego's efforts are in accordance with a City of San Diego Council directive in September 2004 and a Superior Court ruling in 2005 (City of San Diego, 2006). These efforts will provide a safe swimming environment and are likely to improve the water quality for recreational purposes as well.

The Children's Pool breakwall was constructed in 1931 to provide a sheltered swimming area for children near Casa de Mañana (Figure 1-1). During the 67 years after it was completed, a wide variety of users have come to rely on the pool for recreation and water access. SCUBA and skin divers use the pool for access to the ocean.

Over the years, the beach within the breakwall area has gradually widened as sand has accumulated in the sheltered cove. By 1989, the beach had advanced almost to the end of the breakwall, leaving little or no protected swimming area. This resulted in increased hazards for bathers due to proximity to a rip current at the end of the breakwall. In addition, water quality in the pool declined and has worsened in recent years as a result of use of the beach by seals.

A plan to restore the Children's Pool to its original design condition has been developed (Coastal Environments, 1998 & 2004a). Approximately 3,000 yd^3 of sand will be removed from the Children's Pool beach. Removing this sand will decrease beach width and restore the sheltered water pool area to its 1940s configuration. Reducing the beach's width will make the pool safer for swimming because swimmers will be protected from wave activity in the open ocean. It is also likely to improve the water circulation and water quality in the area. Periodic excavation will be conducted every two years, when about 200 yd^3 of sand will be excavated in order to maintain the Children's Pool in its design configuration.

The sand excavated from the Children's Pool beach will be transferred to the adjacent South Casa Beach. Prior to excavation, sediment sampling will be conducted to verify that the sand excavated from the Children's Pool is free from any bacterial contamination caused by seal use of the beach.

This report presents a sand excavation and placement plan and a construction schedule. The excavation plan presented in Section 4 takes into consideration the requirement that the sand to be placed at the disposal site (beach) must be clear of bacteria and ensures that the sand left in the Children's Pool will be decontaminated and free of bacteria.

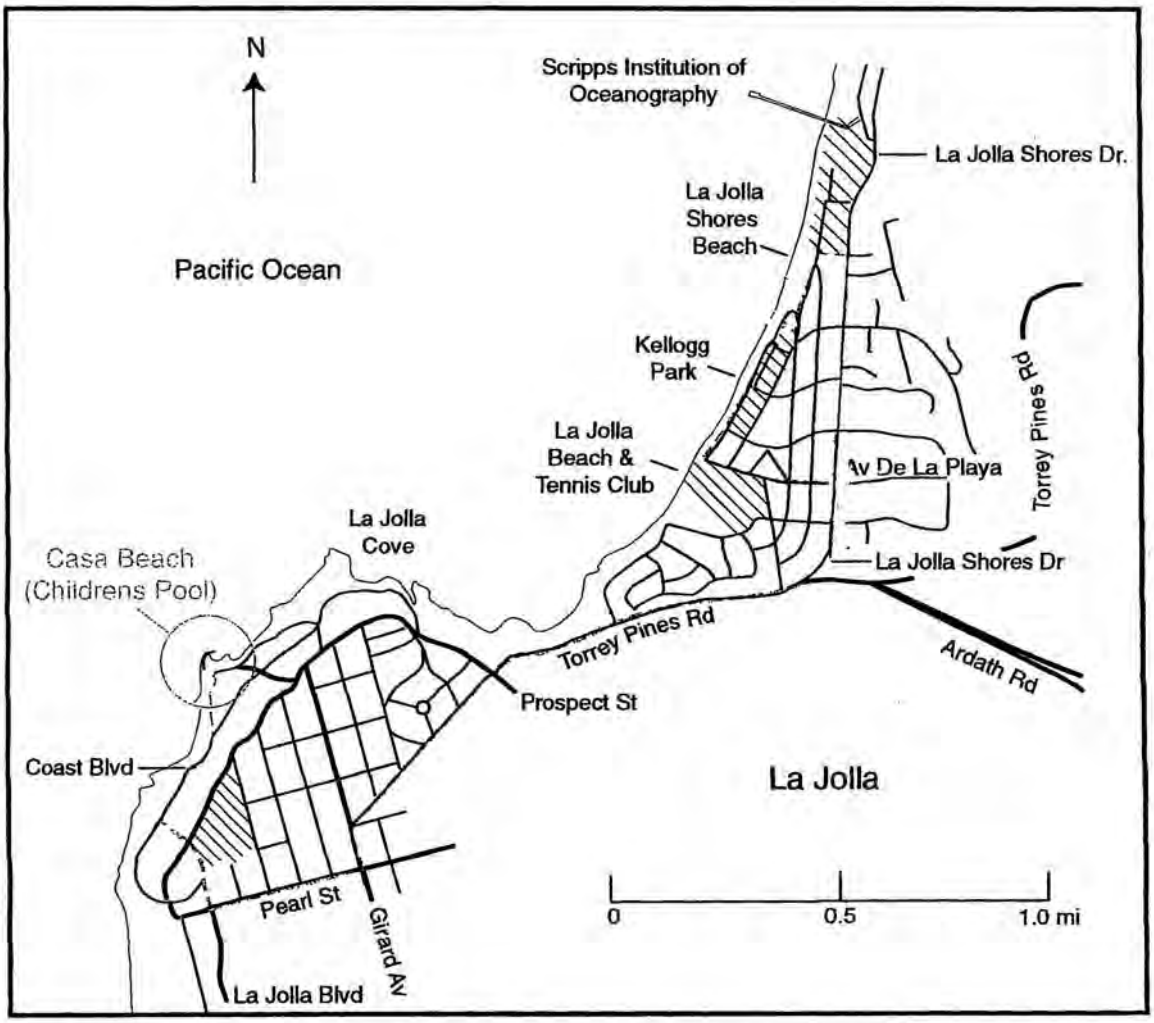


Figure 1-1. Location of the Children's Pool, La Jolla, California.

2.0 PROJECT TEAM

Coastal Environments (CE) will be responsible for planning and overseeing (with San Diego City staff) the excavation operation for the La Jolla Children's Pool.

3.0 BACKGROUND

3.1 BEACH ELEVATION SURVEYS AT THE CHILDREN'S POOL (1998, 2003)

Two topographic surveys were conducted at the Children's Pool, in 1998 and 2003. The results of the 15 April 1998 and 25 November 2003 beach elevation surveys are presented in Figures 3-1 and 3-2. A comparison between these two surveys shows no change in beach width or elevation (Figure 3-2). This indicates that only an insignificant amount of sand accumulated in the Children's Pool between 15 April 1998 and 25 November 2003, and supports the conclusion that the proposed maintenance excavation plan (200 yd^3 every 2 years) will be sufficient to maintain the design configuration.

3.2 ANALYSIS OF WATER AND SEDIMENT SAMPLES FOR BACTERIA

3.2.1 Bacterial Counts (Water and Sediment)

Contamination of the sand and water in the pool by coliform bacteria caused by seal use of the area is a primary concern in this project.

On 19 May 1998 and 23 June 1998, six-inch core sand samples were collected from the Children's Pool beach area and analyzed for total and fecal coliform bacteria (Coastal Environments, 1998). On 2 December 2003, water samples were taken from the surface water of the pool, and sediment samples were taken from the beach. The results of these measurements were previously presented by Coastal Environments (2004a).

For convenience, we present here the results of sediment samples taken on 2 December 2003. Figure 3-3 shows where the core samples were taken and Table 3-1 gives the results. Although concentrations of *Enterococcus*, a potentially pathogenic bacteria, were below the State limit for safe water for swimming (104 MPN/100 ml), fecal coliform levels exceeded acceptable levels for water samples (400 MPN/100 ml) in three of the six surface samples, and

one of the bottom samples. The State has not published acceptable limits for bacteria concentrations in sediment. Therefore, standard limit values for water were used to determine sample exceedence.

3.3 SEDIMENT ANALYSIS FOR GRAIN SIZE

3.3.1 Grain Size Analysis

Two sediment samples were taken from the Children's Pool in August 1998 (Coastal Environments, 1998). In addition, eight sediment samples—six beach sand surface samples (S1A, S2A, S4A, S7A, S21A, and S22A) and two "bottom" samples taken 3 ft below the surface (S4B and S7B)—were collected at six locations in the Children's Pool and at adjacent beaches (S21A and S22A) in December 2003. Figure 3-4 shows the collection locations for December 2003 samples. The purpose of the grain size analysis was to address the compatibility of the sand to be excavated from the Children's Pool with the sand at the receiving beaches. The results for 1998 and 2003 were presented in a report prepared by Coastal Environments (2004a). For convenience, we present the results for December 2003 in Table 3-2. The analysis clearly shows the compatibility of the Children's Pool sand with that of the adjacent beaches. This was anticipated because some of the sand accumulated in the Children's Pool originated from these adjacent beaches. Appendix B of the Coastal Environments (2004a,b) report presents the complete results of grain size analysis. The median grain size of the sand in the Children's Pool and adjacent beaches is greater than 0.660 mm and the percent of clay, silt, and fine sediment is less than 1%.

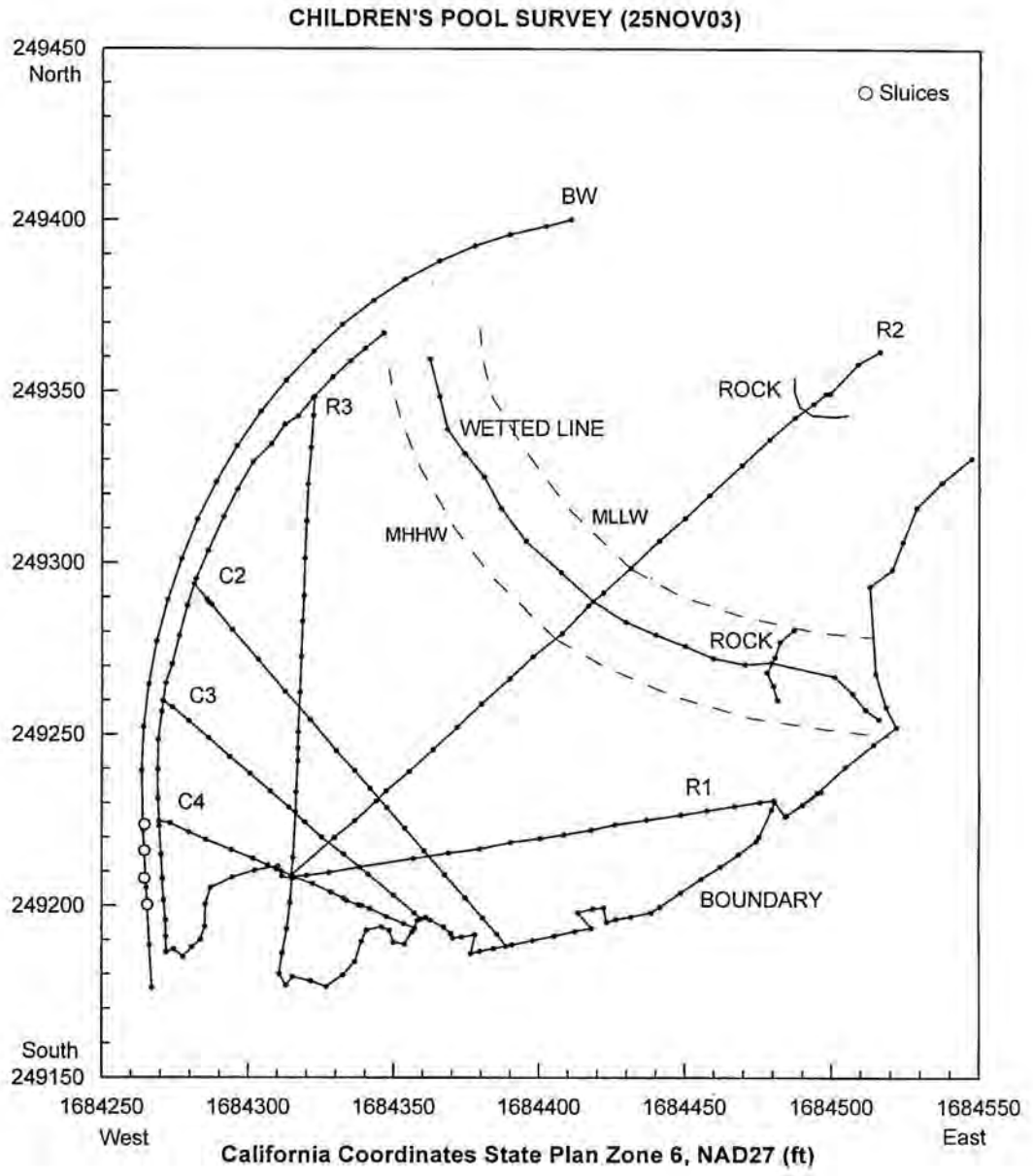


Figure 3-1. La Jolla Children's Pool beach elevation survey plan relative to California NAD 27 coordinates. The wetted line is approximately the run-up line.

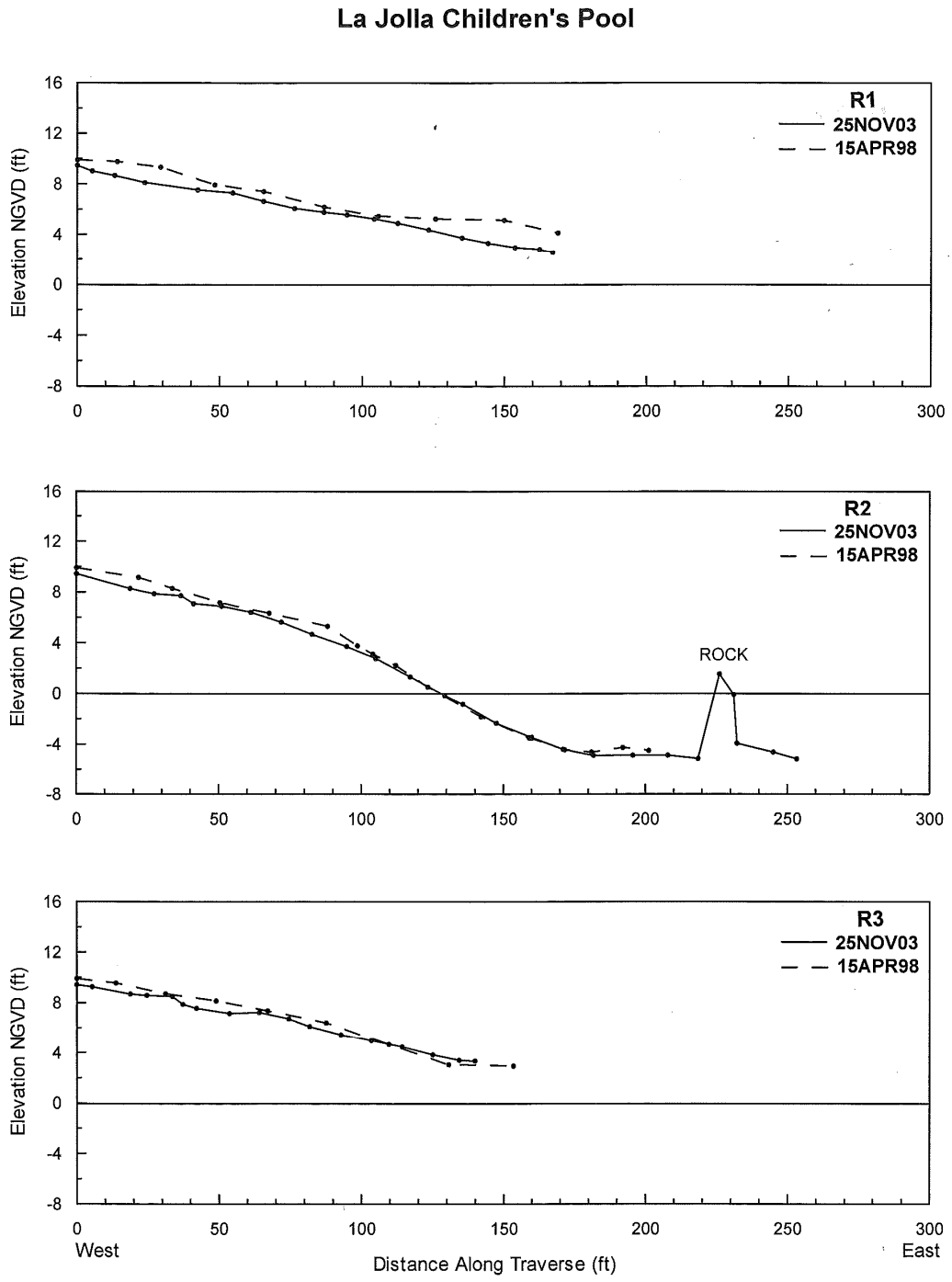


Figure 3-2. Comparison between surveys conducted on 15 April 1998 and 15 November 2003 for ranges R1, R2, and R3.

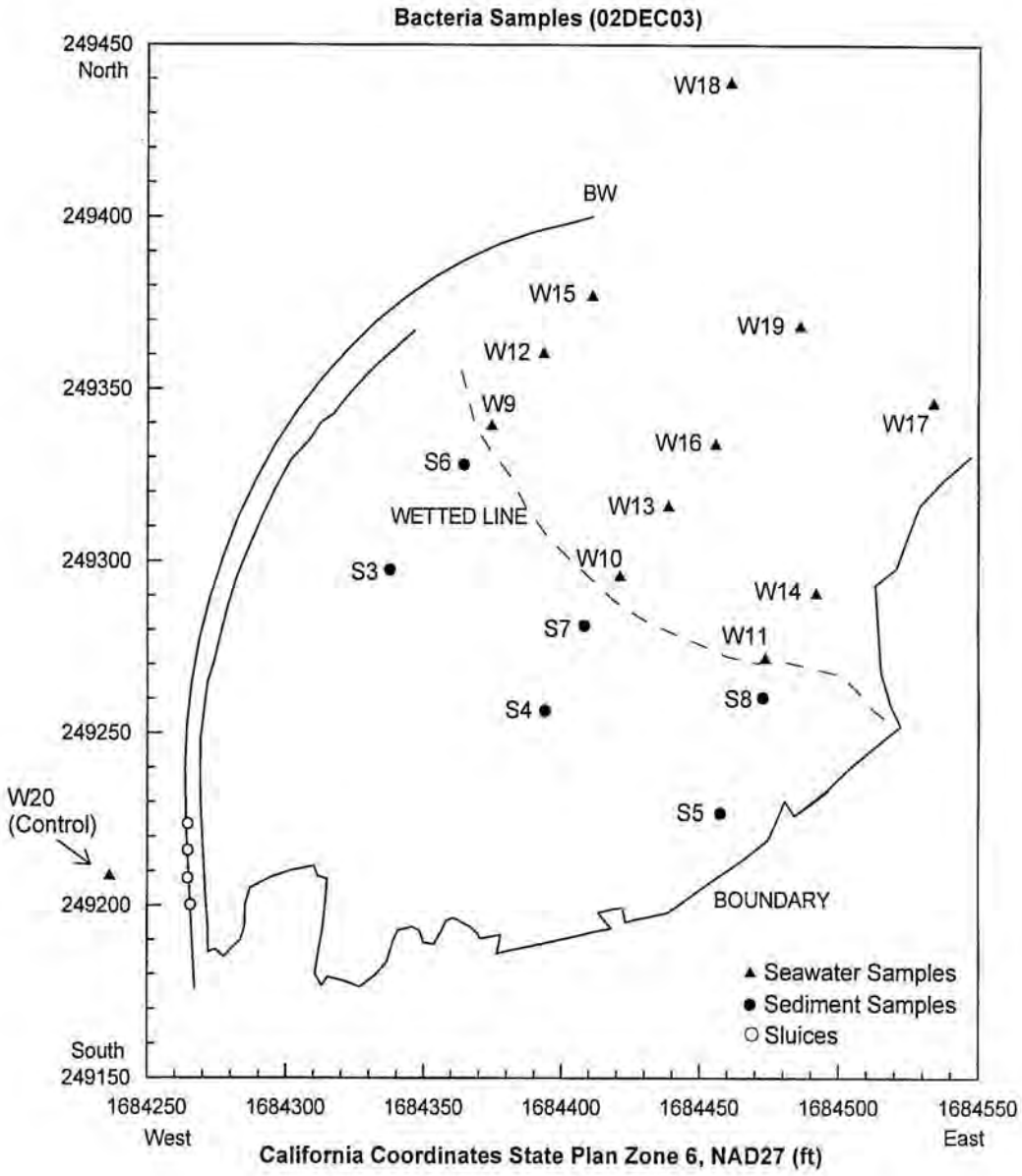


Figure 3-3. Location map of water and sediment samples collected from the Children's Pool on 2 December 2003.

Table 3-1. Bacterial concentrations in sediment short core samples taken on 2 December 2003.

Station	Depth	Fecal Coliforms MPN/100 ml	Total Coliforms MPN/100 ml	*Enterococcus* MPN/100 ml
S3	Surface	>1600*	>1600*	83
S3	Bottom (-3.3 ft)	32	52	8.3
S4	Surface	513*	513	13
S4	Bottom (-3.2 ft)	57	84	14
S5	Surface	308	925	82
S5	Bottom (-3.1 ft)	516*	929	13
S6	Surface	>1600*	>1600*	24
S6	Bottom (-2.0 ft)	57	91	34
S7	Surface	152	257	27
S7	Bottom (-2.3 ft)	9	26	12
S8	Surface	12	18	14
S8	Bottom (-1.8 ft)	9	15	4.7

* Values that exceed State limits for water. The State has not published limits for bacterial concentrations in sediment. The standard limits for water are used to determine sample exceedance for this table.

Note: 1600 MPN/100ml was the maximum value detectable by the analysis method used. These samples may or may not exceed State limits for total coliforms.

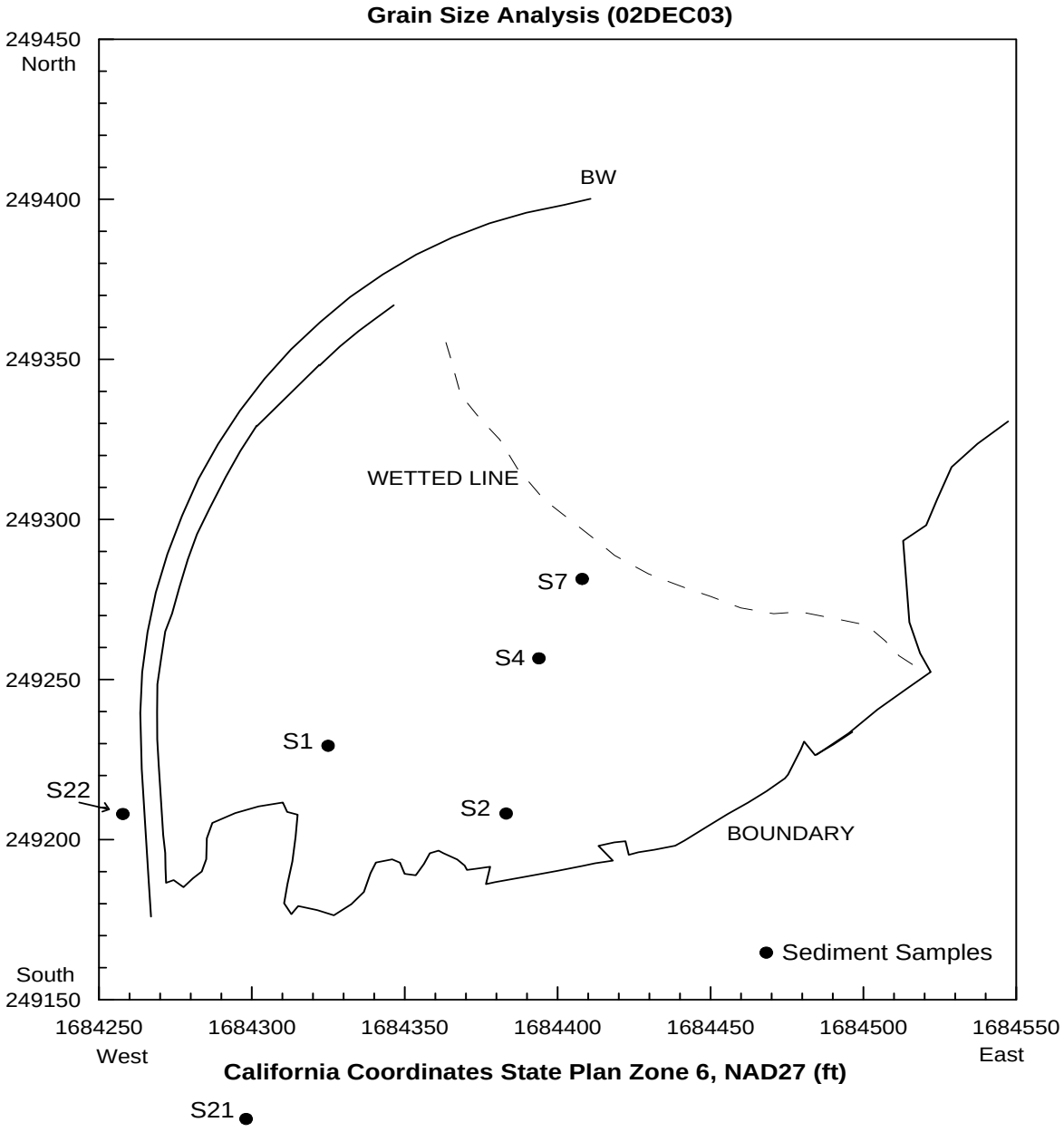


Figure 3-4. Location of grain size sediment sample stations at and adjacent to the Children's Pool taken in 2003. Four of the stations are inside of the pool, and two (S22 and S21) are outside of the breakwall. Sample S21 (location not shown) is located on South Casa Beach, and sample S22 is located in front of the breakwall.

Table 3-2. Results of sediment grain size analysis for eight samples (December 2003).

Sample No.	Location		Place	Mean (mm)	Median (mm)	% Fine
	Station	Surface/Bottom[a]				
S1A	S1	Surface	Children's Pool	0.661	0.679	0.0
S2A	S2	Surface	Children's Pool	0.667	0.687	0.0
S4A	S4	Surface	Children's Pool	0.637	0.637	0.0
A4B	S4	Bottom	Children's Pool	0.710	0.752	0.0
S7A	S7	Surface	Children's Pool	0.690	0.717	0.0
S7B	S7	Bottom	Children's Pool	0.726	0.781	0.0
S21A	S21	Surface	Southwest of the Pool	0.622	0.614	0.0
S22A	S22	Surface	West of Pool	0.649	0.666	0.0

[a] Three feet below surface.

4.0 EXCAVATION PLAN FOR CHILDREN'S POOL

The proposed excavation plan involves removing about 3,000 yd^3 of sand from the Children's Pool. Removing the accumulated sand will decrease beach width and restore the sheltered-water pool area to its 1940s configuration (Figure 4-1). We selected this configuration because it would leave adequate beach area for the public's enjoyment.

Figure 4-2 is a plan view showing the existing and designed Children's Pool shorelines (0 ft, NGVD). Figure 4-3 shows the existing beach profile and proposed profile after excavation. In Figures 4-2 and 4-3, elevations are presented with respect to NGVD (National Geodetic Vertical Datum). The excavated sand will be placed on South Casa Beach. This area has an expansive sandy beach with similar grain size as the sand to be excavated (Section 3.3), and the volume of the disposed excavated sand will be too small to cause any significant damage to the existing hard substrate in the nearby areas. Further, net littoral currents, or drift, are southward in this area, and the excavated sand would most likely not re-enter the Children's Pool area.

The sand to be excavated for placement on the adjacent beach is located south of the wetted line and at the back of the pool, as shown in (Figure 4-2, gray area). During excavation, the offshore portion of the beach berm will be kept at the seaward edge, and elevated (6-8 ft height and 3 ft width) to ensure that seals will not enter the construction area. Other acceptable alternatives may be utilized to prevent the seals from entering the construction area during excavation. The outside of the berm will be covered by fabric material to avoid causing increased turbidity in the ocean water.

After the dry sand at the back of the Children's Pool (Figure 4-2, gray area) is removed and disposed on South Casa Beach, the resulting hole at the back of the pool will be filled with adjacent sand, and the sand berm will be evenly redistributed landward onto the beach face and sea bottom. This effort will require moving 3,000 yd^3 of sand from the front of the pool to the back of the pool. After the excavation is completed, the beach profile will be slowly adjusted, such that it will be deeper at the outer side and shallower at the landward side to provide children with space in which to swim safely.



Figure 4-1. Photograph of the Children's Pool, showing 1940s configuration.

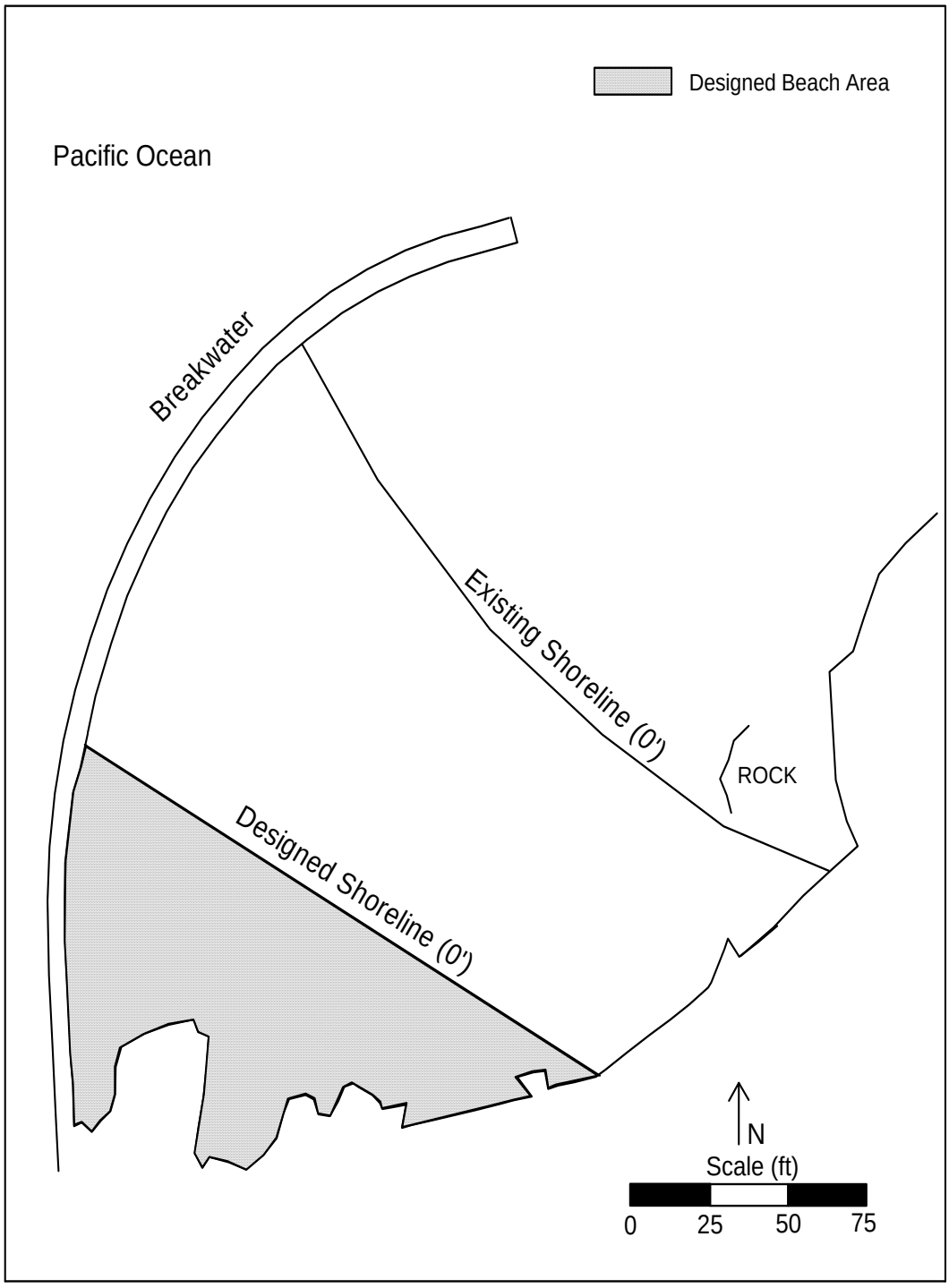


Figure 4-2. Plan view of the Children's Pool showing the existing and design shorelines (0 ft, NGVD). Sand from the back of the Children's Pool (gray area) will be excavated and placed on South Casa Beach.

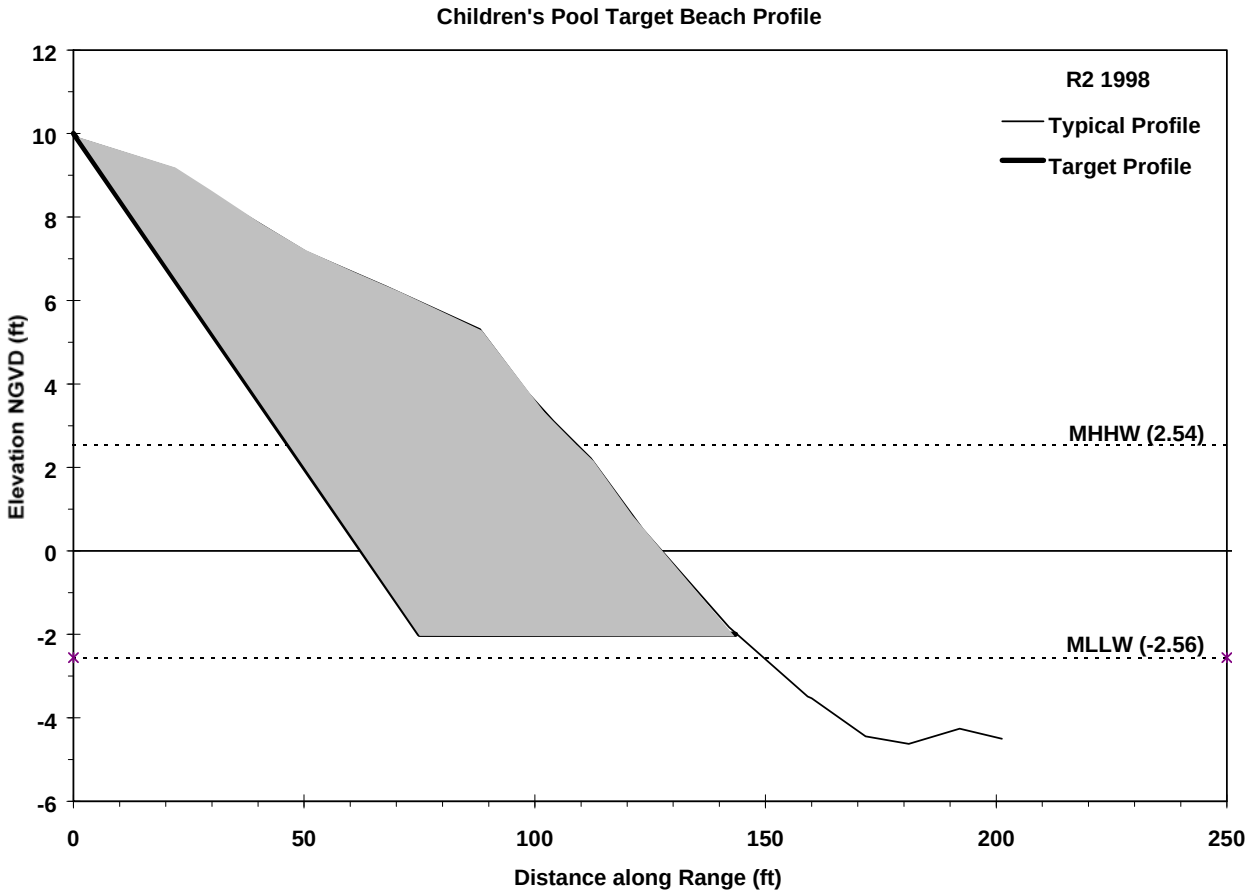


Figure 4-3. Beach profile configuration before and after excavation.

The excavation plan takes into consideration that sand at the north end of the Children's Pool may be contaminated by bacteria due to activities of seals. The seals typically do not haul out above the high tide line; so sand in the Children's Pool can be divided into two sections: that which is wetted by tidal activity (wetted sand) and that which is above the tidal range (dry sand). It is reasonable to assume that the dry sand at the back of the beach is free of bacteria (no seals use this area), however sampling will be taken prior to excavation to confirm this.

In summary, excavation of the Children's Pool will be done in two steps.

Step 1: Excavation of dry sand located at the back of the beach. This sand should be free of bacterial contamination by seals; and can therefore be placed in the designated placement area. In the first stage, 3,000 yd^3 of dry sand from the innermost region of the pool will be removed and placed on South Casa Beach. A buffer area (>10 ft wide) will be left between the wet and dry sand to prevent incursion of seawater or wetted sand into this area.

Step 2: Excavation and disinfection of wetted sand. Coliform bacteria in sediment can be killed by exposure to sunlight. Fujioka et al. (1981 and 2002) showed that 90% of fecal coliforms were killed within 90 minutes of exposure to sunlight. Other scientific papers, by Sinton et al., 2002; Meyer and Reed, 2001; Grigsby and Callkins, 2008; and Sigrid et al., 2006, confirm Fujioka et al.'s results. Therefore, the wetted sand will be excavated and spread in the inner section of the pool in layers 1–2 ft thick, and every layer will be exposed to sunlight for one to two days. After sufficient time to kill bacteria in the sand, another allotment of sand will be removed from the mouth of the pool and spread in the inner region (Figure 4-2, gray area). We expect 10-15 removals and spreading events will be needed to excavate the mouth of the pool. After this stage is complete, we will take six, 6-foot sediment cores from the inner pool. A composite sample will be extracted from each 6-foot-core, and samples will be analyzed for bacteria.

The project also includes a future maintenance plan to remove the sand accumulating in the Children's Pool after the excavation. Accumulated sand will be removed every two to five years in order to maintain the Children's Pool at its 1940s configuration. It is anticipated that the volume of the sand to be removed during these maintenance efforts will be small, about 200 yd^3.

4.1 SAND TRANSPORTATION AND PLACEMENT

Sand will be removed from the Children's Pool beach area by an excavator, which will dump the sand to a front-end loader, which will carry the sand via ramp to the adjacent promenade, where it will be deposited on the beach site (Section 5).

Prior to excavation, six sand samples will be taken and analyzed for total and fecal coliforms and *Enterococcus* to ensure that the sand transferred to South Casa Beach is below permitted limits (State of California limits are 10,000 MPN/100 ml for total coliforms, 400 MPN/100 ml for fecal coliforms and 104 MPN/100 ml for *Enterococcus* in water samples). The six samples will be collected from the east, middle, and west areas of the Children's Pool. Two samples will be taken from each area along both sides of the center line of the Children's Pool.

5.0 SAND PLACEMENT

The preferred placement site is located west and southwest of the breakwall at South Casa Beach, above the mean high waterline. At the disposal site (Figure 5-1), a frame structure will be constructed from steel supported at the beach and on the promenade. The steel structure elevation will be higher than the promenade elevation to avoid ground vegetation and will extend down to the sandy beach. The steel structure will support a conveyor system to transport the sand from the top of the promenade to the beach. Once the sand is deposited on the beach, it will be directed landward, using hand tools, to fill in the area at the base of the eroded cliff. Ultimately, and over a longer period of time, the tides and wave action will distribute the sand along the beachfront and out into the water via the large sand channel at the southern end of the pocket beach. No permanent impacts on the vegetation existing along the face of the cliff will occur.

According to a biological survey conducted by marine biologist Doug Gibson and Dr. Hany Elwany in 2004, no significant biological impacts would result from the excavation of sand at the Children's Pool or the placement of sand near the Children's Pool (Coastal Environments, 2004b).



Figure 5-1. Location of sand placement site.

6.0 IMPLEMENTATION

Excavation will be conducted using mechanical excavation equipment. It is anticipated that a medium size excavator (capacity 2.5 yd^3) and a small front-loader (capacity 1.5 yd^3) will be used. The promenade width is about 10 ft. Therefore, small equipment is recommended, such as CAT 320 or PC 228 Excavators, and CAT 950B or WA 250 Wheel loaders. Visual inspection of the ramp at the south entrance of the Children's Pool indicates that the ramp can carry such equipment. The equipment will be staged on the beach at night and guarded to prevent any vandalism. During the excavation phase, construction BMPs will be implemented to ensure that there are no permanent impacts to biologically sensitive habitats and to minimize temporary impacts to water quality resulting from the excavation of the beach sand. These BMPS will include, but may not be limited to:

1. Maintain a berm in front of the Children's Pool during excavation to prevent seals from entering construction area.
2. Maintain silt curtains near valuable habitat during placement of the excavated sand on the beach.
3. Ensure no damage of the cliffs or vegetation covering the face of the cliffs by using a conveyor to transport the excavated sand from the top of the cliffs to the receiver beach.
4. Place drip pans where the equipment will be staged to contain any spills.
5. During sand placement on the beach a construction corridor would be put in place and a construction worker would stay on the beach to ensure public safety and facilitate access for the public.
6. Daily sweeping of the Promenade.

7.0 TURBIDITY

No significant increase in turbidity is anticipated from the excavation of the Children's Pool or disposal of the sand on South Casa Beach. Excavation will be done mostly on dry areas and sand will be placed above mean high water. However, as the berm at the entrance of the

Children's Pool is removed, water turbidity will slightly increase for a short time period. If necessary, two silt curtains will be placed at the seaward side of the Pool to prevent transport of fine sediment to the ocean. It is anticipated the turbidity plumes will not last for more than a few hours. Excavated sand would be placed above mean high water level. Photographs will be taken daily to document the water clarity inside and outside the Children's Pool.

8.0 CONSTRUCTION SCHEDULE

The City of San Diego intends to begin sand excavation and sand placement as soon as permits are obtained. Excavation will begin at the end of the summer tourism and bathing season, and after the end of the seasonal grunion runs. No excavation will be carried out from January through May to avoid the seal pupping season, which ends in May/June.

It is anticipated that about 10 weeks will be required to complete the excavation of up to 3,000 yd^3 of material (Figure 8-1). The final plan should be determined by the City of San Diego after discussions with the contractors.

9.0 CONCLUSION

The excavation and sand placement plan for the La Jolla Children's Pool is presented in this report. The plan takes into consideration the necessity of placing only clean sand on the beach proposed as a location for sand placement. Therefore, excavation will begin with sand at the back of the Children's Pool, which seals have not been observed to use. Furthermore, this sand will be tested prior to placing it on the beach. The excavated area will then be used to disinfect sand from the wetted area of the pool. Two pieces of mechanical equipment will be required to excavate the sand and place it on the beach. Sand placement is discussed in Section 5. Construction will take 10 weeks to complete.

Task	Weeks									
	1	2	3	4	5	6	7	8	9	10
Preconstruction sediment sampling for bacteria analysis										
Mobilization										
Excavation and sand placement (3,000 yd3)										
Filling back of the beach and grade beach face										
Compliance with permit conditions										

Figure 8-1. Construction schedule for excavation of the Children's Pool.

10.0 REFERENCES

California Department of Health Services, 1999. Initial Statement of Reasons, Standards for Public Beaches. http://www.dhs.ca.gov/ps/ddwem/beaches/AB411regs_isor/default.htm, accessed 18 June 2006.

City of San Diego, 2006. La Jolla Children's Pool, Joint Use Feasibility Study. Report prepared by City of San Diego, Parks and Recreation Department, 202 "C" Street, San Diego, CA 92101, 2 March 2006. 21 pp. + 10 attachments.

Coastal Environments, 1998. La Jolla Children's Pool, Beach Management and Water Quality Improvement Project. Submitted to City of San Diego, Parks and Recreation Department, 2581 Quivira Court, San Diego, CA 92109, 27 August 1998. 33 pp.

Coastal Environments, 2004a. La Jolla Children's Pool, Joint Use. Submitted to City of San Diego, Parks and Recreation Department, 202 "C" Street, San Diego, CA 92101, 30 December 2004, CE Ref. 04-06b. 22 pp. and 2 Appendices.

Coastal Environments, 2004b. Effect of Excavation of the Children's Pool on Marine Resources. Submitted to City of San Diego, Parks and Recreation Department, 202 "C" Street, San Diego, CA 92101, 22 June 2004. 6 pp. and 1 Appendix.

Fujioka, R. S., H. H. Hashimoto, E. B. Siwak and R. H. F. Yong, 1981. Effect of Sunlight on Survival of Indicator Bacteria in Seawater. *Applied and Environmental Microbiology*, March, p 690-696.

Fujioka R. S. and B. S. Yoneyama, 2002. Sunlight Inactivation of Human Enteric Viruses and Fecal Bacteria. *Water Science and Technology*, Vol. 26, No. 11-12, p. 291-295.

Grigsby P., J. Calkins, 2008. The Inactivation of a Natural Population of Coliform Bacteria by Sunlight. Journal compilation, *American Society for Photobiology*, Vol. 31, No. 3, p 291-294.

Meyer, V. and R H Reed, 2001. Solar Disinfection of Coliform Bacteria in Hand-Drawn Drinking Water. *Water SA*, Vol. 27, No. 1, p 49-52.

Sigrid D., M. Franz, P. Sabine, R. F. F. M. Egon, 2006. Effect of Solar Radiation on Survival of Indicator Bacteria in Bathing Waters. *Central European Journal of Public Health*, Vol. 14, No. 3, p 133-137.

Sinton, L. W., C. H. Hall, P. A. Lynch and R. J. David-Colley, 2002. Sunlight Inactivation of Fecal Indicator Bacteria and Bacteriophages from Waste Stabilization Pond Effluent in Fresh and Saline Waters. *Applied and Environmental Microbiology*, Vol. 68, No. 3, p. 1122-1131.

Appendix F
Declaration of Doyle Hanan, Ph.D by Hanan and Associates, January 22, 2006
Declaration of Sarah Wilkin, October 21, 2008
Declaration of Joe Cordaro, January 4, 2008

Hanan & Associates, Inc.
P. O. Box 8914
Rancho Santa Fe, CA 92067

Samir Mahmalji
Project Manager, Associate Civil Engineer
Park Planning and Development
Park & Recreation Department
City of San Diego
(619) 236-7342

January 22, 2006

Dear Mr. Mahmalji,

This letter is to confirm our discussion and reiterate various responses to your questions about the biology and behavior of harbor seals (*Phoca vitulina richardsi*) frequenting Children's Pool at Point La Jolla. I have attached a court accepted declaration dated May 4, 2005 that establishes my credentials as an expert on harbor seals, as well as, issues related to Children Pool. Obviously, it is important to the City Of San Diego in implementing this project to be sensitive to the ultimate well being of the harbor seals. Therefore, here are some specific questions that you would like to address: 1) Will the Harbor Seals survive if they were excluded from using the Children's Pool? 2) How far can they travel? 3) and Where would they go?

My understanding is that around September 2006, the City intends to excavate approximately 3,000 C.Y. of beach sand from Children's Pool. A sand berm will be placed along the Mean High Water Line during the sand excavation. The entire project is planned to take six to eight weeks. Based on my observations, radio tagging studies, and published literature, I make the following comments.

The number of seals on shore (hauled out) varies by time of day and by season. The time period chosen for the excavation work coincides with the season at Children's Pool when the **fewest** seals are hauled out during any time of the day. This time period also avoids the pupping, weaning, breeding, and molting periods for harbor seals in the San Diego/ Southern California Bight area. Harbor seals are often observed swimming or floating at the surface nearshore and are also observed far out to sea. They can and do sleep under water for short periods of time. They are well suited for staying at sea for long periods of

time and are well insulated with a layer of blubber just beneath their skin.

It is common for seals to move short distances during certain tide cycles or over several days (e.g., seals move along the mainland or to and from offshore islands). They are somewhat gregarious in that they swim along a beach and then haul out where they see harbor seals or other pinnipeds. They tend to haul out in greatest numbers during the afternoon, but in areas frequented by people and dogs they may haul out in greatest numbers at night. If disturbed frequently at a particular hauling site, they may abandon that site in favor of other hauling sites. They have been observed to move large distances: Klamath River to San Francisco Bay, Santa Barbara to San Francisco Bay, or San Francisco Bay to Children's Pool. In the San Diego vicinity, harbor seals have been observed to haul out at Los Coronado Islands, San Clemente Island, Point Loma, Point La Jolla, Children's Pool, Seal Rocks, and Torrey Pines State Beach. Harbor seals inhabit all of California's offshore islands and utilize about 1,000 hauling sites along the California mainland. They live all along the west coast of North America from the relatively warm waters of Baja California to the frigid waters off Alaska. Because the California, Oregon and Washington harbor seal populations are at or near Optimum Stable Population levels (likely above 80 per cent of carrying capacity), I also expect them to start using additional or new sites where they have not been observed in recent times.

In conclusion the seals frequenting Children's Pool will survive the excavation work as individuals and as a population along the west coast of North America. After the excavation, they may or may not continue to use the rocks and sand around Children's Pool or may use them only at night. If they are not hauling out in Children's Pool, they are likely to haul out at other nearby sites or they may move away from the area. In the future, I expect them to use each of the sites mentioned above for hauling out and some for pupping.

Sincerely,

Doyle A. Hanan, PhD

MICHAEL J. AGUIRRE, City Attorney
LESLIE A. FITZGERALD, Deputy (CSB No. 149373)
DEBORAH M. SMITH, Deputy (CSB No. 208960)
Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, California 92101-4100
Telephone: (619) 533-5800
Facsimile: (619) 533-5856
Attorneys for Defendants
CITY OF SAN DIEGO; RICHARD MURPHY, In his official capacity as Mayor of San Diego; and COUNCILMEMBERS SCOTT PETERS, MICHAEL ZUCCHET, TONI ATKINS, TONY YOUNG, BRIAN MAIENSCHEIN, DONNA FRYE, JIM MADAFFER, AND RALPH INZUNZA in their official capacity as members of the City Council of San Diego

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

THE HUMANE SOCIETY OF THE UNITED STATES, JAMES HENRY NATT HUDNALL JR., REBECCA CARY, FLORENCE LAMBERT, and ANGELA ANDRE, Plaintiffs, v. CITY OF SAN DIEGO; RICHARD MURPHY, In his official capacity as Mayor of San Diego; and COUNCILMEMBERS SCOTT PETERS, MICHAEL ZUCCHET, TONI ATKINS, TONY YOUNG, BRIAN MAIENSCHEIN, DONNA FRYE, JIM MADAFFER, and RALPH INZUNZA, in their official capacity as Members of the City Council of San Diego, Defendants.	Case No. GIC 843343 **DECLARATION OF DOYLE A. HANAN, PH.D. IN OPPOSITION TO PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER** Date: May 4, 2005 Time: 10:00 a.m. Dept.: 71 I/C Judge: Hon. Ronald S. Prager Cmplt. Filed: 2/25/05 Trial: Not Set

I, Doyle A. Hanan, Ph.D., declare that I am competent to testify about the following facts, of which I have personal knowledge:

1. I have over 35 years of experience as a research biologist, project leader, supervisor, and educator, specializing in marine mammals and harbor seals. Currently, I am self-employed as a private consultant and Chief Scientist for Hanan & Associates, Inc. Prior to this position, I worked for the California Department of Fish and Game from 1974 to 2000. In 1984, I became the California Department of Fish and Game Associate Marine Biologist in charge of marine mammals, and in 1993 I became the Senior Marine Biologist, Supervisor. As Senior

Marine Biologist, I was responsible for research and management of sport and commercial fisheries and marine mammals.

2. I earned my Masters Degree in Marine Biology in 1976 from California State University Long Beach and earned my Doctorate Degree in Biology in 1996 from the University of California, Los Angeles.

3. I am a member of the Pacific Scientific Review Group, which advises the National Marine Fisheries Service (NMFS) on marine mammals in the Pacific Ocean. In this capacity, I review and make recommendations on NMFS' research and stock assessments on marine mammals in the Pacific Ocean and make recommendations as to any needed modifications to its reports. Additionally, I reviewed and contributed to the 1994 amendments to the Marine Mammal Protection Act. I am also a member of the Society for Marine Mammology. I have testified before Congress on issues related to marine mammals. I served on the task force to evaluate the scientific information on the impacts of California sea lions and harbor seals on salmonids and on the coastal ecosystems of Washington, Oregon, and California.

4. I have personally observed and studied harbor seals and other pinnipeds along the West Coast of the United States since 1979. Included in this work, I completed fifteen years of aerial survey of harbor seals along the West Coast. I have researched and drafted numerous reports on the behavior of harbor seals, and have first-hand expertise in the behavior patterns of harbor seals. My dissertation was entitled, "Dynamics of abundance and distribution in the Pacific harbor seal, *Phoca vitulina richardsi,* on the coast of California," which included tagging harbor seals and observing their behavior from 1982-1995.

5. From October 2003 to March 2004, I worked under contract for the City of San Diego observing and recording harbor seal behavior and hauling patterns at the La Jolla Children's Pool (also known as Casa Beach) as a part of the City of San Diego's preparation to apply for an Incidental Harassment Permit from NMFS for construction to the lifeguard tower.

6. I maintain a neutral position on the presence of harbor seals at the Children's Pool. The purpose of this declaration is to provide information regarding harbor seals at Children's Pool that is within my professional and personal expertise.

7. A copy of my curriculum vitae is attached as Exhibit 1.

8. I have personally visited Children's Pool both before and after the advisory rope was removed.

9. Since the 1920's, the population of harbor seals on the West Coast and Southern California has steadily increased. Harbor seals are currently near their Optimum Sustainable Population level (OSP) in California and are approaching carrying capacity. They are one of the most commonly seen marine mammals along the West Coast of North America. In California, there are at least 1000 hauling sites. My most recent research has shown that the number of harbor seals in California has likely been under-estimated. Harbor seals have been documented to be present at Children's Pool since at least 1979.

10. Harbor seals in California are not endangered or threatened under the Endangered Species Act, nor a strategic population under the Marine Mammal Protection Act (MMPA).

11. Based upon my personal observation of numerous seal colonies along the West Coast, I have observed that the harbor seals located at Children's Pool are unusually tolerant to human contact. Generally, harbor seals are skittish and have the tendency to react or flush into the water at the slightest movement or sound. In my personal observations of the harbor seals at Children's Pool, I observed that the harbor seals there did not react to human behavior that normally would disturb harbor seals (such as laughing, clapping, stomping, climbing, snorkeling, swimming, and wading).

12. At Children's Pool, harbor seal pupping season is approximately from January through April, with some births possibly occurring in December and May. The pupping season likely peaks in February or March. When a pup is born on land, the birthing female usually encourages the pup into the water within an hour of its birth.

13. It is normal for there to be some premature harbor seal pup births and pup abandonment. There are many possible reasons for these occurrences. For example, a female may reject a pup if something is biologically wrong with the pup. Based upon my experience tagging seals, during pupping season, it is my professional opinion that interaction with humans is not likely to be a significant cause of seal pup abandonment.

14. As the population of harbor seals increases towards carrying capacity, it would be expected that the harbor seal and pup mortality rate would increase. It would also be expected that the number of pup abandonments would increase.

15. There are many rookery sites (where harbor seal pups are born) other than Children's Pool in Southern California, and all along the West Coast. If the harbor seals were to abandon the Children's Pool site, they would likely move to another site and continue to survive and give birth to pups.

16. In my professional opinion, the continued use of Children's Pool by harbor seals is not critical for the survival of the harbor seals present at Children's Pool or the harbor seal population as a whole.

17. In my professional opinion, the presence of the advisory rope is not critical to the survival of the harbor seals present at Children's Pool or the harbor seal population as a whole.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to my own personal knowledge.

Executed this 4th day of May, 2005, at San Diego, California.

DOYLE A. HANAN, Ph.D.

NMFS. 1997. Investigation of scientific information on the impacts of California sea lions and harbor seals on salmonids and on the coastal ecosystems of Washington, Oregon, and California. U.S. Department of Commerce. NOAA Tech. Memo. NMFS/NWFSC-28, 172 Pages.

MICHAEL J. AGUIRRE, City Attorney
George F. Schaefer, Deputy City Attorney
California State Bar No. 139399
Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, California 92101-4100
Telephone: (619) 533-5800
Facsimile: (619) 533-5856

Attorneys for Defendant
CITY OF SAN DIEGO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

VALERIE O'SULLIVAN, Plaintiff, v. CITY OF SAN DIEGO, a municipal entity, and FOES 1 through 500, inclusive, Defendant.	Case No. GIC 826918 **DECLARATION OF SARAH WILKIN IN SUPPORT OF THE CITY OF SAN DIEGO'S OPPOSITION TO PLAINTIFF VALERIE O'SULLIVAN'S MOTION: (1) TO REAFFIRM THE JUDGMENT AND ORDER OF THIS COURT OF SEPTEMBER 19, 2008; and (2) TO IMPOSE SANCTIONS, INCLUDING ATTORNEYS' FEES** I/C Judge: Hon. Yuri Hofmann Dept.: 60 Date: October 21, 2008 Time: 8:30 a.m. Cmplt Filed: March 12, 2004

I, Sarah Wilkin, in response to an inquiry from the City of San Diego regarding the biology and ecology of harbor seals and the timing and efficacy of dispersing seals off of land, declare as follows:

1. I am a biologist with the National Oceanic and Atmospheric Association's National Marine Fisheries Service (NMFS). I have been employed as a biologist by NMFS for 5 years.

2. I make this declaration based upon my own personal knowledge, except as to those matters set forth in this declaration on information and belief, and as to those matters, I believe them to be true.

3. My responsibilities at NMFS include rendering opinions regarding the biology of marine mammals to assist NMFS in administering the Marine Mammal Protection Act, 16 U.S.C. Section 1361 *et seq.* Based on my education and experience in the field of biology, I am knowledgeable about the breeding season of harbor seals. Harbor seals breed shortly after weaning their pups. Delayed implantation of the fertilized blastocyst occurs 1.5 to 3 months following breeding. The gestation period is approximately 9 months.

4. The first full-term harbor seal pups are usually born at Children's Pool in January. Pups typically wean from their mothers in approximately 4-7 weeks. The last pups of the season may not wean until the end of May.

5. Based on these dates, implantation occurs no later than August.

6. In 2004 NMFS received documented reports of aborted harbor seal pups at Children's Pool on November 15, November 29, and December 9. The cause of the premature births was not determined. One potential cause of abortion or premature parturition is elevated maternal stress of pregnant harbor seal females, and this cannot be ruled out. However, other causes, such as infectious disease or genetic conditions, cannot be ruled out.

7. An activity designed to disperse the harbor seals will flush any harbor seals into the water that are currently hauled out. Based on my past observations, harbor seals would likely return to the beach and haul out again once the dispersing activity has ceased.

8. A constant, non-ceasing dispersing stimulus may not be effective at preventing the harbor seals from hauling out at the beach over the long term. Research has shown that seals can habituate to some stimuli that cause them to react initially, and subsequently ignore the stimulus.

9. To cause a permanent change in harbor seals' behavior, any short-term dispersing stimulus would need to be randomly repeated many times. Each repetition (flushing of the haulout) could cause increased stress of the pregnant harbor seals. This stress could potentially result in abortions or premature parturition.

///

///

10. Once harbor seal pups are born, flushing of the haulout would likely result in a stampede of harbor seals into the water with the potential to injure or kill the harbor seal pups.

Executed this 14th day of October 2008 at Long Beach, California.

Sarah Wilkin
Declarant

MICHAEL J. AGUIRRE, City Attorney
George F. Schaefer, Deputy City Attorney
California State Bar No. 139399
Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, California 92101-4100
Telephone: (619) 533-5800
Facsimile: (619) 533-5856

Attorneys for Defendant
CITY OF SAN DIEGO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

VALERIE O'SULLIVAN, Plaintiff, v. CITY OF SAN DIEGO, a municipal entity, and FOES 1 through 500, inclusive, Defendant.	Case No. GIC 826918 **DECLARATION OF JOE CORDARO IN SUPPORT OF THE CITY OF SAN DIEGO'S MOTION FOR AN ORDER CLARIFYING THE COURT'S INJUNCTION** Date: ~~December 12, 2007~~ 1-4-08 Time: ~~8:30 a.m.~~ 10:20 a.m. Dept.: 60 I/C Judge: Hon. Yuri Hofmann Cmplt Filed: March 12, 2004

I, Joe Cordaro, declare as follows:

1. I am a biologist with the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS). I have been employed as a biologist by NMFS for 19 years.

2. I make this declaration based upon my own personal knowledge, except as to those matters set forth in this declaration on information and belief, and as to those matters, I believe them to be true. If called upon to testify as to those matters stated in this declaration, I could and would competently testify to those matters.

3. My responsibilities at the NMFS include rendering opinions regarding the biology of marine mammals to assist the NMFS in administering the Marine Mammal Protection Act, 16

U.S.C. Section 1361 *et seq*. Based on my education and experience in the field of biology, I am knowledgeable about the breeding season for harbor seals. Harbor seals breed shortly after weaning their pups, with blastocyst implantation in the female harbor seals occurring 1.5 to 3 months following breeding. The gestation period is approximately 9 months.

4. I have been the lead biologist for the NMFS in matters relating to the colony of seals inhabiting Children's Pool Beach in La Jolla, California. Based on known breeding cycles, some pregnant harbor seals haul out at Children's Pool Beach as early as November.

5. In 2004 I received documented reports of premature pups at Children's Pool on November 15, November 29, and December 9. The cause of the premature births was not determined, but human harassment of pregnant females cannot be ruled out.

6. The first full-term harbor seal pups are usually born in early to mid-January. Pups typically wean from their mothers in approximately 4-7 weeks. The last pups of the season may not wean until the end of May.

7. It is in the best interest of the seal colony inhabiting Children's Pool Beach for human beings to be kept a reasonable distance from this colony to prevent annoyance or harassment, especially during the pupping and nursing season, *i.e.*, November 1 through May 31, or whenever the last pup of the season is weaned, whichever comes first.

8. Based on my past observations, a rope barrier during this period serves to prevent harm to pregnant and nursing female harbor seals and serves to decrease the number of pups that may be abandoned because of the public's presence at the beach.

9. The barrier also deters the general public from getting so close to the seals as to cause disturbance, harassment, or annoyance of the animals.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 10th day of December 2007 at San Diego, San Diego County, California.

JOE CORDARO
NOAA Wildlife Biologist

Appendix G
La Jolla Children's Pool—Joint Use, Effect of Excavation of the Children's Pool on Marine Resources by Coastal Environments, June 22, 2004

LA JOLLA CHILDREN'S POOL – JOINT USE

EFFECT OF EXCAVATION OF THE CHILDREN'S POOL ON MARINE RESOURCES

for

City of San Diego
Northern Parks Division
Parks and Recreation Department
202 "C" Street
San Diego, CA 92101

by

Doug Gibson, B.S.
and
Hany Elwany, Ph.D.

Coastal Environments
2166 Avenida de la Playa, Suite E
La Jolla, CA 92037

22 June 2004
REVISED 18 OCTOBER 2005

CE Reference No. 04-09

TABLE OF CONTENTS

1.0 DESCRIPTION OF SITES 1
2.0 MARINE RESOURCES 1
3.0 IMPACTS ON MARINE RESOURCES AND BLUFFS 2
3.1 SUMMARY OF CONSTRUCTION ACTIVITIES 2
3.2 POTENTIAL IMPACTS ON MARINE RESOURCES 2
3.3 POTENTIAL PHYSICAL IMPACTS ON BLUFFS 3
4.0 REFERENCES 9

LIST OF APPENDICES

Appendix A Photographs Taken During the June 17, 2004 Biological Survey A-1

LIST OF FIGURES

Figure 1 Photograph taken in August 2000 showing sandy beach at Sites 1 and 2 (SANDAG, 2000). 5
Figure 2 Aerial overview of La Jolla Children's Pool. This photograph shows the sand channels between reef areas. Photograph taken by consultants for SANDAG and California Coastal Conservancy on 10/06/2002 6
Figure 3 Photograph showing observed locations of mussels and scattered small surfgrass patches at Site 1. This location would most likely be partially buried when seasonal sand moves onshore during the summer months. 7
Figure 4 Photograph of the Children's Pool, showing 1940s configuration 8

LIST OF PHOTOGRAPHS

Photo A-1 Photograph taken across Site 1, looking north A-3
Photo A-2 Photograph taken from the Children's Pool, looking west/southwest at Site 1 .. A-3
Photo A-3 Photograph taken from the Children's Pool, looking west at Site 1. The waves are breaking on the edge of the reef A-4
Photo A-4 Photograph taken from the outcrop between Sites 1 and 2, looking west. The bottom substrate consists of sand channels and mixed, low relief rocks/reef A-4
Photo A-5 Photograph taken across Site 2 from the outcrop that separates the two sites, looking south A-5
Photo A-6 Photograph taken from the bluffs above the south end of Site 2, looking west. Notice sand accumulation near the bluffs A-5
Photo A-7 Shore outcrop that separates Site 1 from Site 2 ..... A-6
Photo A-8 Photograph showing Site 2, looking south to north A-6

EFFECT OF EXCAVATION OF THE CHILDREN'S POOL ON MARINE RESOURCES

by

Doug Gibson, B.S., Marine Biologist
and
Hany Elwany, Ph.D., Coastal Engineer

1.0 DESCRIPTION OF SITES

The La Jolla Children's Pool is located in La Jolla, California, along the Pacific Ocean, and is contained behind a manmade breakwater (Figure 1). A survey was conducted to look at the existing substrate and marine resources at potential sites for the placement of sand removed from the Children's Pool (3,000 yd^3 of sand with a mean grain size of 0.65 mm). The survey was conducted on June 17, 2004, beginning at 7:15 AM (roughly 3 hours past the low of –0.6 ft mean sea level [MSL]) and ending at 10:30 AM (the lower high tide for the day, +3.7 MSL). Site 1 comprises the area on the west side of the breakwater, and Site 2 is the beach to the south of Site 1.

The sites are exposed to direct wave energy, and consequently, seasonal fluctuations in sand coverage. At Site 1, sand moves from the area near the breakwater to the adjacent sand channels during the winter and returns to the area west of the breakwater during the summer. Site 2 is a stable pocket beach and has sand year-round. Aerial photos taken in September 2000 show a 20+ ft beach at both sites, with no separation apparent between them (Figure 1). Currently, Site 1 is isolated from Site 2 by a sandstone outcropping.

Sand channels were visible several meters offshore and can be seen clearly in aerial photographs (Figure 2). Sand channels are lower areas where sand naturally migrates around high and low relief rock and reef.

Photographs were taken during the survey to document the current extent of sand and reef exposure. These photographs are presented in Appendix A.

This letter report consists of three chapters. Chapter 1 describes the sites, Chapter 2 describes the marine resources, and Chapter 3 projects the impact of the project on marine resources, as prescribed by the City of San Diego's guidelines (2002a and 2002b), San Diego Municipal Code (2004a and 2004b).

2.0 MARINE RESOURCES

The immediate offshore habitat at Site 1 is a mixture of low and high relief reef/rock structures with sand channels between them for sand transport. The outer edge of the reef to the

west/northwest contains small patches of surfgrass (*Phyllospadix* spp.) and mussel beds (Figure 3). These biological resources are located at higher elevations than the sand channels.

Site 2 contains no high relief rocks or reef visible offshore, with the exception of the outcropping that currently separates Site 1 from Site 2. The offshore habitat at Site 2 contains more migratory sand channels and fewer low relief rocks or reef than Site 1. The area is very dynamic, with historic photographs showing sand coverage in the past, and current observations showing transient conditions with respect to sand coverage.

Notable fauna at both Site 1 and 2 include fish, birds, and pinnipeds. Invertebrates and benthic organisms include those typically found on coastal beaches in San Diego County.

3.0 IMPACTS ON MARINE RESOURCES AND BLUFFS

3.1 SUMMARY OF CONSTRUCTION ACTIVITIES

The excavation of sand from the Children's Pool is intended to reduce bacterial counts in the area by improving flushing inside the pool. Construction plans call for the removal of a total of approximately 3,000 cubic yards of sand in several small volumes over a two-week period. The proposed removal of accumulated sand will also decrease beach width and restore the sheltered pool area to its 1940s configuration.

The proposed dredge spoil disposal at Sites 1 and 2 will increase sand coverage in these areas. Natural conditions at these sites involve fluctuating sand levels. These areas have been covered with sand in the past, and any impacts are unlikely to differ substantially from those that occur with the natural movement of sand onto the beach. Figures 1, 2, and 4 present photographs of the Children's Pool taken in 2000, 2002 and 1941, each showing the presence of sand west of the breakwater.

The Site 1 sand will be placed at low tide and spread in a thin layer, having no impact on the relief of the nearby reefs. The Site 2 sand will be placed above the mean high water level, and it is expected to remain on the beach for a long period of time, having no significant impact on the nearby reefs. In addition, as indicated in Section 2.0, sand in these areas is transported via migratory sand channels. Surfgrass patches and mussel beds are at relatively high elevations in comparison to the sandy bottom. Therefore, we anticipate no impacts on biological resources in these areas.

3.2 POTENTIAL IMPACTS ON MARINE RESOURCES

Impacts on harbor seals will be minimized through appropriate scheduling, with no construction activity during the pupping and molting season (March through June). The seals will be temporarily dislocated during construction because their haul-out area will be disturbed. Increased human use of the pool after excavation may have an impact on the overall number of seals in the area. Harbor seals are not an endangered species, and the project will have no significant impact on the general seal population in southern California.

Impacts on fish and brown pelican and other bird species were determined to be temporary and insignificant because the affected area is small, and all of these species are mobile and capable of migrating from one location to another. The Children's Pool and adjacent beaches are not known to support nesting least terns or any other nesting sensitive species. The receiving site will be inspected for least tern and other sensitive species nesting sites prior to any sand placement on the beach. If any are found, operations will be delayed until the end of the nesting season (April through September for least terns, March through September for snowy plovers).

Grunion runs may occur on the beaches between March and August. If a grunion run does occur, construction on the beach will be halted until a qualified biologist can certify that there will be no impact on the grunion.

Noise levels during construction will be below City of San Diego Noise Ordinance levels and are unlikely to affect sensitive species, such as the California brown pelican. During the sand excavation and placement on the receiving beaches, there will probably be localized periodic increases in turbidity, which may require pelicans to increase their foraging range, but not by a distance detrimental to the health of the population or greater than the natural variability found during periods of winter storm runoff.

Local invertebrates and benthic organisms are accustomed to living in dynamic areas with fluctuating sand levels. Although burial (up to 3 ft of sand) of some invertebrates will occur, these organisms are adapted to this type of environment and recolonize rapidly; therefore, impacts will be insignificant. Additionally, the project area is outside of the Multiple Habitat Planning Area and not listed under Sensitive Biological Resources, as defined in the City of San Diego Land Development Code (City of San Diego, 2004).

Approximately 750 ft offshore of the Children's Pool is the La Jolla kelp bed, which is approximately 5 miles long and 0.9 miles wide. The relatively small quantity of sand (3,000 yd^3) and large area over which it will be dispersed before reaching the kelp bed will have no significant impact on this habitat. During the construction of Units 2 and 3 of the San Onofre Nuclear Generating Station, located in the City of San Clemente, California, a construction pad with 400,000 yd^3 of sand was built on the beach. The sand inside of this pad was released into the ocean, and careful studies were conducted of the effect of the sand release on the San Onofre kelp beds that were located directly offshore (San Onofre Sediment Dynamic Group, 1990). The studies found no measurable effects on the kelp beds. In turn, the deposit of 3000 yd^3 of sand from the Children's Pool will have no measurable impact on the La Jolla kelp bed.

3.3 POTENTIAL PHYSICAL IMPACTS ON BLUFFS

The rate of sand accumulation in the Children's Pool is very small: on average, about 40 cubic yards per year. The City of San Diego is planning to return this sand to adjacent beaches once every 2 years. Because of the small volume of sand to be excavated from the Children's Pool and the small volume of sand expected to accumulate in the Children's Pool after excavation (based on historical records), negative effects on adjacent beaches or bluffs are highly unlikely. The project will positively affect adjacent beaches by providing further sand to the

littoral zone. Sites 1 and 2 are large enough to accommodate all 3,000 cubic yards of sand. Spreading the sand at these locations will elevate the sand level by about 1 yd. Since these locations are subject to wave and tidal activity, the elevated sand level is expected to decrease over time and be dispersed offshore in a thin layer.

The project will not result in damage to the face of the coastal bluff at the excavation site or at the two proposed deposit sites. Placement of the excavated sand will offer additional protection from wave activity for the bluffs adjacent to the receiving sites. The quantity of sand that is expected to accumulate at the Children's Pool in the years after excavation will not be large enough (40 yd^3/year) to reduce protection of the cliffs located north or south of the pool. The transportation of equipment will be along the existing ramp by the Lifeguard Station, and precautions will be taken to ensure that no drainage or oil spills occur. At Site 2, sand will be lowered to the beach at the receiving site by a chute.

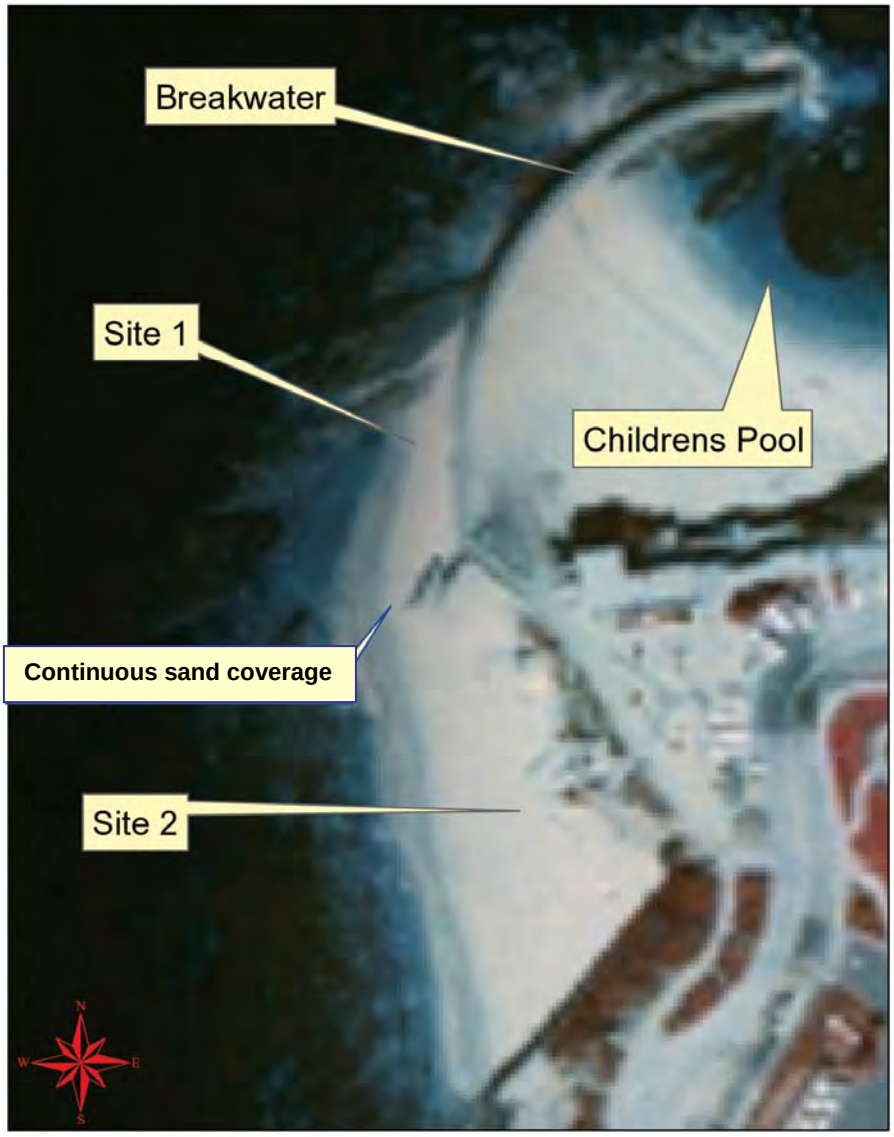


Figure 1. Photograph taken in August 2000 showing sandy beach at Sites 1 and 2 (SANDAG, 2000).



Figure 2. Aerial overview of La Jolla Children's Pool. This photograph shows the sand channels between the reef areas. Photograph taken by consultants for SANDAG and California Coastal Conservancy on 10/06/2002.

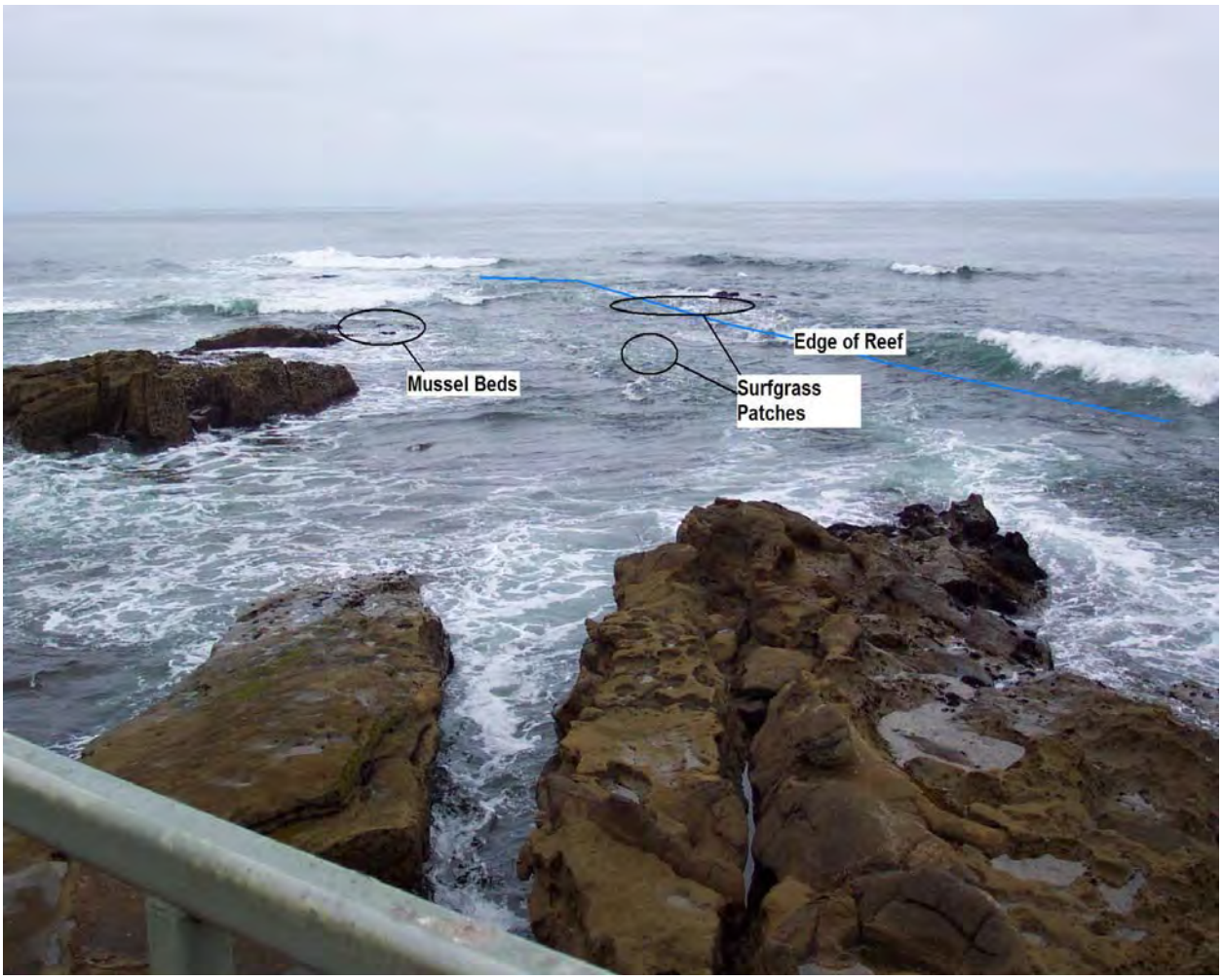


Figure 3. Photograph showing observed locations of mussels and scattered small surfgrass patches at Site 1. This location would most likely be partially buried when seasonal sand moves onshore during the summer months.

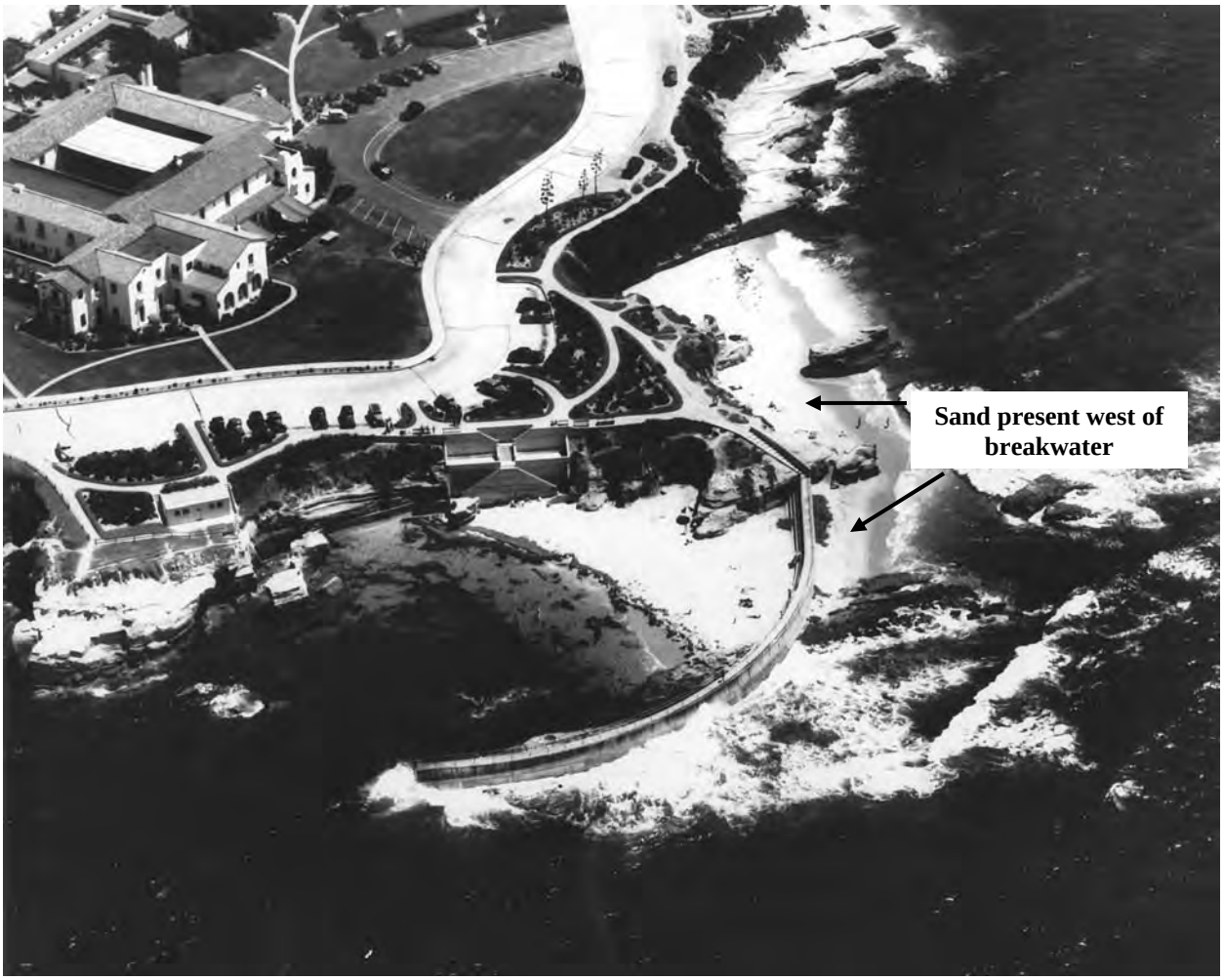


Figure 4. Photograph of the Children's Pool, showing 1940s configuration.

4.0 REFERENCES

City of San Diego, 2002a. Guidelines for Conducting Biology Surveys. http://www.sandiego.gov/mscp/pdf/biosurvey.pdf

City of San Diego, 2002b. San Diego Municipal Code: Chapter 14: General Regulations. http://clerkdoc.sannet.gov/Website/mc/MunicodeChapter14.html

City of San Diego, 2004a. San Diego Municipal Code: Land Development Code: Biology Guidelines. http://www.sandiego.gov/mscp/pdf/biolog.pdf

City of San Diego, 2004b. San Diego Municipal Code: Land Development Code: Coastal Bluffs and Beaches Guidelines. http://www.sandiego.gov/development-services/industry/pdf/landdevmanual/ldmcoastal.pdf

North, W. J., and G. J. Jones, 1991. The Kelp Beds of San Diego and Orange Counties. Report prepared for 9 discharge agencies of San Diego and Orange Counties. 113 pp. and 2 appendices.

San Onofre Sediment Dynamic Group, 1990. Sediment Dynamics of the Area, San Onofre, California. Report edited by R. L. Kolpack and submitted to Southern California Edison Company, P.O. Box 800, Rosemead, CA 91770. 395 pp. and 3 appendices.

APPENDIX A

PHOTOGRAPHS TAKEN DURING THE JUNE 17, 2004 BIOLOGICAL SURVEY

Appendix H
Marine Habitat Assessment, ICF Jones and Stokes, 2009
Intertidal and Subtidal Biological Survey of the Children's Pool (Casa) and South Casa Beaches, MBC, 2008

ICF Jones & Stokes
an ICF International Company

February 9, 2009

Ms. Carrie Purcell, Senior Planner
Engineering and Capital Projects Department
City of San Diego
600 B Street, Suite 800, MS908A
San Diego , CA 92101-4502

Re: Summary of Marine Habitat Assessment for the Children's Pool Area in La Jolla, California

Dear Ms. Purcell:

On behalf of the City of San Diego (City), ICF Jones & Stokes retained MBC *Applied Environmental Sciences* (MBC) to conduct a general marine habitat survey, assess the habitat suitability for special-status species, and prepare a report pertaining to the La Jolla Children's Pool Project. As technical studies for marine mammals were previously completed, they were not specifically addressed in this survey. This document is intended to provide information regarding the presence of sensitive marine habitats and the use of the area by special-status species. This analysis is intended to support review of the project among the City of San Diego (City), U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG) and the National Marine Fisheries Service (NMFS).

Project Summary

The La Jolla Children's Pool project aims to restore the Children's Pool (pool) and Casa Beach to their 1941 configurations by excavating and transferring approximately 3,000 cubic yards (cy) of beach sand from Casa Beach and the pool. The project also proposes the decontamination of sand likely to contain unsafe levels of fecal coliform. The three primary project components include: (1) upper sand excavation, transfer, and placement; (2) lower sand decontamination and Children's Pool reconfiguration; and (3) ongoing maintenance of restored condition.

The project will require approval by the U.S. Army Corps of Engineers (Corps) for permits related to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Appropriations Act, and certification from the San Diego Regional Water Quality Control Board (RWQCB) per Section 401 of the CWA. In addition, a Coastal Development Permit from the California Coastal Commission will need to be issued for any activity extending seaward of the coastal zone's Mean High Tide Line. Lastly, in order to identify any potential indirect effects to abalone, essential fish habitat, marine mammals, or migratory birds, informal consultation with the

National Marine Fisheries Service and U.S. Fish and Wildlife Service will also be completed for this project.

Project Location

The proposed project site is located on the seaward side of Coast Boulevard in the community of La Jolla, within the jurisdictional boundaries of the City of San Diego, California (Figure 1). The project is bordered by Ellen Browning Scripps Park to the north, and developed land uses, primarily multi-family residential and hotel/commercial uses to the east and southeast (Figure 2). The Casa de Mañana residential facility for the elderly is located across Coast Boulevard. A lifeguard station for the Children's Pool, a stairway access down the bluff, public walkway, planters, vegetation, and Children's Pool breakwater are located near the project site. The adjacent pocket beach (South Casa beach) is situated immediately south of Casa Beach and the Children's pool area. The Pacific Ocean surrounds the site to the west.

Casa Beach and the Children's Pool (pool) are protected from the open ocean by the Children's Pool Breakwater (breakwater), which was constructed in 1931. South Casa Beach is more exposed. Both beaches have stair access and the shoreline is comprised of sandstone bluffs and rocky outcrops with small pocket beaches between them. Casa Beach is the largest of the sandy areas in the immediate vicinity.

The proposed project area includes a small portion of subtidal water adjacent to Casa and South Casa Beaches (including the pool), the intertidal zone of these beaches (including the pool and some rocky areas), and the area between the mean high tide line of these beaches and the landward sandstone bluffs. The boundaries of the proposed project area include the top of these bluffs, public walkways, planters, railings, and vegetation (both native and nonnative). In addition, the portion of the breakwater nearest to the northwest corner of the Casa Beach Lifeguard Tower can also be considered a boundary of the proposed project area. These project boundaries encompass all areas where proposed work would be performed, staged, and accessed. Sand removal would occur only within the beach area adjacent to and east of the breakwater, and the project does not propose any changes to the breakwater, bluffs, lifeguard tower, or other areas above the beach.

Survey Methods

A general marine habitat assessment was conducted on 23 September 2008 by MBC biologist divers as part of the CEQA process to determine if the movement of sand within the project area would have an impact on the biota of the nearshore intertidal and subtidal zones. Specifically, MBC conducted the survey to determine if the marine biota was substantially the same as that identified during the surveys conducted in the 1970s for the nearby San Diego Marine Life Refuge and the La Jolla Ecological Reserve, both of which were later designated as Areas of Special Biological Significance (ASBS; State Water Resources Control Board 1979, 1980). Although slightly outside of the ASBS

boundaries, the marine habitats in and around the pool area are similar to the species and habitats found within those protected preserves. In addition, MBC determined whether the invasive genus *Caulerpa* and the eelgrass genus *Zostera* were present in the vicinity. A general habitat assessment was completed, and a list of the common marine floral and faunal species observed is provided in the enclosed report (MBC 2008).

The survey was comprised of meandering transects, ranging from -1-foot Mean Lower Low Water (MLLW) to -15-foot MLLW, that included the subtidal and intertidal areas in front of the Casa and South Casa beaches. Sea conditions ranged from 1 to 2 foot swells and winds were light at 1-5 knots, resulting in relatively calm conditions. The tide fell from a high of +3.8 feet MLLW to a low of +2.9 feet MLLW and back to a high of +5.4 feet MLLW. As visibility was better than ten meters, the dive team searched all areas including the surfgrass beds, sand channels, under ledges, and along the nearshore reef areas. The overall coverage of the area well exceeded the 20% required by the *Caulerpa Surveillance Level Criteria* to insure that no patch of eelgrass or infestation of *Caulerpa* was missed in the preliminary survey.

Survey Results

In total, 12 macroinvertebrate, 15 fish, and 15 plant genera were identified during the survey as the predominant components of the marine habitats, as summarized in Tables 1-3 of the attached report. The habitats within the Casa Beach and South Casa beach project areas included both intertidal and subtidal zones, as summarized below.

Intertidal Habitats

The intertidal habitats of the beaches include the lower portions of the sandy beach, the lower segments of the breakwater, various rocky outcrops, and stone dykes that extend seaward from under the base of the breakwater and between the adjacent beaches to the south. The stone dykes also contain several small tidepools on the seaward side, and all areas support a wide variety of small, benthic marine invertebrates and algae.

Within the project site, sand scoured regions of the mid-intertidal zone occur along the entire extent of the shoreline, and support surfgrass (*Phyllospadix* spp.) turfs and their companion invertebrate species such as mussels, anemones, chitons, snails, limpets and small crustaceans. Notably absent from the intertidal zone were large invertebrates such as keyhole limpets and black abalone (*Haliotis cracherodii*).

The upper and mid- intertidal zones also support a rich epiphytic community and many species are obligate epiphytes attached to host species. Algae are the predominant component of the lower intertidal zone and the species assemblage is partly reflective of the overall biogeography of the area.

Subtidal Habitats

The nearshore subtidal habitat of the Casa beach pool is comprised of a shallow, sandy bottom with relatively flat sandstone ledges that are indented with several sand channels. Rocky reef and boulders supporting benthic flora and fauna are scattered throughout the sand, and the breakwater that extends along the south side of the pool beach for approximately 303 linear feet also supports a typical profile of subtidal organisms. Outside the breakwater, the sandy bottom deepens and is characterized by sandstone ledges, rocky reef and sand channels with a swift current moving south along the seaward side of the breakwater.

The surfgrass forms scattered beds within the shallow subtidal areas and the grassy turfs are mixed with assemblages of typical subtidal red, green and brown macroalgae as well as the invertebrates noted above. The rocky subtidal zone hosts a large diversity of invertebrates including rock oysters, rock scallops mussels, urchins, crabs, sponges, bryozoans and gorgonians. Amphipod crustaceans are the predominant invertebrates, followed by polychaetes and mollusks. Other important subtidal invertebrates include the California spiny lobster (*Panulirus interruptus*) and abalone species (*Haliotis* sp.), and those species are discussed below in the Special Status Species section.

Fish were also diverse and abundant in the subtidal zone and were a subset of the species expected to occur in the area. The marine environment of these beaches supports a substantial number of fish species associated with the Southern California surf zone. This high energy (waves, currents, tides) and nutrient rich area provides nursery habitat while supporting both migratory and resident species, including surfperch (*Micrometrus*), topsmelt (*Atherinops*) and numerous other genera. Adjacent to the surf zone, the drift algal beds, where detached seaweed and other debris gather, are particularly prevalent within the proposed site and provide cover for white seabass (*Atractoscion*), halibut (*Paralichthys*) and kelp bass (*Paralabrax*), which are all important commercial species.

Two other important fish, the garibaldi and the grunion, also use the project area and are discussed below in the Special Status Species section.

Special-Status Species

A number of species, known from the rocky coastal habitats occurring within the project area, maintain a sensitive and/or protected status under several different regulations including land use plans, conservation programs, and local, state, and federal laws that provide some measure of additional protection to their populations and habitats. The project site provides suitable habitat for a number of marine species that are considered either sensitive, are state and/or federally listed as threatened or endangered, or are species that are monitored, managed or protected by state or federal regulations.

Plants

The marine flora within the pool and nearshore waters exhibits the high diversity and richness of the seaweed flora in southern California; typically of smaller biomass than northern California, but exhibiting a substantially higher species diversity. While the survey results include only the common genera, it is likely that the area supports many more than those identified. Previous records in the literature cite La Jolla as the type locality (the area from which a species is first described as new to science) for at least six species of algae (Abbot and Hollenberg 1976, Dawson 1945). However, none of the marine algae that occur within the project area have any special status or listing as threatened or endangered and, therefore, no special-status marine algal species were detected during the survey.

The project site supports high quality surfgrass habitat and, as noted above, this is a sensitive nursery habitat for fish and crustaceans and any permanent impacts to the surfgrass beds would be considered significant.

Animals

The California spiny lobster, while not federally or state listed as endangered or threatened, is a species managed by CDFG. Spiny lobsters are dependent on suitable and sufficient nursery habitat, and those habitats are considered Essential Fish Habitat. In 1961, the State Legislature initiated a permit program for the commercial take of lobster and delegated authority to the Fish and Game (F&G) Commission to manage the fishery. Within the project site, the scattered surfgrass beds provide prime breeding and nursery habitat for lobster and permanent impacts to this habitat would be considered significant.

White abalone (*Haliotis sorenseni*) was federally listed as endangered in 2001 under the ESA but is a deep water species and does not occur within the nearshore proposed project area. Black abalone (*Haliotis cracherodii*) has been recently proposed for listing as endangered under the ESA. As this species is extremely rare, particularly in Southern California, the occurrence of black abalone at the proposed project site is highly unlikely and neither of those two species was observed during the survey. Nevertheless, the La Jolla area has been identified as a key recovery location for pink (*Haliotis corrugata*) and green (*Haliotis fulgens*) abalone under the CDFG Abalone Recovery and Management Plan (CDFG 2005), and green abalone are known to occur within the project area and were observed during the survey.

None of the fish known to exist in or near the proposed project area are species of concern, listed as threatened, or endangered under federal or state Endangered Species Act (ESA). However, the garibaldi (*Hypsopops rubicundus*) is designated as the California Official State Marine Fish and its take is prohibited by state law. California grunion (*Leuresthes tenuis*), a silverside, are also known to exist in the area and may use the pool and adjacent pocket beaches for spawning. Although grunion

are not a protected species, they are unique in that they leave water to spawn on wet beach sand on evening high tides during full and new moons between March and August.

Impacts

Sensitive marine species and habitats have been identified within the project site and the proposed project could result in significant impacts to sensitive habitats if mitigation measures are not implemented. Potential impacts from the excavation activity could include: disturbance to sand-dwelling flora and fauna within the excavation zones; prolonged increases to the nutrient content in the immediate waters resulting from nutrients leaching back into the water; sustained increases in turbidity in the surrounding waters as a result of suspension of sand and sediments; smothering of nearshore marine communities as a result of too much sand deposition in one area; and the inadvertent introduction of the invasive alga *Caulerpa* into the marine habitats.

Although survey results determined that there was no evidence of *Caulerpa* within the project area, care should be taken that this invasive, noxious weed is not inadvertently introduced into the area via construction equipment or the importation of any materials from other locales that may harbor fragments of this seaweed. Spawning or breeding seasons for grunion, California spiny lobster, and harbor seals should be avoided unless a qualified biologist determines that the critical seasons for these species have concluded, or as determined by and in consultation with the resource agencies. Mitigation measures regarding the presence of the harbor seals during construction should also be refined in consultation with the agencies to ensure that seals do not approach the construction equipment and, if so, that construction is halted until the seals are no longer within the active areas.

Mitigation

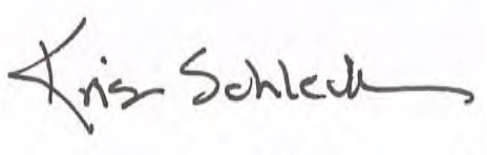
The following mitigation measures are required to ensure that construction activities stay within the project limits and that the surrounding marine biological species and sensitive marine habitat resources are protected to the maximum extent possible:

- A Biological Monitor shall conduct a biological pre-construction survey and shall be present throughout the construction process. Both the sand donor and receiver sites shall be monitored to ensure that sensitive areas and species are avoided and appropriate BMPs are implemented. If the monitor determines that sand is being dispersed too quickly and therefore causing negative impacts on the marine or terrestrial environment, construction shall be slowed or halted to allow more gradual dispersal. Additional measures overseen by the monitor should include:
  - Ensure that the sand excavation area is centralized and equipment will not directly scrape or scour the hard intertidal surfaces (the breakwater and rocky outcrops) that support sensitive species.

- Ensure that excavation and sand transfer activity in the lower pool beach area and on the lower pocket beach area avoids surfgrass turfs to the maximum extent practicable.
- Ensure that staging areas for the excavation and sand transfer equipment, and the sand transport route, are not sited within the bluff habitats.
- Ensure that transported sand is redistributed on the upper portions of the pocket beach above the high tide line and as far under the cliff base as feasible.
- Ensure that all excavation and sand transport equipment is checked for presence of *Caulerpa* fragments prior to use within the beach areas.
- Ensure that seals do not approach the construction equipment and, if so, halt construction until the seals are no longer within the active areas.
- Grunion spawning occurs from March through August, and peak spawning is late March to early June. Excavation shall occur outside of the grunion spawning season unless a qualified biologist determines that the spawning season has concluded, or as determined by and in consultation with the resource agencies.
- Spiny lobsters mate from November through May and egg-bearing females occur in shallower waters. Excavation shall occur outside of the lobster breeding season unless a qualified biologist determines that the reproductive season has concluded, or as determined by and in consultation with the resource agencies.
- Seals may molt and pup anywhere from December to June. Excavation activity shall occur outside of the seal pupping season unless a qualified biologist determines that the pupping season has concluded, or as determined by and in consultation with the resource agencies.

If you have any questions regarding the contents of this summary letter, please contact me at (858) 578-8964.

Sincerely,



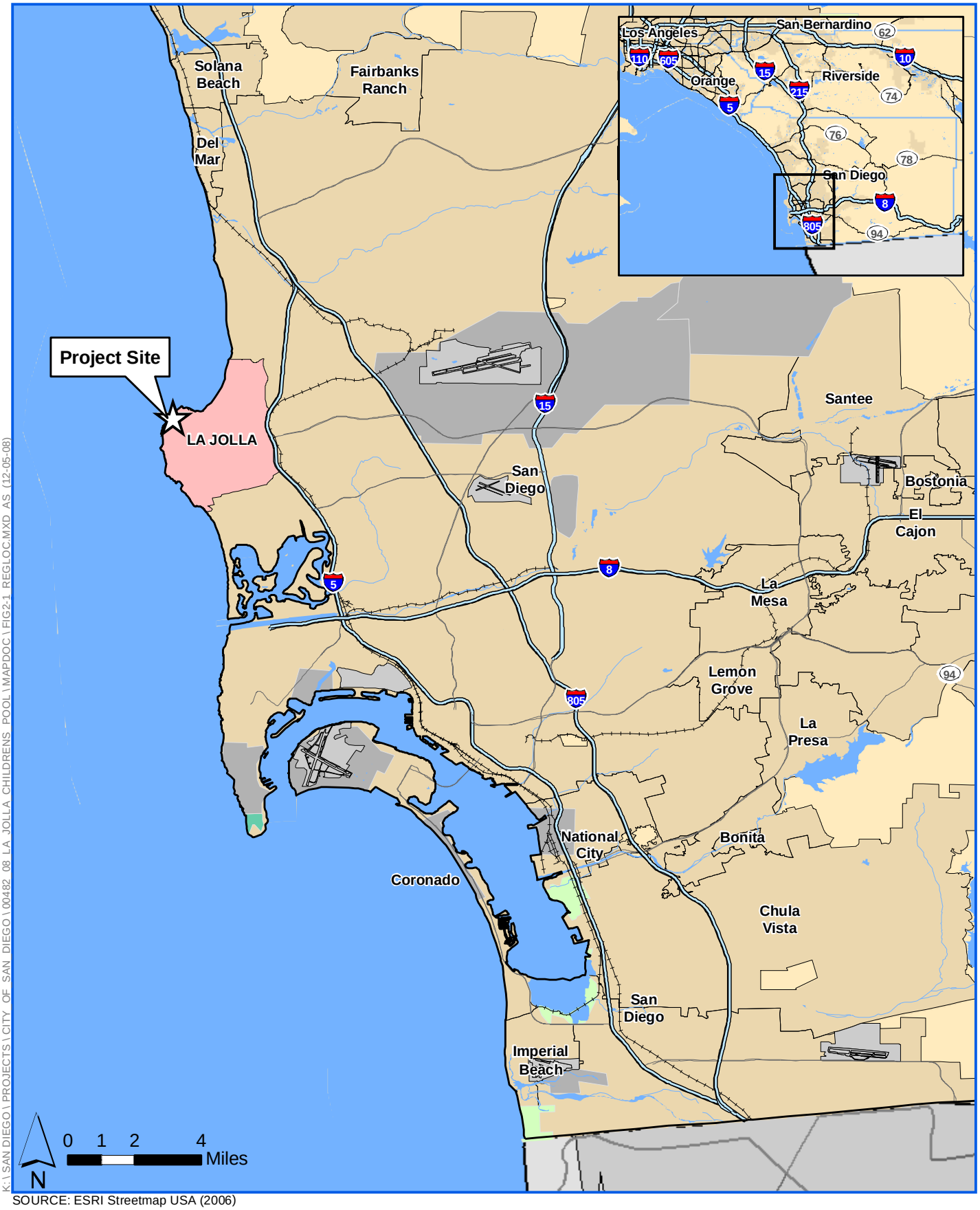
Kris Schlech
ICF Jones & Stokes Biologist

ICF Jones & Stokes
an ICF International Company

ATTACHMENTS

Figures 1 and 2

MBC. 2008. Intertidal and Subtidal Biological Survey of Children's Pool (Casa) and South Casa Beaches.

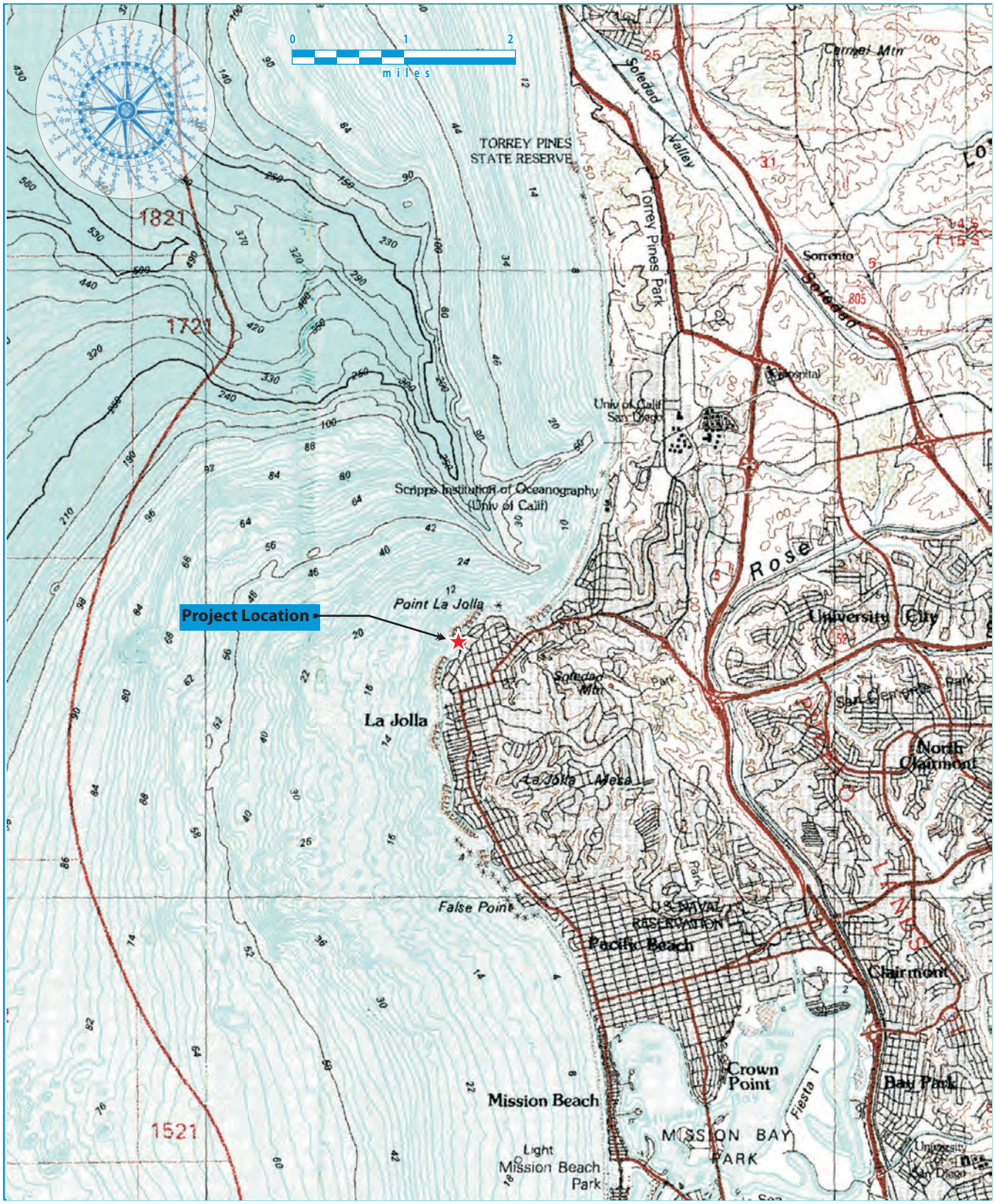


K:\SAN DIEGO\PROJECTS\CITY OF SAN DIEGO\00482 08 LA JOLLA CHILDRENS POOL\MAPDOC\FIG2-1 REGLOC.MXD AS (12-05-08)

SOURCE: ESRI Streetmap USA (2006)

ICF Jones & Stokes
an ICF International Company

Figure 1
Regional Map - La Jolla Children's Pool Project

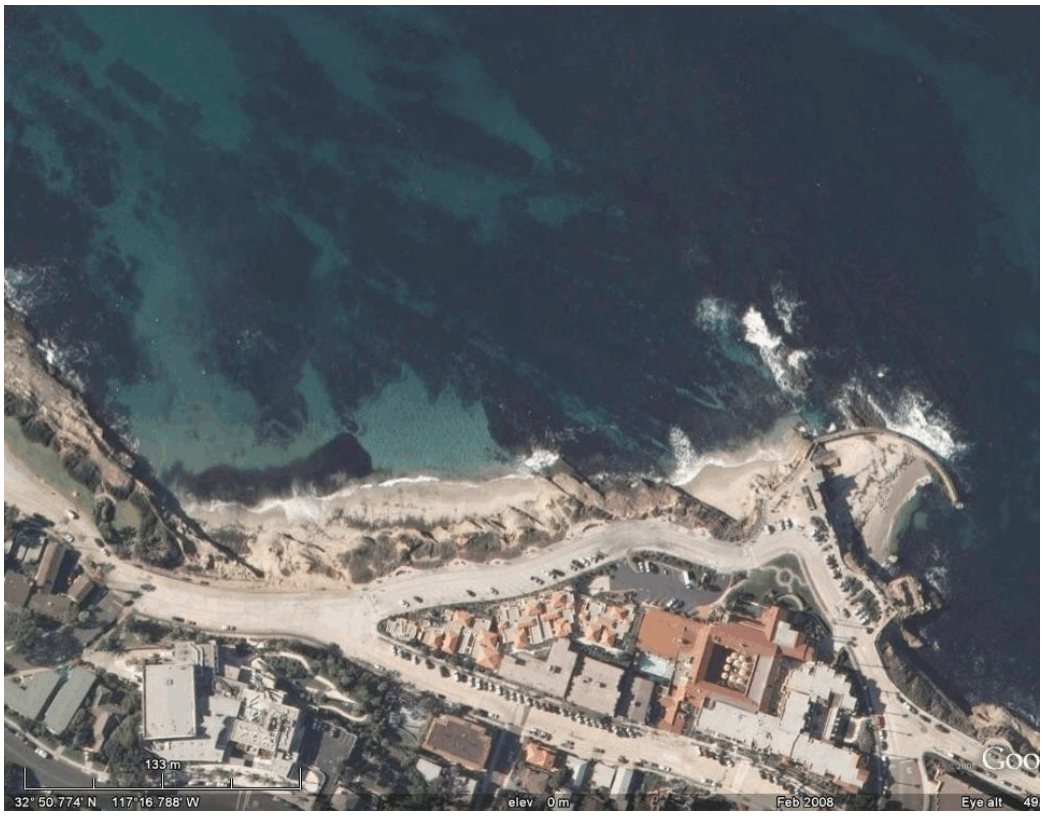


Source: USGS 30' x 60' Quadrangle - San Diego. Topographic and Bathymetric contours are in meters.

ICF Jones & Stokes
an ICF International Company

Figure 2
Project Vicinity -La Jolla Children's Pool Project

INTERTIDAL AND SUBTIDAL BIOLOGICAL SURVEY OF CHILDREN'S POOL (CASA) AND SOUTH CASA BEACHES



Prepared for:

ICF Jones & Stokes
San Diego, CA

Prepared by:

MBC *Applied Environmental Sciences*
Costa Mesa, CA

September 2008

INTERTIDAL AND SUBTIDAL BIOLOGICAL SURVEY OF CHILDREN'S POOL (CASA) AND SOUTH CASA BEACHES

The City of San Diego is proposing to restore the pocket beach at Children's Pool (Casa Beach) to historic conditions. The Children's pool area was constructed in 1931 and was designed to create a shallow, calm swimming area for children's use by reducing wave action behind a concrete breakwater. However, efforts to restore the historical function will involve the excavation of 3,000 cubic yards of sand that has accumulated on the Children's pool beach), and its deposition onto the adjacent pocket beaches (South Casa Beach), which may result in potential disturbance to both intertidal and subtidal marine habitats and inhabitants.

A survey was conducted of the intertidal and subtidal biota in and adjacent to the project areas as part of the EIR process to determine if the movement of sand for the project would have an impact on the biota of the nearshore intertidal and subtidal zones. MBC *Applied Environmental Sciences* (MBC) was contracted by ICF Jones & Stokes to perform a biological assessment of these areas offshore of Children's Pool, Casa, and South Casa Beaches. Although slightly outside of the Areas of Special Biological Significance (ASBS) boundary, the marine habitats and species in and around the pool area are similar to the species and habitats found within the San Diego and La Jolla Ecological Reserve and the San Diego Marine Life Refuge. Specifically MBC biologist-divers determined if biota was substantially the same as during surveys conducted for the nearby refuge and reserve as part of the determination process in the late-1970s to designate the ASBS. As part of the present survey, MBC biologist-divers determined whether *Caulerpa (Caulerpa taxifolia*), and eelgrass (*Zostera marina*) were present in the vicinity. MBC biologist-divers are certified to conduct *Caulerpa* surveys and have conducted numerous eelgrass surveys for the National Marine Fisheries Service and for the California Department of Fish and Game (CDF&G).

DESCRIPTION OF THE STUDY AREA

Children's Pool (Casa Beach) and the adjacent pocket beaches (South Casa Beach) are located in La Jolla, California, along Coast Boulevard, just south of the San Diego Marine Life Refuge and the San Diego-La Jolla Ecological Reserve, both of which are designated as Areas of Special Biological Significance (Figure 1).

MATERIALS AND METHODS

The survey program was conducted by MBC. MBC biologist-divers surveyed the intertidal and subtidal areas in front of the Casa and South Casa Beaches (both pocket beaches). Biologist-diver teams searched all areas of the project area including the surfgrass beds, under ledges, and upon the reefy areas (Figure 2). As visibility was better than 10 m, the two biologists covered a large portion of the reef areas of the two project sites. These meandering transects followed all of the reef areas and along the sand channels. The overall coverage of the area was far in excess of the 20% required by the *Caulerpa* Surveillance Level Criteria, to insure that no patch of eelgrass or infestation of *Caulerpa* could be missed.

SURVEY RESULTS

The intertidal and subtidal survey was conducted by biologist-divers on 23 September 2008 from 1030 to 1330 hours along meandering transects ranging from -1-ft Mean Lower Low Water (MLLW) to -15-ft MLLW. Sea conditions ranged from 1 to 2 ft swells and winds were light at 1-5 kn resulting in relatively calm conditions throughout the day. On that day, the tide fell from a high of +3.8 ft MLLW at 0659 hr to a low of +2.9 ft MLLW at 1118 hr and back to a high of +5.4 ft MLLW at 1724 hr. During the survey period the tidal range was from +2.9 ft to +3.5 ft MLLW. Underwater visibility ranged from 7 to 10 m.



Figure 1. Location of the study area. Children's Pool Biological Assessment, 2008.

Intertidal Habitats

The intertidal habitats of the Casa and South Casa beaches include the lower portions of the sandy beach, the lower segments of the breakwater, various rocky outcrops within and around the pool, and stone dikes that extend seaward from under the base of the breakwater, and between the adjacent beaches to the south. The stone dikes also contain several, small tidepools on the seaward side. All of these areas support a wide variety of small benthic marine invertebrates and algae.

Intertidal expected species. Sand scoured areas typically harbor opportunistic algae and marine invertebrates that readily colonize disturbed surfaces and other species that can tolerate abrasion and sand deposition. The typically found species are represented by both articulated and crustose, fleshy and coralline algae such as *Corallina* (coralline algae), *Ralfsia* (tar spot algae), and *Lithothamnion* (encrusting red algae), the green algae *Enteromorpha* and *Ulva*, and turfy red algae such as *Ceramium*. Other species that appear to tolerate these areas include the algae *Zonaria, Ahnfeltia*, *Gracilaria, Gymnogongrus* and *Scytosiphon*. Invertebrate species

include various tube worms (*Phragmatopoma* spp) and bivalves. The uppermost, rocky intertidal zones within the pool project area and adjacent pocket beaches support attached barnacles, coralline algal communities and mobile, foraging faunal species. The mid-intertidal zone, often referred to as the mussel zone, is generally both submerged and exposed at least once a day with the tidal cycle, and supports somewhat larger and more thalloid algal and surfgrass (*Phyllospadix* spp) turfs, and their companion invertebrate species such as mussels, anemones, chitons, snails, limpets, and small crustaceans such as hermit crabs. Red algae and mussels are both most abundant in this mid-zone, and predatory snails (*Nucella* spp) may also be common. This zone also supports a rich epiphytic (attached to another plant) community and many species are obligate epiphytes attached to host species in this zone.



Figure 2. Outline of the survey area. Children's Pool Biological Assessment, 2008.

The lower intertidal zone interfaces with the subtidal. Algae are the predominant component of the lower intertidal, and species composition is partly reflective of the overall biogeography of the area. Typical, local representative species include the feather boa kelp (*Egregia*) and southern sea palm (*Eisenia).* Representative marine invertebrates may include polychaetes and tube worms (*Phragmatopoma*), sea hares (*Aplysia*), and sea stars (*Pisaster* spp).

Species observed during 23 September 2008 survey of the intertidal.

Intertidal. Typical observed inhabitants of the intertidal zone at both locations included the algal species *Corallina*, *Ralfsia*, *Lithothamnion, Enteromorpha*, *Ulva*, and *Ceramium*. Coralline algae covered most of the inshore reef whereas large expanses of *Lithothamnion* and the tar spot alga *Ralfsia* were found on the exposed rocks; small amounts of *Ceramium* were found on the reef structure in the intertidal. *Ulva* and *Enteromorpha* were also in the intertidal area but covered relatively small portions of the habitat. A few juvenile fish were seen in this area including small zebraperch (*Hermosilla azurea*) and blacksmith (*Chromis punctipinnis*). On the vertical surfaces of the breakwater surrounding Children's Pool, an assortment of typical intertidal invertebrates were observed including periwinkles, limpets, several types of barnacles, sea stars (*Pisaster ochraceus*), chitons, turban shells, and purple rocky shore crabs. Notably absent were large invertebrates such as keyhole limpets and black abalone (*Haliotis cracherodii).*

Subtidal habitats

The nearshore subtidal habitat of the Casa Beach pool is comprised of a shallow, sandy bottom with relatively flat sandstone ledges that are indented with several sand channels. Rocky reef and boulders supporting marine benthic flora and fauna are scattered throughout the sand, and the breakwater that extends along the south side of the pool beach for approximately 303 linear feet also supports a typical profile of subtidal organisms. Outside of the breakwater, the sandy bottom deepens and is characterized by sandstone ledges, rocky reef, and sand channels with a swift current moving south around the seaward side of the breakwater.

Subtidal expected species. The subtidal zone is characterized as being continually submerged by seawater, and organisms occupying the subtidal zones are usually distributed based upon substratum, depth and/or exposure to underwater currents or other hydrological features, various photosynthetic requirements, and the various bottom substrata of rocky outcrop, boulders, cobbles or sand.

Flora. In typical subtidal habitat, surfgrass (*Phyllospadix*) forms scattered beds within the shallow, subtidal and mid-to-low intertidal areas. Three major algal phyla are found in the subtidal: these include the Phaeophyta (brown algae and kelps), the Chlorophyta (green algae), and the Rhodophyta (red algae). Their presence or absence, as well as the extent of their distribution, are determined largely by the substrate, their photosynthetic requirements, and ambient water temperatures. The algal checklists that were compiled for the ASBS reports (CSWRCB 1979 and 1980) included more than 37 genera. Representative algal genera occurring in the intertidal and subtidal areas of the pool and pocket beaches, based on local collection data from the ASBS reports (area around the Scripps Park and Goldfish Point sites) and Dawson's 1945 checklists (the caves area in La Jolla) include, but are not limited to, the following commonly occurring genera: Chlorophyta: *Chaetomorpha*, *Codium*, *Derbesia*, *Enteromorpha* and *Ulva*; Phaeophyta: *Ectocarpus, Dictyota, Dictyopteris, Desmarestia, Scytosiphon, Spacelaria, Egregia*, *Eisenia*, and *Sargassum*; Rhodophyta: (Corallines) *Lithothamnion*, *Melobesia*, *Corallina*, *Amphiroa*, *Jania*, (Non-corallines) *Nemalion*, *Helminthocladia*, *Gelidium*, *Lithothrix*, *Grateloupia*, *Callithamnion*, *Rhodymenia*, *Ceramium*, *Polysiphonia*, and *Laurencia*.

Fauna. The rocky subtidal zone typically hosts a large diversity of invertebrates. Rock oysters, rock scallops, and mussels are common inhabitants as are urchins, crabs, sponges, bryozoans, and gorgonians. Amphipod crustaceans are the predominant invertebrate in subtidal sandy areas followed by polychaetes and mollusks. Other important subtidal invertebrates include spiny lobster and abalone. Nearshore surfgrass (*Phyllospadix*) beds provide vital habitat for juvenile lobsters, while adults utilize these and more offshore habitats (North 1976). Adult California lobsters are usually found in rocky habitats, although they will forage in sandy areas. The abalone population in the La Jolla area, and Southern California as a whole, has experienced a precipitous drop since the 1970's, primarily as a result of overfishing and disease (withering syndrome). In the Southern California Bight (Point Conception to the Mexican Border) black *(Haliotis cracherodii)*, green *(Haliotis fulgens)*, pink *(Haliotis corrugata),* red *(Haliotis rufescens)*, threaded and pinto (*Haliotis assimillis* and *H. kamtschatkana*) (which are thought to be the same species), flat (*Haliotis walallensis*), and white *(Haliotis sorenseni)* abalone are all known to occur. These are listed in the order of the depths they inhabit with black abalone being the most prominent in the intertidal zone, while the others are predominant in successively deeper water; white abalone typically occur at depths of 80-150 feet. All exist on hard substrata and are algal feeders (Haaker et al. 1986). Several of the shallower species of abalone were once abundant in the La Jolla area with a healthy population of green abalone observed in the shallow, boulder area of Devil's Slide corner in the San Diego-La Jolla Ecological Reserve in 1979 (CSWRCB 1979). Black abalone was also observed during that survey. However, in more recent years, observations of any abalone species in the La Jolla area are rare. The white abalone has been listed as endangered and the black abalone has been proposed for listing with endangered status. Black abalone are extremely rare, particularly in Southern California where populations have been decimated by withering syndrome and overharvesting. The La Jolla area has also been identified as a key recovery location for pink and green abalone, both of which are listed as species of concern under the Endangered Species Act (ESA) (CDF&G 2005). These species (along with the white abalone) tend to be found in deeper water and are rare in the shallower habitats within the project area.

Fish. Typical fish that would be expected to found in this habitat include a large number of resident and transient fish species. Because the area is host to a range of habitats in close proximity to one another, species diversity is high. The species noted are those most commonly

associated with this environment but other, rarer fishes may also have the potential to occur within the area at any given time.

Within the intertidal zone, the prevalent species include wooly sculpin (*Clincottus analis*), opaleye (*Girella nigricans*), California clingfish (*Gobiesox rhessodon*), spotted kelpfish (*Gibbonsia elegans*), rockpool blenny (*Hypsoblennius gilberti*), and reef finspot (*Paraclinus integripinnis*). However, several other species categorized below may be found in the intertidal zone as juveniles, inadvertently trapped by receding tides, or otherwise. (CSWRCB, 1979; Allen et al., 2006).

The marine environment of these beaches supports a substantial number of fish species associated with the Southern California surf zone. This high energy (waves, currents, tides) and nutrient rich area provides nursery habitat while supporting both resident and migratory species. Species commonly found in this zone include the walleye surfperch (*Hyperprosopon argenteum*), shiner surfperch (*Cymatogaster aggregata*), California grunion (*Leuresthes tenuis*), topsmelt (*Atherinops affinis*), barred surfperch (*Amphisticus argenteus*), California corbina (*Menticirrhus undulatus*), spotfin croaker (*Roncador stearnsii*), queenfish (*Seriphus politus*), yellowfin croaker (*Umbrina roncador*), dwarf perch (*Micrometrus minimus*), leopard shark (*Triakis semifasciata*), and round stingray (*Urobatis halleri*). (CSWRCB 1979; Allen 1985).

Drift algal beds are an important subtidal habitat for fish and occur within and adjacent to the surf zone. These zones, where detached seaweed and other debris gather, are particularly prevalent within the proposed site and provide cover for white seabass (*Atractoscion nobilis*), California halibut (*Paralichthys californicus*), and kelp bass (*Paralabrax clathratus*), all important commercial species. Drift beds also provide nursery areas for various surfperch and kelpfish, and are the primary habitat for the barcheek pipefish (*Syngnathus exilis*; Allen and Herbinson 1991)

Extending out from the surf zone is the coastal pelagic (open water) zone where several transitory fish species occur. Although their prevalence within and near the proposed project area is unknown, the regular or occasional occurrence of pelagic species associated with shallow water environments in southern California is likely. Species not previously mentioned that are common to this zone could include, but are not limited to, northern and deepbody anchovy (*Engraulis mordax* and *Anchoa compressa*), salema (*Xenistius californiensis*), Pacific pompano (*Peprilus simillimus*), white croaker (*Genyonemus lineatus*), and California barracuda (*Sphyraena argentea*) (Allen and DeMartini 1983).

Although all of the near shore habitats mentioned above are important, the rocky reefs and kelp beds within and/or adjacent to the proposed project site host the greatest diversity of marine fish in the area. Those species more prevalent in shallower water reefs, surfgrass meadows, and kelp beds not previously mentioned may include black perch (*Embiotoca jacksoni*), rainbow seaperch (*Hypsurus caryi*), senorita (Oxyjulis californica), garibaldi (*Hypsypops rubicundus*; protected under state law), kelp rockfish (*Sebastes atrovirens*), grass rockfish (*Sebastes rastrelliger*), black and yellow rockfish (*Sebastes chrysomelas*), striped perch (*Embiotoca lateralis*), sargo (*Anisotremus davidsonii*), black croaker (*Cheilotrema saturnum*), blacksmith (*Chromis punctipinnis*), California moray (*Gymnothorax mordax*), rock wrasse (*Halichoeres semicinctus)*, zebra perch (*Hermosilla azurea*), horn shark (*Heterodontus francisci*), half moon *(Medialuna californiensis*), barred sandbass (*Paralabrax nebulifer*), California sheephead (*Semicossyphus pulcher*), and giant kelpfish (*Heterostichus rostratus*) (CSWRCB 1979; Larson and DeMartini 1984).

In addition, some large, mobile, nocturnal species may occur within these habitats. Those not previously mentioned include the Pacific electric ray (*Torpedo californica*), gray smoothhound (*Mustelus californicus*), angel shark (*Squatina californica*), brown smoothhound (*Mustelus henlei*), bat ray (*Myliobatis californica*), and swell shark (*Cephaloscylium ventriosum*) (Pondella and Allen 1999).

None of the fishes known to exist in or near the proposed project area are species of concern, listed as threatened, or endangered under the ESA. However, the garibaldi is designated as the California Official State Marine Fish and is regulated by CDF&G and its take is prohibited by state law (CDF&G 1995).

California grunion, a silverside, are known to exist in the area and may use the pool and adjacent pocket beaches for spawning. Grunion are not a protected species, but are unique in that they leave the water to spawn on wet beach sand on evening high tides during full and new moons from March to August.

Species observed during 23 September 2008 survey of the subtidal

Subtidal. Surfgrass beds (*Phyllospadix scouleri*) are attached to rocks in the lower intertidal and shallow subtidal habitat and are scattered throughout the pool area, and along the shore to the north and south (including large expanses of the shallow subtidal along South Casa Beach). It is the primary species within the nearshore of Childrens Pool and both Casa and South Casa Beaches. A wide variety of algae also were observed (Table 1). The largest algae were a few giant kelp plants (*Macrocystis pyrifera*) that were observed at South Casa beach, along with feather boa kelp (*Egregia menziesii*) and the southern sea palm (*Eisenia arborea*) that were found in all shallow subtidal areas. In areas where surfgrass was not growing, the bottom was covered with coralline algae, the delicate red alga *Ceramium* (very abundant in the shallow subtidal areas), and a variety of other small red and brown upright and encrusting algae, such as the invasive species *Sargassum muticum*, and other brown algae including *Dicyota flabbelata*, *Colpomenia peregrina*, and *Zonaria farlowii*. Red algae included species such as *Lithothamnium* sp, *Corallina* sp, and *Rhodomenia* sp. A few mollusks were also observed such as the festive snail (*Pteropurpura festiva*) and the kelp snail (*Norrisia norrisi*) (Table 2). One large (202 mm = 8 in.) green abalone (*Haliotis fulgens*) was found offshore of South Casa Beach at about -10 ft MLLW, and within about 10 m of that location a smaller (67 mm = 2.6 in.) freshly deceased green abalone shell was recovered (Figure 2). No other abalone (*Haliotis* spp) were noted along any of the transects despite a search for their presence in rocky reef areas.

No purple or red sea urchins (*Strongylocentrotus purpuratus* and *S. fransciscanus*), nor the giant wavy top turban snail (*Megastraea undosa*) were in evidence (Table 2). Crustaceans such as the California spiny lobster (*Panulirus interruptus*) were abundant in all areas either within rocky crevices or under the surfgrass. No other large crustaceans such as sheep crab (*Loxorhynchus giganteus*) or cancer crabs (*Cancer* sp) were noted on any of the transects through the study area. The predominant infaunal species encountered was the sand tube worm (*Phragmatopoma fimbriatus*) on the sides of the sand channels that ran through all areas. No sand dollar beds (*Dendraster excentricus*) were noted along any of the transects nor were any other large macroinvertebrates observed (Table 2). Fish were abundant in the subtidal zone and were a subset of the species expected to be found in the area. These species include black perch (*Embiotoca jacksoni*), señorita *(Oxyjulis californica)*, kelp bass (*Paralabrax clathratus*), sheephead (*Semicossyphus pulcher*), California scorpionfish (*Scorpaena guttata*), giant kelpfish (*Heterostichus rostratus*), blacksmith (*Chromis punctipinnis*), rock wrasse (*Halichoeres semicinctus*), garibaldi (*Hypsypops rubicundus*), halfmoon (*Medialuna californiensis*), opaleye (*Girella nigricans*), sargo (*Anisotremus davidsonii*), zebraperch (*Hermosilla azurea),* dwarf surfperch (*Micrometrus minimus*), salema (*Xenistius californiensis*), and topsmelt (*Atherinops affinis*) (Table 3).

Marine Mammals

On 16 September 2008, approximately 75 harbor seals (*Phoca vitulina*) were observed by MBC biologists on the beach or in the water at Children's Pool. On 23 September 2008, the biologists observed about 10 harbor seals on the beach, and about five swimming in the water at Children's Pool, one on the rocks at Casa Beach, and several were sighted while conducting subtidal surveys of Children's Pool, Casa, and South Casa Beach.

DISCUSSION

Based on the results of the surveys and a comparison to previously compiled species lists during the ASBS designation process and subsequent surveys, it appears that the flora and fauna of the intertidal and subtidal zones are substantially unchanged since the earlier baseline surveys. The primary plant species expected and found in the subtidal was surfgrass, and neither eelgrass nor *Caulerpa* was detected. The dynamic confluence of swell and currents in the Children's Pool and especially Casa and South Casa Beaches promote large meadows of surfgrass which in turn provide habitat and foraging ground for lobster as well as many other species. As noted previously, the absence of large mollusks in the intertidal and subtidal such as abalone is a region-wide occurrence as is the loss of smaller mollusks within the subtidal. The presence of an adult green abalone and especially the collection of a shell of a recently deceased juvenile green abalone suggest that the area offshore of the proposed project site might harbor larger populations of this species and that it could be a productive area for this species. As noted above, in the Souther California Bight (Point Conception to Mexican Border) black (*Haliotis cracherodii*), green (*Haliotis fulgens*), threaded/pinto (*Haliotis asslmilis* / *Haliotis kamtschatkana*), pink (*Haliotis corrugata*), red (*Haliotis rufescens*), flat (*Haliotis walallensis*), and white (*Haliotis sorenseni*) abalone are all know to occur. As noted previously, no other abalone (*Haliotis* spp) were noted along any of the transects despite a search for their presence in rocky reef areas. The presence of a wide variety of adult and juvenile fish species reflects an area that is productive and provides not only habitat and shelter, but a rich foraging area for these species.

Incremental deposition of the pool beach sand onto the adjacent beaches would minimize any potential smothering effect to communities of the low intertidal and subtidal habitats. The dynamic environment found in this area also suggests that any sand inundation event would be ephemeral as the sand would soon be winnowed away by the swell and strong currents found in the area.

LITERATURE CITED

Allen, L.G. 1985. A habitat analysis of the nearshore marine fishes from southern California. Bull South Cal. Acad. Sci. 84(3): p. 133-155.

Allen, L.G., M.M. Yoklavich, G.M. Cailliet, and M. H. Horn. 2006. Bays and estuaries. Pp. 119-148. *In.* The ecology of marine fishes: California and adjacent waters, Allen, L. G., D. J. Pondella II, and M. H. Horn. Univ. Calif. Press.

Allen, M.J., and K.T. Herbinson. 1991. Beam-trawl survey of bay and nearshore fishes of the soft-bottom habitat of southern California in 1989. CalCOFI Rep. 32: 16 p.

Allen, L.G., and E.E. DeMartini. 1983. Temporal and spatial patterns of nearshore distribution and abundance of the pelagic fishes off San Onofre-Oceanside, CA. Fish. Bull., U.S. 81(3):569-586.

California Department of Fish and Game. 1995. www.dfg.ca.gov

California Department of Fish and Game. 2005. Abalone recovery and management plan. www.dfg.ca.gov/mrd/armp/index.html

California State Water Resources Control Board. 1979. California Marine Waters Areas of Special Biological Significance Reconnaissance Survey Report –San Diego and La Jolla Ecological Reserve. Prepared by the California State Water Resources Control Board – Surveillance and Monitoring Section. Water quality monitoring report No. 79-1. 74 pp. + Appendices.

California State Water Resources Control Board. 1980. California Marine Waters Areas of Special Biological Significance Reconnaissance Survey Report –San Diego Marine Life Refuge. Prepared by the California State Water Resources Control Board – Surveillance and Monitoring Section. Water quality monitoring report No. 80-5. 36 pp. + Appendices.

CDF&G. See California Department of Fish and Game.

CSWRCB. See California State Water Resources Control Board.

Larson, R.J. and E.E. DeMartini. 1984. Abundance and vertical distribution of fishes in a cobble-bottom kelp forest off San Onofre, California. Fish Bull., Vol. 82, No.1. Pages 37-53.

Haaker, P.L., Henderson, K.C., and D.O. Parker. 1986. California Abalone. Marine Resources Leaflet No.11. Prepared by State of California The Resource Agency Department of Fish and Game.

North, W. J. 1976. Underwater California. California Natural History Guide:39. University of California Press, Berkeley, California. 276 pp.

Pondella, D.J. and L.G. Allen. 1999. The nearshore fish assemblage of Santa Catalina Island. Proceedings of the fifth California Island symposium, 29 March - 1 April 1999. U.S. Department of the Interior, Minerals Management Services, Pacific OCS Region.

Appendix I
Terrestrial Habitat Assessment, ICF Jones and Stokes, 2009

ICF Jones & Stokes
an ICF International Company

August 8, 2008

Ms. Carrie Purcell, Senior Planner
Engineering and Capital Projects Department
City of San Diego
600 B Street, Suite 800, MS908A
San Diego , CA 92101-4502

Re: Terrestrial Habitat Assessment for the La Jolla Children's Pool Project in La Jolla, California

Dear Ms. Purcell:

ICF Jones & Stokes was retained to conduct a general habitat and botanical survey, assess the habitat suitability for special-status plant species, and prepare a letter report pertaining to the La Jolla Children's Pool Project. This letter report summarizes the results of the habitat survey and is intended to provide information regarding the use of the area by special-status species. This analysis is intended to support review of the project among the City of San Diego (City), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Game (CDFG).

Project Summary

The La Jolla Children's Pool project aims to restore the Children's Pool (pool) and Casa Beach to their 1941 configurations by excavating and transferring approximately 3,000 cubic yards (cy) of beach sand from Casa Beach and the pool. The project also proposes the decontamination of sand likely to contain unsafe levels of fecal coliform. The three primary project components include: (1) upper sand excavation, transfer, and placement; (2) lower sand decontamination and Children's Pool reconfiguration; and (3) ongoing maintenance of restored condition.

The project will require approval by the U.S. Army Corps of Engineers (Corps) for permits related to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Appropriations Act, and certification by the San Diego Regional Water Quality Control Board (RWQCB) per section 401 of the CWA. In addition, a Coastal Development Permit from the California Coastal Commission will need to be issued for any activity extending seaward of the coastal zone's Mean High Tide Line, and an informal consultation with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) will be completed to address potential effects to special status wildlife species.

Project Location

The proposed project site is located on the seaward side of Coast Boulevard in the community of La Jolla, within the jurisdictional boundaries of the City of San Diego, California (Figure 1). The project is bordered by Ellen Browning Scripps Park to the north, and developed land uses, primarily multi-family residential and hotel/commercial uses to the east and southeast (Figure 2). The Casa de Mañana residential facility for the elderly is located across Coast Boulevard. A lifeguard station for the Children's Pool, a stairway access down the bluff, public walkway, planters, vegetation, and Children's Pool breakwater are located near the project site. The adjacent pocket beach (South Casa beach) is situated immediately south of Casa Beach and the Children's pool area. The Pacific Ocean surrounds the site to the west. The project site can be located on the USGS 7.5 minute topographic La Jolla Quadrangle: Latitude 32"50'50 39"North and Longitude 117 16' 42.80"West.

Casa Beach and the Children's Pool (pool) are protected from the open ocean by the Children's Pool Breakwater (breakwater), which was constructed in 1931. South Casa Beach is more exposed. Both beaches have stair access and the shoreline is composed of sandstone bluffs and rocky outcrops with small pocket beaches between them. Casa Beach is the largest of the sandy areas in the immediate vicinity. Casa Beach and the adjacent South Casa pocket beach are surrounded by a narrow strip of southern coastal bluff habitat and coastal headlands characterized by unvegetated sand stone rock outcrops. The project site is not located within the City of San Diego Multi-Habitat Preservation Area (MHPA).

The proposed project area includes a small portion of subtidal water adjacent to Casa and South Casa Beaches (including the pool), the intertidal zone of these beaches (including the pool and some rocky areas), and the small area between the mean high tide line of these beaches and the landward sandstone bluffs. The boundaries of the proposed project area include the top of these bluffs, public walkways, planters, railings, and vegetation (both native and nonnative). In addition, the portion of the breakwater nearest to the northwest corner of the Casa Beach Lifeguard Tower can also be considered a boundary of the proposed project area. These project boundaries encompass all areas where proposed work would be performed, staged, and accessed. Sand removal would occur only within the beach area adjacent to and east of the breakwater, and the project does not propose any changes to the breakwater, bluffs, lifeguard tower, or other areas above the beach.

Survey Methods

Prior to conducting surveys for the project, searches of available literature and resource databases were conducted to determine sensitive plant species previously recorded or with potential to occur within or adjacent to the survey area (Table 1), as well as the physical characteristics of the site and surrounding areas. Available data that were reviewed included the California Natural Diversity Database (CNDDB, 2008), the California Native Plant Society (CNPS, 2008) online database, and USGS 7.5 minute topographic maps (La Jolla Quad).

A survey was conducted on August 6, 2008 by ICF Jones & Stokes Biologist Brant Primrose to categorize and map the plant communities within the survey areas, and to assess the habitat suitability for special-status plants. The survey area was traversed on foot with meandering transects to accurately categorize vegetation communities present, to record all observable plant species present on the proposed project site, and to identify the locations of any sensitive species observed during the survey period. General habitat mapping was conducted according to the Holland (1986) classification system, and all plant species observed were recorded.

As a result of the timing of the surveys in mid-summer, early season annuals may have gone dormant and may not have been observable. The surveys were appropriately timed to observe summer blooming annuals, biennials and all perennial species including succulents and drought deciduous species. A complete list of vascular plant species observed within the survey area is provided as Attachment A.

Survey Results

A total of four habitat communities or land cover types were identified on the proposed project site (Figures 3-4). Vegetation communities present within the survey area include disturbed southern coastal bluff scrub (Figure 3b.) and land covers include sandy beach, developed land and disturbed habitat. A description of the vegetation communities/land covers and the predominant plant species observed during the survey are included below. Note that the bare areas on the bluffs are classified as disturbed habitat due to the lack of vegetation.

Southern Coastal Bluff Scrub (31200)

Southern coastal bluff scrub is a low, open scrub with most plants under 2 meters tall. Dwarf shrubs, herbaceous perennials and annuals are all represented (Holland 1986). Holland notes that the shrubs tend to be more prostrate and widely spaced between bare ground in the southern coastal form. Growth occurs from winter to early spring if rainfall is sufficient and shrubs may be dormant for long periods of drought. This vegetative community typically occurs on sand stone bluffs adjacent to the coast.

On the project site, southern coastal bluff scrub is the dominant vegetation community throughout, but has been highly disturbed and is predominated by non-native plant species. Other forms of disturbance on the project site are visible and include erosion, encroachment of development, presence of invasive weeds and evidence of heavy foot traffic. The plant community onsite is largely comprised of salt bush (*Atriplex canescens*), Iceplant (*Mesembryanthemum sp.*) and Sea-Fig (*Carpobrotus chilensis*), and each of these species is considered to be an indicator plant species for southern coastal bluff scrub. In addition, three individual California box -thorn (*Lycium californicum*) plants were also observed. Although Holland does not list California box-thorn as an indicator species for southern coastal bluff scrub, CNPS does list the species as occurring within the vegetation community. The vegetation community on the project site is a highly disturbed form of southern coastal bluff scrub, but it is still considered to be a Tier I habitat type per the City of San Diego Biology Guidelines and would require mitigation if impacted.

Urban/Developed (12000)

Developed habitat within project area includes the observation kiosk and other infrastructure associated with the lifeguard station, landscaped plants, walkways and stairs, and the sidewalk. These areas typically do not contain vegetation or may be integrated with ornamental plantings or ruderal vegetation (Figure 4a.). This land cover has low ecological value and is not considered sensitive by any local, state, or federal agencies. Note that the developed/ornamental areas identified on the proposed project site include a mixture of developed lands surrounded by ornamental lawns and plantings.

Beach (13400)

Sandy beach occurs between the southern coastal bluffs and the low and high tides of the Pacific Ocean. A total of three beach coves exist within the project boundaries surrounded by the breakwater, bluffs and rock crops. No vegetation occurs on the sandy beach between the bluffs and the Pacific Ocean with the exception of a small patch of salt cedar (*Tamarix* sp.) that is situated at the base of the bluff bordering South Casa beach (Figure 4b).

Disturbed (11300)

Disturbed habitat is comprised of the existing trails that support very sparse or no vegetation and the unvegetated portions of the bluffs (Figures 3-4). This habitat type has low ecological value as a result of the lack of native elements, and is not considered sensitive by any local, state, or federal agencies.

Special-Status Species

The CNDDB search and field surveys identified 62 sensitive plant species that have potential to occur near the project site (Table 1). To focus on species pertinent to the coastal habitats found on site, the CNDDB search was conducted for three quadrangles - La Jolla, Del Mar and Point Loma (CNDDB 2008).

Of the 62 species listed, 51 have no potential to occur on or adjacent to the proposed project site based on a lack of suitable habitat. The CNDDB lists 11 sensitive plant species that have low or moderate potential to occur on the project site. Based on the results of the habitat assessment and plant survey, the potential for each of these species to occur on or adjacent to the survey areas is low. These include four CNPS List 1B.1 plant species, orcutt's pincushion (Chaenactis glabriuscula var. orcuttiana), Orcutt's spineflower (*Chorizanthe orcuttiana*), Nuttall's lotus (*Lotus nuttallianus*), and spreading navarretia (*Navarretia fossalis*); three CNPS List 1B.2 species, Aphanisma (*Aphanisma blitoides*), Coulter''s saltbush (*Atriplex coulteri*) and south coast saltscale (*Atriplex pacifica*); two CNPS List 2.2 species, sea dahlia (*Coreopsis maritima*) and cliff spurge (*Euphorbia misera*); and two CNPS List 4 species, California box-thorn (*Lycium californica*) and short-lobed broomrape (*Orobanche parishii* ssp. *brachyloba*). Of these species, only California box-thorn was observed within the southern coastal bluff scrub on the proposed project site. Categorized as a CNPS List 4.1 plant, this species is of limited distribution in California, but present in larger numbers elsewhere within its range.

Eleven plant species on the CNDDB list also have a federal and/or state listed status, but none were observed, and none are expected to occur as there is no suitable habitat on site to support those species. No federally- or state-listed threatened or endangered plant species were observed within the project area.

The history of disturbance (development) within the survey area limits the suitability of the area for most of the species listed above, and for those species where potentially suitable habitat may be present, the habitat is sub-optimal, disturbed and/or very limited in area. Note that the timing of the plant survey may not have been suitable to observe spring annuals.

Impacts

Based on the survey completed on August 6, 2008, disturbed southern coastal bluff scrub, disturbed habitat, unvegetated beach and developed land occur on the proposed project site. The quality of the southern coastal bluff scrub is very low, with native plants typical of the community present in relatively low cover. The other three land covers present on the site do not contain any native vegetation. No federally-or state listed plants were observed onsite and none are expected to occur. One sensitive plant species, California box-thorn was observed onsite.

As discussed above, spring blooming annuals may not have been observable during the summer survey. However, the sensitive plant species in this category have a low potential to occur on the proposed project site and a focused spring rare plant survey is not recommended. The proposed project is not expected to result in significant impacts to sensitive plant species. However, any direct impacts to disturbed southern coastal bluff scrub resulting from the proposed project would require mitigation at a 1:1 ratio if mitigated inside the MHPA, or at a 2:1 ratio if mitigated outside of the MHPA.

Mitigation

The following mitigation measures are required to ensure that construction activities stay within the project limits and that the southern coastal bluff scrub habitat is protected to the maximum extent possible:

- A Biological Monitor shall conduct a biological pre-construction survey and shall be present throughout the construction process. Both the sand donor and receiver sites shall be monitored to ensure that sensitive areas and species are avoided and appropriate BMPs are implemented. If the monitor determines that sand is being dispersed too quickly and therefore causing negative impacts on the marine or terrestrial environment, construction shall be slowed or halted to allow more gradual dispersal. Additional measures overseen by the monitor should include:
  - Ensure that staging areas for the excavation and sand transfer equipment, and the sand transport route, are not sited within the bluff habitats.
  - Ensure that transported sand is redistributed on the upper portions of the pocket beach above the high tide line and as far under the cliff base as feasible.

If you have any questions regarding this assessment, please contact Kristen Schlech or myself at (858) 578-8964.

Sincerely,



Brant Primrose

Biologist

ICF Jones & Stokes
an ICF International Company

ATTACHMENTS

References

Figures 1-4

Table 1. Plant Species with Potential to Occur

Attachment A. Vascular Plant Species Observed at the La Jolla Children's Pool Site

References

California Native Plant Society On-line Rare Plant Inventory 2008 (http://cnps.web.aplus.net/cgi-bin/inv/inventory.cgi)

California Natural Diversity Data Base (CNDDB). 2008. *Database RareFind 3 Report*.

Hickman, J.C., ed. 1993. *The Jepson Manual: Higher Plants of California*. University of California Press. Berkeley, California. 1400 pp.

Holland, R.F. 1986. *Preliminary Descriptions of the Terrestrial Natural Communities of California.* Nongame-Heritage Program, California Department of Fish and Game

Attachment A
Vascular Plant Species Observed at La Jolla Children's Pool Site

Scientific Name	Common Name	Vegetation Community
ANGIOSPERMS: DICOTS		
Aizoaceae	**Fig-Marigold Family**	
***Carpobrotus chilensis**	Sea-Fig	SCBS
**Mesembryanthemum crystallinum*	Crystalline iceplant	SCBS
Apocynaceae	**Dogbane Family**	
**Carissa argentea*	Nettle plum	DEV
Asteraceae (Compositae)	**Sunflower Family**	
Conyza canadensis	Horseweed	SCBS
Isocoma menziesii	Spreading goldenbush	SCBS
Pluchea odorata	Salt marsh fleabane	DEV
Chenopodiaceae	**Goosefoot Family**	
Atriplex canescens	Four-winged saltbush	SCBS
**Atriplex semibaccata*	Australian saltbush	SCBS, DIS
**Chenopodium album*	Lamb's quarter	DIS
Convolvulaceae	**Morning-Glory Family**	
Cressa truxillensis	Alkali weed	SCBS
Fabaceae	**Legume Family**	
**Medicago polymorpha*	California burclover	SCBS, DIS
Plantaginaceae	**Plantain Family**	
**Plantago major*	Plantain	SCBS
Plumbaginaceae	**Leadwort Family**	
**Limonium perezii*	Perez's marsh rosemary	SCBS,DEV
Polygonaceae	**Buckwheat Family**	
Eriogonum fasciculatum	California buckwheat	SCBS
Scrophulariaceae	**Figwort Family**	
**Myoporum laetu*	Ngaio	SCBS,DEV
Solanaceae	**Nightshade Family**	
Lycium californicum	Box-thorn	SCBS
Tamaricaceae		
Tamarix sp.	Salt-cedar	SCBC, DIS
ANGIOSPERMS: MONCOTS		
Agavaceae	**Agave Family**	
**Agave americana*	Agave	DEV
**Agave attenuata*	Agave	DEV
Arecaceae	**Palm Family**	

**Phoenix canariensis*	Canary Island date palm	DEV
***Washingtonia robusta*	Mexican fan palm	DEV
Cyperaceae	**Sedge Family**	
**Cyperus involucratus*	African umbrella plant	SCBS, DIV
Eleocharis macrostachya	Pale spike-rush	SCBS
Poaceae	**Grass Family**	
**Cyodon dactylon*	Bermuda grass	SCBS
Distichlis spicata	Salt grass	SCBS

*

* Nonnative plant species

HABITAT

SCBS – Disturbed Southern Coast Bluff Scrub

DIS – Disturbed

DEV - Developed

Scientific and common names are from Hickman (1993) and Skinner and Pavlik (1994). Additional common plant names are taken from Abrams (1923, 1944), Abrams and Ferris (1951, 1960), Beauchamp (1986), McAuley (1996), Munz (1974), Raven (1986), Roberts (1989), and Sawyer and Wolf (1995).

Table 1
Sensitive Plant Species and their Potential to Occur Within the Children's Pool Project Site

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On-site (Yes/No)	Potential to Occur	Rationale
San Diego Thornmint (*Acanthomintha ilicifolia*)	FT/SE CNPS List 1B.1	Grassy openings in chaparral and coastal sage scrub, valley and foothill grassland, vernal pools, prefers friable or broken clay soils	No	None	Suitable habitat does not occur on site.
California adolphia (*Adolphia californica*)	CNPS List 2.1	Chaparral, coastal scrub, valley and foothill grassland	No	None	Suitable habitat does not occur on site.
Shaw's agave (*Agave shawii*)	CNPS List 2.1	Coastal sage scrub and maritime succulent scrub	No	None	Suitable habitat does not occur on site.
San Diego ambrosia (*Ambrosia pumila*)	FE CNPS List 1B.1	Chaparral, coastal sage scrub, valley and foothill grassland, vernal pools, often in disturbed areas. Can occur in creek beds, seasonally dry drainages, and floodplains	No	None	Suitable habitat does not occur on site.
Aphanisma (*Aphanisma blitoides*)	CNPS List 1B.2	Coastal bluffs and beach dunes	No	Low	Species would be detectable if present on site; likely to be extirpated from San Diego County.
Del Mar Mazanita (*Arctostaphylos glandulosa ssp. crassifolia*)	CNPS List 1B.1	Low- growing chaparral with eroding sandstone as substrate	No	None	Suitable habitat does not occur on site.
San Diego sagewort (*Artemisia palmeri*)	CNPS List 4.2	Occurs in valleys, meadows, drainages	No	None	Suitable habitat does not occur on site.
Coastal dunes milk-vetch (*Astragalus tener var. titi*)	FE/SE CNPS List 1B.1	Coastal dunes	No	None	No suitable dune habitat on site.
Coulter's saltbush (*Atriplex coulteri*)	CNPS List 1B.2	Coastal bluffs	No	Low	Species would be detectable if present on site.

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On-site (Yes/No)	Potential to Occur	Rationale
South Coast Saltscale (*Atriplex pacifica*)	CNPS List 1B.2	Occurs in xeric, often disturbed coastal bluff scrub, coastal sage scrub, coastal dunes, coastal sage scrub and playas	No	Low	Species would be detectable if present on site.
Davidson's saltscale (*Atriplex serenana var. davidsonii*)	CNPS List 1B.2	Alkali playas, alkali grasslands, alkali vernal pools and alkali scrub	No	None	Suitable habitat does not occur on site.
Encinitas baccharis (*Baccharis vanessae*)	FT/SE CNPS List 1B.1	Maritime and sandstone soils of chaparral habitats from ca.60 to 720m. Known from fewer than 20 occurrences, all in San Diego Co.	No	None	Suitable habitat does not occur on site.
Goldenspined cereus (*Bergerocactus emoryi*)	CNPS List 2.2	Maritime succulent scrub	No	None	Suitable habitat does not occur on site.
San Diego goldenstar (*Bloomeria clevelandii*)	CNPS List 1B.1	Found on clay soils within coastal mesas, chaparral, coastal scrub, valley and foothill grassland, and vernal pool habitats, elevation 50 to 465m	No	None	Suitable habitat does not occur on site.
Orcutt's brodiaea (*Brodiaea orcuttii*)	CNPS List 1B.1	Moist grasslands, near streams and the periphery of vernal pools, elevation 0-1600m	No	None	Suitable habitat does not occur on site.
Lakeside ceanothus (*Ceanothus cyaneus*)	CNPS List 1B.2	Closed-cone coniferous forest, dense chaparral	No	None	Suitable habitat does not occur on site.
Wart-stemmed ceanothus (*Ceanothus verrucosus*)	CNPS List 2.2	Chaparral	No	None	Suitable habitat does not occur on site.
Southern tarplant (*Centromadia parryi ssp. australis*)	CNPS List 1B.1	Fragmented populations from Santa Barbara Co. to Baja California, elevations to 425m, within grasslands, vernal pools margins, alkaline meadows, and brackish marshes/ estuaries	No	None	Suitable habitat does not occur on-site.
Orcutt's pincushion (*Chaenactis glabriuscula var. orcuttiana*)	CNPS List 1B.1	Coastal bluff scrub and coastal dunes	No	Low	Species would be detectable if present on site.

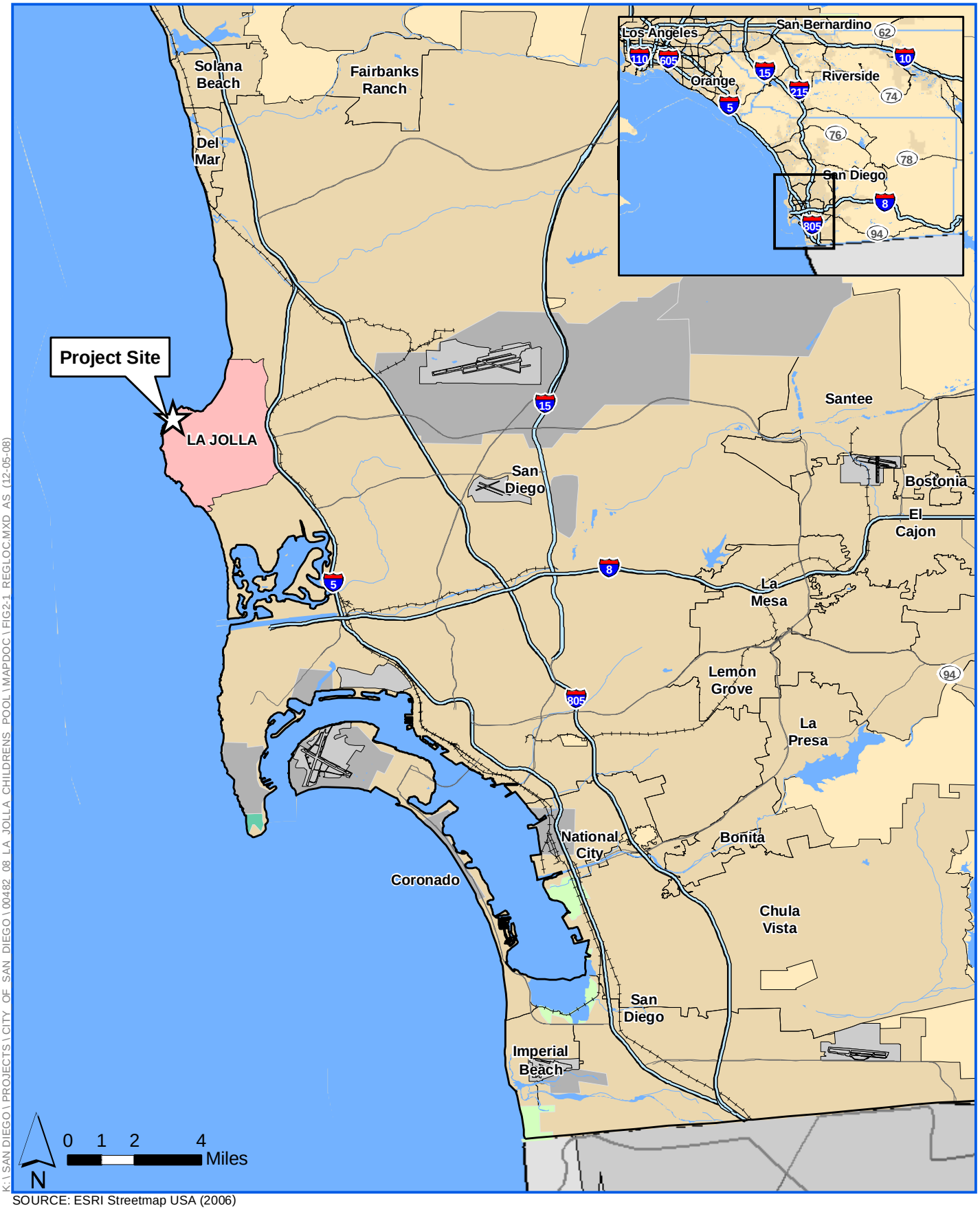
Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On-site (Yes/No)	Potential to Occur	Rationale
Orcutt's spineflower (*Chorizanthe orcuttiana*)	CNPS List 1B.1	Coastal chaparral openings in chamise, with loose sandy substrate	No	None	Suitable habitat does not occur on-site.
Long spined-spine flower (*Chorizanthe polygonoides* var. *longispina*)	CNPS List 1B.2	Clay lenses, largely devoid of shrubs. Occasionally seen on the periphery of vernal pool habitat and the periphery of montane meadows near vernal seeps, below 1400m	No	None	Suitable habitat does not occur on-site.
Summer holly (*Comarostaphylis diversifolia* var. *diversifolia*)	CNPS List 1B.2	Southern mixed chaparral, usually on mesic north-facing slopes. Almost the entire population occurs west of I-15, elevation 100-550m	No	None	Suitable habitat does not occur on site.
Salt marsh Birds-beak (*Cordylanthus maritimus ssp. maritimus*)	FE/SE CNPS List 1B.2	Salt marsh	No	None	Suitable habitat does not occur on site.
Sea dahlia (*Coreopsis maritima*)	CNPS List 2.2	Sandstone cliffs near the ocean	No	Low	Species would be detectable if present on site.
San Diego sand aster (*Corethrogyne filaginifolia var. incana*)	CNPS List 1B.1	Coastal sandy areas	No	Low	Species would be detectable if present on site.
Del Mar mesa sand aster (*Corethrogyne filaginifolia var. linifolia*)	CNPS List 1B.1	Coastal scrub, oak woodlands, grassland	No	None	Suitable habitat does not occur on site.
Short-leaved dudleya (*Dudleya brevifolia*)	SE CNPS List 1B.1	Shallow sandy soils in the openings of chaparral, often on the edges of canyons	No	None	Suitable habitat does not occur on site.
Variegated dudleya (*Dudleya variegata*)	CNPS List 1B.2	Openings in chaparral, cismontane woodland, and coastal sage scrub, isolated rocky substrates in open grasslands, and vernal pools, mima mounds	No	None	Suitable habitat does not occur on site.
Sticky dudleya (*Dudleya viscida*)	CNPS List 1B.2	Open areas of chamise chaparral	No	None	Suitable habitat does not occur on site.

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On-site (Yes/No)	Potential to Occur	Rationale
San Diego button-celery (*Eryngium aristulatum var. parishii*)	CNPS List 1B.1	Vernal pools or mima mound areas, coastal sage scrub, valley and foothill grassland	No	None	No suitable habitat occurs on site.
Coast wallflower (*Erysimum ammophilum*)	CNPS List 1B.2	Eroded dunes and sandy opening in chaparral	No	None	Suitable habitat does not occur on site.
Cliff spurge (*Euphorbia misera*)	CNPS List 2.2	Low growing, maritime sage scrub near the beach	No	Low	Species prefers habitat with cactus; would be detectable if present on site.
San Diego barrel cactus (*Ferocactus viridescens*)	CNPS List 2.1	Sandy to rocky areas, prefers Diegan sage scrub hillsides and slope crests, elevation 10–150m	No	None	No suitable habitat occurs on site.
Palmer's frankenia (*Frankenia palmeri*)	CNPS List 2.1	Periphery of salt marsh	No	None	Suitable habitat does not occur on site.
Mexican flannelbush (*Fremontodendron mexicanum*)	FE/SR CNPS List 1B.1	Closed cone coniferous forest and southern mixed chaparral	No	None	Suitable habitat does not occur on site.
Campbell's Liverwort (*Geothallus tuberosus*)	CNPS List 1B.1	Vernal pools	No	None	No suitable habitat occurs on site.
Palmer's grapplinghook (*Harpogonella palmeri*)	CNPS List 4.2	Dry slopes and clay soils in valley grasslands, coastal sage scrub and chaparral habitats, elevation 20 to 955 m. Range from LA Co., including Santa Catalina Island, to Arizona and Mexico	No	None	No suitable habitat occurs on site.
Beach goldenaster (*Heterotheca sessiliflora* ssp. *sessiliflora*)	CNPS List 1B.1	Dunes, grassland and oak woodland	No	None	No suitable dune habitat on site.
Decumbent goldenbush (*Isocoma menziesii* var. *decumbens*)	CNPS List 1B.2	Disturbed areas of coastal scrub and chaparral, elevation 10 to 135m, in Orange and San Diego Cos., Baja California, San Clemente, Santa Catalina islands	No	None	No suitable habitat on site.
San Diego marsh-elder (*Iva hayesiana*)	CNPS List 2.2	Marshes and swamps, playas, creeks or intermittent streambeds	No	None	No suitable habitat occurs on site.

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On-site (Yes/No)	Potential to Occur	Rationale
Coulter's goldfields (*Lasthenia glabrata ssp. coulteri*)	CNPS List 1B.1	Tidal marsh areas or the periphery of vernal pools	No	None	Suitable habitat does not occur on site.
Robinson's pepper-grass (*Lepidium virginicum* var. *robinsonii*)	CNPS List 1B.2	Openings in chaparral and sage scrub, well away from the coast in So. California in the foothill elevations, below 500m	No	None	No suitable habitat occurs on site.
Nuttall's lotus (*Lotus nuttallianus*)	CNPS List 1B.1	Beaches, coastal scrub, urban weedy areas below 30 m	No	Low	Species would be detectable if present on site.
California box-thorn (*Lycium californicum*)	CNPS List 4.1	Coastal bluffs canyons and marshes	Yes	Observed	Within the southern coastal bluff scrub habitat.
Willowy monardella (*Monardella viminea*)	FE/SE CNPS List 1B.1	Riparian scrub, usually at sandy locales in seasonally dry washes	No	None	Suitable habitat does not occur on site.
Little mousetail (*Myosurus minimus ssp. apus*)	CNPS List 3.1	Vernal pools	No	None	No vernal pools occur on site.
Spreading navarretia (*Navarretia fossalis*)	CNPS List 1B.1	Vernal pools	No	None	No vernal pools occur on site.
Prostrate navarretia (*Navarretia prostrata*)	CNPS List 1B.1	Vernal pools, coastal scrub, meadows and seeps, valley and foothill grassland	No	Low	Suitable habitat does not occur on site.
Coast woolly-heads (*Nemacaulis denudata var. denudata*)	CNPS List 1B.2	Prefers well developed coastal sand dunes in mildly protected locales	No	None	No suitable dune habitat on site.
Slender woolly-heads (*Nemacaulis denudata var. gracilis*)	CNPS List 2.2	Well-developed sand dunes in desert or, rarely, coastal areas	No	None	No suitable dune habitat on site.
Snake cholla (*Opuntia californica var. californica*)	CNPS List 1B.1	Open coastal sage scrub on xeric hillsides	No	None	Suitable habitat does not occur on site.
California orcutt grass (*Orcuttia californica*)	FE/SE CNPS List 1B.1	Vernal pools	No	None	No vernal pools occur on site.
Short-lobed broomrape (*Orobanche parishii* ssp. *brachyloba*)	CNPS List 4.2	Coastal bluff scrub and coastal dunes are reported habitat, on shrubs such as *Isocoma*	No	Low	Species would be detectable if present on site.

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On-site (Yes/No)	Potential to Occur	Rationale
Brand's phacelia (*Phacelia stellaris*)	CNPS List 1B.1	Sandy openings in Diegan coastal sage scrub	No	None	Suitable habitat does not occur on site.
Torrey pine (*Pinus torreyana* ssp. *torreyana*)	CNPS List 1B.2	Closed coniferous forest along the coast	No	None	Suitable habitat does not occur on site.
San Diego mesa mint (*Pogogyne abramsii*)	FE/SE CNPS List 1B.1	Vernal pools	No	None	No vernal pools occur on site.
Otay mesa mint (*Pogogyne nudiuscula*)	FE/SE CNPS List 1B.1	Vernal pools	No	None	No vernal pools occur on site.
Nuttall's scrub oak (*Quercus dumosa*)	CNPS List 1B.1	Coastal chaparral with a generally open canopy cover	No	None	Suitable habitat does not occur on site.
Rayless ragwort (*Senecio aphanactis*)	CNPS List 2.2	Dry alkaline flats in chaparral, cismontane woodlands and css	No	None	Suitable habitat does not occur on site.
Bottle liverwort (*Sphaerocarpos drewei*)	CNPS List 1B.1	Chaparral and coastal sage scrub	No	None	Suitable habitat does not occur on site.
Purple stemodia (*Stemodia durantifolia*)	CNPS List 2.1	Sandy dry canyon bottoms or drainages	No	None	Suitable habitat does not occur on site.
Oil nestraw (*Stylocine citroleum*)	CNPS List 1B.1	Coastal scrub and clay soils in the vicinity of oilfields	No	None	Suitable habitat does not occur on site.
Estuary seablite (*Suaeda esteroa*)	CNPS List 1B.2	Perennial below 5 meters along the edges of coastal salt marsh	No	None	Suitable habitat does not occur on site.

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On-site (Yes/No)	Potential to Occur	Rationale
Legend: **Status:** **Federal** FE - listed as endangered under the federal Endangered Species Act. FT - listed as threatened under the federal Endangered Species Act. **State** SE - listed as endangered under the California Endangered Species Act. ST – listed as threatened under California Endangered Species Act. SR – listed as rare under California Endangered Species Act. **CNPS List – California Native Plant Society** 1B – Rare, threatened or endangered in California and elsewhere 2 – Rare, threatened or endangered in California but more common elsewhere 3 – May be rare but more research needed to determine true status 4 – Limited distribution and are uncommon but not presently rare or endangered **References** Special Status information from CDFG 2006a and San Diego County 2006. Nomenclature and plant descriptions from Abrams 1923 and 1944, Abrams and Ferris 1960, Beauchamp 1986, Hickman 1993, McAuley 1996, Munz 1974, Roberts 1989, Skinner and Pavlik 1994.					



K:\SAN DIEGO\PROJECTS\CITY OF SAN DIEGO\00482 08 LA JOLLA CHILDRENS POOL\MAPDOC\FIG2-1 REGLOC.MXD AS (12-05-08)

SOURCE: ESRI Streetmap USA (2006)

ICF Jones & Stokes
an ICF International Company

Figure 1
Regional Map - La Jolla Children's Pool Project



Soucre: Landiscor, Flight Date: January 2008

ICF Jones & Stokes
an ICF International Company

Figure 2
Expanded Project Area Map - La Jolla Children's Pool Project



Figure 3a - Children's Pool Beach and Breakwater



Figure 3b - South Casa Beach Proposed Sand Replenishment Site



Figure 4a -Ornamental Landscaping along Casa Beach



Figure 4b - South Casa Beach showing tamarisk vegetation at base of bluff

Appendix J
Wildlife Assessment, ICF Jones and Stokes, 2009

ICF Jones & Stokes
an ICF International Company

August 12, 2008

Ms. Carrie Purcell, Senior Planner
Engineering and Capital Projects Department
City of San Diego
600 B Street, Suite 800, MS908A
San Diego , CA 92101-4502

Re: Wildlife Assessment for the Children's Pool Area in La Jolla, California

Dear Ms. Purcell:

ICF Jones & Stokes was retained to conduct a general wildlife survey, assess the habitat suitability for special-status wildlife species, and prepare a letter report pertaining to the La Jolla Children's Pool Project. This document is intended to provide information regarding the use of the area by special-status wildlife species. Technical studies for the harbor seals were previously completed and thus an assessment of the seals is not part of this report. This analysis is intended to support review of the project among the City of San Diego (City), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Game (CDFG).

Project Summary

The La Jolla Children's Pool project aims to restore the Children's Pool (pool) and Casa Beach to their 1941 configurations by excavating and transferring approximately 3,000 cubic yards (cy) of beach sand from Casa Beach and the pool. The project also proposes the decontamination of sand likely to contain unsafe levels of fecal coliform. The three primary project components include: (1) upper sand excavation, transfer, and placement; (2) lower sand decontamination and Children's Pool reconfiguration; and (3) ongoing maintenance of restored condition.

The project will require approval by the U.S. Army Corps of Engineers (Corps) for permits related to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Appropriations Act, and certification from the San Diego regional Water Quality Control Board (RWQCB) per Section 401 of the CWA. In addition, a Coastal Development Permit from the California Coastal Commission will need to be issued for any activity extending seaward of the coastal zone's Mean High Tide Line. Lastly, in order to identify any potential indirect effects to abalone, essential fish habitat, marine mammals, or migratory birds, informal consultation with the National Marine Fisheries Service and U.S. Fish and Wildlife Service will also be completed for this project.

Project Location

The proposed project site is located on the seaward side of Coast Boulevard in the community of La Jolla, within the jurisdictional boundaries of the City of San Diego, California (Figure 1). The project is bordered by Ellen Browning Scripps Park to the north, and developed land uses, primarily multi-family residential and hotel/commercial uses to the east and southeast (Figure 2). The Casa de Mañana residential facility for the elderly is located across Coast Boulevard. A lifeguard station for the Children's Pool, a stairway access down the bluff, public walkway, planters, vegetation, and Children's Pool breakwater are located near the project site. The adjacent pocket beach (South Casa beach) is situated immediately south of Casa Beach and the Children's pool area. The Pacific Ocean surrounds the site to the west.

Casa Beach and the Children's Pool (pool) are protected from the open ocean by the Children's Pool Breakwater (breakwater), which was constructed in 1931. South Casa Beach is more exposed. Both beaches have stair access and the shoreline is comprised of sandstone bluffs and rocky outcrops with small pocket beaches between them. Casa Beach is the largest of the sandy areas in the immediate vicinity.

The proposed project area includes a small portion of subtidal water adjacent to Casa and South Casa Beaches (including the pool), the intertidal zone of these beaches (including the pool and some rocky areas), and the small area between the mean high tide line of these beaches and the landward sandstone bluffs. The boundaries of the proposed project area include the top of these bluffs, public walkways, planters, railings, and vegetation (both native and nonnative). In addition, the portion of the breakwater nearest to the northwest corner of the Casa Beach Lifeguard Tower can also be considered a boundary of the proposed project area. These project boundaries encompass all areas where proposed work would be performed, staged, and accessed. Sand removal would occur only within the beach area adjacent to and east of the breakwater, and the project does not propose any changes to the breakwater, bluffs, lifeguard tower, or other areas above the beach.

Survey Methods

A general wildlife survey was conducted on 5 August 2008 by ICF Jones & Stokes Wildlife Biologist Kylie Fischer to document the species using the site and to assess the habitat suitability for special-status wildlife species. Survey conditions consisted of 68°F, 100% cloud cover and no wind. The beaches were surveyed from above, documenting the species using the beach areas for foraging, flying overhead and in the water within a reasonable radius. Animal species observed or detected by sign were also noted. A CNDDB search of species with potential to occur was also conducted.

Survey Results

In total, seven avian species and two mammal species were detected during the survey. These include: American white pelican (*Pelecanus erythrorhynchos)*, pelagic cormorant (*Phalacrocorax pelagicus)*, great egret (*Ardea alba)*, Heermann's Gull (*Larus heermanni)*, western gull (*Larus occidentalis)*, Caspian tern (*Hydroprogne caspia)*, rock pigeon (*Columba livia)*, California ground squirrel (*Spermophilus beecheyi)* and harbor seal (*Phoca vitulina)*. All of the avian species except rock pigeon are protected by the Migratory Bird Treaty Act.

Special-Status Species

The CNDDB search and field surveys identified 31 sensitive wildlife species that may have potential to occur near the project site (Table 1). To focus on species pertinent to the coastal habitats found on site, the CNDDB search was conducted for three quadrangles - La Jolla, Del Mar and Point Loma (CNDDB 2008).

Of the eight species of water birds federally and/or state listed as threatened or endangered within California, four are known to occupy habitats within San Diego County: the federal and state listed as endangered light-footed clapper rail (*Rallus longirostris*), the federal and state listed as endangered California brown pelican (*Pelecanus occidentalis californicus*), the federal and state listed as endangered California least tern (*Sternula antillarum browni*), and the federal listed as threatened western snowy plover (*Charadrius alexandrines nivosus*). Of those four, the brown pelican and the western snowy plover are the only species that could potentially use the project area. The brown pelican is a winter migratory visitor to San Diego County and would potentially use the site for roosting or foraging in the nearby ocean. The western snowy plover does breed in San Diego County; however, the site does not support any breeding habitat so use by this species would be limited to foraging during winter or migration to breeding locations. No special-status species were detected during the survey.

Impacts

As no sensitive species were detected on site and the conditions of the site are not appropriate for the nesting of any special-status species, the proposed project will not result in significant impacts to sensitive terrestrial wildlife species. The project area does provide suitable nesting conditions for species protected by the Migratory Bird Treaty Act and as such, pre-construction surveys for nesting birds protected by this Act should be implemented prior to any construction activity.

Although the brown pelican and the western snowy plover could potentially use the area, the terrestrial areas within the project site do not provide suitable breeding habitat thus direct impacts

to these species are not anticipated. The other avian species identified during the terrestrial wildlife assessment (ICF Jones & Stokes 2008), notably the white pelican, cormorants, terns, and gulls, do use the surrounding cliff areas for roosting and the nearshore waters for foraging. However, these species are mobile and would likely vacate the area during the excavation disturbance and have the ability to forage within other nearby areas.

Mitigation

The following mitigation measures are required to ensure that the proposed project will not significantly impact any avian species protected under the MBTA.:

- A Biological Monitor shall conduct a biological pre-construction survey and shall be present throughout the construction process. Both the sand donor and receiver sites shall be monitored to ensure that sensitive areas and species are avoided and appropriate BMPs are implemented. If the monitor determines that sand is being dispersed too quickly and therefore causing negative impacts on the marine or terrestrial environment, construction shall be slowed or halted to allow more gradual dispersal. Additional measures overseen by the monitor should include:
  - Ensure that staging areas for the excavation and sand transfer equipment, and the sand transport route, are not sited within the bluff habitats.
  - Ensure that transported sand is redistributed on the upper portions of the pocket beach above the high tide line and as far under the cliff base as feasible.

If you have any questions regarding the contents of this letter report, please contact Kristen Schlech or me at (858) 578-8964.

Sincerely,



Kylie Fischer
Wildlife Biologist

ATTACHMENTS

References
Figures 1 and 2

ICF Jones & Stokes
an ICF International Company

Table 1. Wildlife Species with Potential to Occur

References

American Ornithologists' Union (AOU). 1998. Check-list of North American Birds, 7th ed. Washington, DC: American Ornithologists' Union.

———. 2000. Forty-second Supplement to the American Ornithologists' Union Check-list of North American Birds. Auk 117: 847–858.

———. 2002. Forty-third Supplement to the American Ornithologists' Union Check-list of North American Birds. Auk 119:897–906.

———. 2003. Forty-fourth Supplement to the American Ornithologists' Union Check-list of North American Birds. Auk 120:923–931.

———. 2004. Forty-fifth Supplement to the American Ornithologists' Union Check-list of North American Birds. Auk 121:985–995.

———. 2005. Forty-sixth Supplement to the American Ornithologists' Union Check-list of North American Birds. Auk 122:1026–1031.

———. 2006. Forty-seventh Supplement to the American Ornithologists' Union Checklist of North American Birds. Auk 123:926–936.

Baker, R. J., L. C. Bradley, R. D. Bradley, J. W. Dragoo, M. D. Engstrom, R. S. Hoffmann, C. A. Jones, F. Reid, D. W. Rice, and C. Jones. 2003. Revised Checklist of North American Mammals North of Mexico, 2003. Lubbock, TX: Occasional Papers, Museum of Texas Tech University, Number 229.

California Department of Fish and Game (CDFG). 2005. California Wildlife Habitat Relationships System (CWHR), version 8.1 personal computer program. Sacramento, CA: California Department of Fish and Game.

CDFG. 2007. Special Plants List. Natural Diversity Data Base. July.

CDFG. 2008. Special Animals List. Natural Diversity Data Base. February.

California Natural Diversity Data Base (CNDDB). 2008. Database RareFind 3 Report.

Collins, J. T., and T. W. Taggart. 2002. Standard Common and Current Scientific Names for North American Amphibians, Turtles, Reptiles and Crocodilians. Center for North American Herpetology, Lawrence, Kansas. pp. 45.

Schuford, W.D. and Gardali, T. editors. 2008. California Birds Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Stephenson, J.R. and G.M. Calcarone. 1999. Southern California mountains and foothills assessment: Habitat and species conservation issues. General Technical Report GTR-PSW-175. Albany, CA: Pacific Southwest Research Station, Forest Service, U.S. Department of Agriculture.

Unitt, P. 2004. San Diego County Bird Atlas. Proceedings of the San Diego Society of Natural History 39: i–vii, 1–639.

Table 1
Sensitive Wildlife Species and their Potential to Occur Within the Children's Pool Project Site

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On site (Yes/No)	Potential to Occur	Rationale
INVERTEBRATES					
San Diego fairy shrimp (*Branchinecta sandiegoensis*)	FE MSCP Covered Species	Vernal pools. All known localities are below 701m (2,300 ft) and are within 64km (40 miles) of the Pacific Ocean.	N	None	Vernal pools do not occur at the project site.
AMPHIBIANS					
Western spadefoot (*Spea hammondii*)	CSC	Temporary rainpools with water temperatures between 9°C and < 30°C that last at least 3 weeks.	N	None	No standing pools of freshwater are present on site.
REPTILES					
Orange-throated whiptail (*Cnemidophorus hyperythrus*)	CSC MSCP Covered Species	The habitat characteristics are poorly understood, however historically it was found in floodplains or terraces along streams. Closely tied to coastal sage scrub plants and some chaparral plants.	N	None	No suitable habitat occurs on site.
Coronado skink (*Eumeces skiltonianus interparietalis*)	CSC	Forest, open woodland and grassy areas. Usually found under leaf litter, logs or rocks.	N	None	No suitable habitat occurs on site.
San Diego horned lizard (*Phrynosoma coronatum blainvillii*)	CSC	Grasslands, brushlands, woodlands, and open coniferous forest with sandy or loose soil; requires abundant ant colonies for foraging.	N	None	No suitable habitat occurs on site.
Two-striped garter snake (*Thamnophis hammondii*)	CSC	Inhabits perennial and intermittent streams with rocky beds and bordered by willow thickets or other dense vegetation.	N	None	No suitable habitat occurs on site.

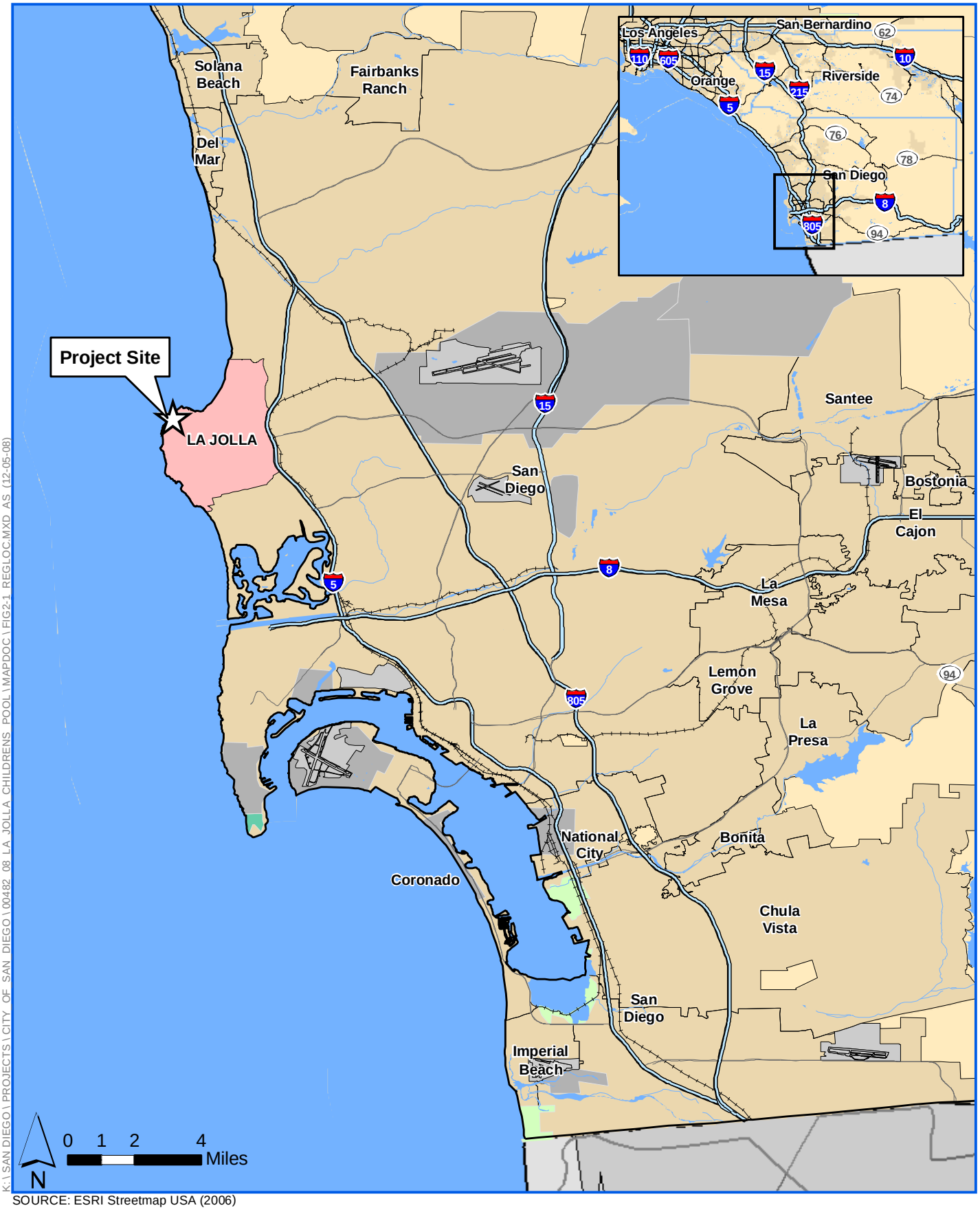
Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On site (Yes/No)	Potential to Occur	Rationale
BIRDS					
California brown pelican (*Pelecanus occidentalis californicus*)	FE (Nesting colony & communal roosts) SE(Nesting colony & communal roosts) MSCP Covered Species	Found in the open ocean and other coastal salt waters. Is tolerant of human activity near its daytime roosts and readily utilizes various man-made structures (e.g., piers, breakwaters, buoys) as roosting sites. Closest breeding location is Los Coronados Islands off Tijuana (Unitt 2004).	N	Breeding – None Migration/Wintering - High	Species is commonly observed in the project area in winter and during migration. Does not breed near the project area.
Peregrine falcon (*Falco peregrinus*)	SE (Nesting) MSCP Covered Species	Will forage over a variety of habitats however only breed near water, typically with the nest placed on a cliff ledge.	N	Breeding – None Migration/Wintering - Low	Appropriate nesting habitat is not found on site. The bluffs are not appropriate for this species. Suitable foraging habitat is present and individuals have been detected nearby in winter (Unitt 2004).
Black rail (*Laterallus jamaicensis*)	ST	Coastal wetlands. The species has been extirpated from San Diego County since 1983 (Unitt 2004).	N	None	Species has not been detected in the County for approximately 20 years.
Light-footed clapper rail (*Rallus longirostris levipes*)	FE SE MSCP Covered Species	Coastal salt marshes.	N	None	No suitable habitat occurs on site.
Western snowy plover (*Charadrius alexandrines nivosus*)	FT (Nesting) CSC MSCP Covered Species	Nest on beaches dunes and salt flats. Forage on sandy beaches with kelp washed ashore and in areas with little or no human activity and avoid areas of high human use.	N	Breeding – None Migration/Wintering - High	Project area does not support suitable breeding conditions for this species and their nesting distribution has been studied in depth (Unitt 2004). More widespread during winter.

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On site (Yes/No)	Potential to Occur	Rationale
California least tern (*Sternula antillarum browni)*	FE (nesting colony) SE (nesting colony) MSCP Covered Species	Nests in colonies on sandy beaches with sparse vegetation. Forages in shallow ocean water, generally less than 60 feet deep and within one mile of shore, and in wetlands near nesting locales.	N	Breeding – None Migration - Low	Project area does not support suitable breeding conditions for this species and their nesting distribution has been studied in depth (Unitt 2004).
Burrowing owl (*Athene cunicularia*)	CSC MSCP Covered Species	Prairies, grasslands, lowland scrub, agricultural lands, coastal dunes, desert floors, and some artificial, open areas. They require large open expanses of sparsely vegetated areas on gently rolling or level terrain with an abundance of active small mammal burrows. They use rodent or other burrows for roosting and nesting cover and also known to use pipes, culverts, and nest boxes where burrows are scarce.	N	None	No suitable habitat occurs on site. Species has not been detected in the vicinity since before 1997 (Unitt 2004).
Least Bell's vireo (*Vireo bellii pusillus*)	FE SE MSCP Covered Species	Riparian thickets either near water or in dry portions of river bottoms; nests along margins of bushes and forages low to the ground; may also be found using mesquite and arrow weed in desert canyons.	N	None	No suitable habitat occurs on site.
San Diego cactus wren (*Campylorhynchus brunneicapillus sandiegensis*)	CSC MSCP Covered Species	Cactus thickets	N	None	No suitable habitat occurs on site.
Coastal California gnatcatcher (*Polioptila californica californica*)	FT SSC MSCP Covered Species	Prefer open scrubby habitats such as coastal sage scrub and some forms of chaparral.	N	None	No suitable habitat occurs on site.
Ashy (= Southern California) rufous-crowned sparrow (*Aimophila ruficeps canescens*)	CSC MSCP Covered Species	Fairly common, widespread and generally fairly conspicuous resident of rocky grassland and patchy shrub habitats, often including areas with disturbance from fire, trash, soil compaction and non-native vegetation.	N	None	No suitable habitat occurs on site.

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On site (Yes/No)	Potential to Occur	Rationale
Bell's sage sparrow (*Amphispiza belli belli*)	CSC MSCP Covered Species	Open chaparral and sage scrubs.	N	None	No suitable habitat occurs on site.
Belding's Savannah Sparrow (*Passerculus sandwichensis beldingi*)	SE MSCP Covered Species	Coastal marshes dominated by pickleweed.	N	None	No suitable habitat occurs on site.
MAMMALS					
Pallid bat (*Antrozous pallidus*)	CSC	Throughout So. Cal. from coast to mixed conifer forest; grasslands, shrublands, woodlands, & forest; most common in open, dry habitats w/ rocky areas for roosting; yearlong resident in most of range. Roosts in rock crevices, caves, mine shafts, under bridges, in buildings and tree hollows.	N	Roosting – None Foraging - Low	Suitable foraging habitat present on site.
Townsend's big-eared bat (*Corynorhinus townsendii*)	CSC	Throughout Cal. in all but sub-alpine & alpine habitats yearlong; most abundant in mesic habitats; Roosts – caves, mines, tunnels, buildings, or other man-made structures.	N	Roosting – None Foraging - Low	Suitable foraging habitat present on site.
Spotted bat (*Euderma maculatum*)	CSC	Mostly in foothills, mtns., & desert regions of So. Cal.; desert, grasslands, mixed conifer forest; Roosts – rock crevices, caves, cliffs.	N	Roosting – None Foraging - Low	Suitable foraging habitat present on site.
Western mastiff bat (*Eumops perotis californicus*)	CSC	Primarily a cliff-dwelling species for breeding. Found foraging in a variety of habitats, from dry desert washes, flood plains, chaparral, oak woodland, open ponderosa pine forest, grassland, montane meadows, and agricultural areas.	N	Roosting – None Foraging - Low	Suitable foraging habitat present on site.
Pocketed free-tailed bat (*Nyctinomops (=Tadarida) femorosaccus*)	CSC	Lives in deserts and sage scrub, roosts in rocky crevices.	N	Roosting – None Foraging - Low	Suitable foraging habitat present on site.
Big free-tailed bat (*Nyctinomops (=Tadarida) macrotis*)	CSC	Inhabits arid, rocky areas; roosts in crevices in cliffs. Has been recorded in urban locations in San Diego County (CDFG 2005).	N	Roosting – None Foraging – Very low	Suitable foraging habitat present on site; however, species is rare in California (CDFG 2005).

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On site (Yes/No)	Potential to Occur	Rationale
Mexican long-tongued bat (*Choeronycteris mexicana*)	CSC	Likes desert canyons, arid mountain ranges. Roosts by day in caves, mines or buildings.	N	Roosting – None Foraging – Very low	Records indicate only a summer resident in San Diego County (CDFG 2005).
San Diego black-tailed jackrabbit (*Lepus californicus bennettii*)	CSC	Mostly found on the coastal side of our local mountains in open habitats, usually avoiding dense stands of chaparral or woodlands.	N	None	No suitable habitat occurs on site.
Pacific pocket mouse *(Perognathus longimembris pacificus*)	FE CSC	Obligate resident of river and marine alluvium and coastal sage scrub plant communities in the immediate vicinity of the coast.	N	None	No suitable habitat occurs on site.
Northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*)	CSC	Coastal sage scrub, sage scrub/grassland ecotones, and chaparral communities.	N	None	No suitable habitat occurs on site.
San Diego desert woodrat (*Neotoma lepida intermedia*)	CSC	Variety of shrub and desert habitats, primarily associated with rock outcroppings, boulders, cacti, or areas of dense undergrowth.	N	None	No suitable habitat occurs on site.
American badger (*Taxidea taxus*)	CSC	Inhabit a diversity of habitats with principal requirements of sufficient food, friable soils, and relatively open, uncultivated ground. Grasslands, savannas, and mountain meadows near timberline are preferred.	N	None	No suitable habitat occurs on site.

Common Name (*Scientific Name*)	Sensitivity Code & Status	Habitat Preference/Requirements	Verified On site (Yes/No)	Potential to Occur	Rationale
LEGEND: **STATUS:** **Federal** FE - listed as endangered under the federal Endangered Species Act. FT - listed as threatened under the federal Endangered Species Act. **State** SE - listed as endangered under the California Endangered Species Act. CSC - species of special concern in California. **Special Note** It is important to note the CDFG revised their list of bird species of special concern in 2008 (CDFG 2008, Schuford and Gardali 2008). Several species of birds that would previously have been addressed in this table no longer have special-status. If the species is a MSCP covered species, its occurrence on site is still addressed in the table. **References** Special Status information from CDFG 2008. Nomenclature and invertebrate descriptions from Hogan 2005, and USFWS 1997. Nomenclature and vertebrate descriptions from AOU 1998 and supplements (AOU 2000, 2002, 2003, 2004, 2005, 2006), CDFG 2005, Collins and Taggart 2002, Schuford and Gardali 2008, Stephenson and Calcarone 1999, Baker *et al.* 2003, and Unitt 2004.					



K:\SAN DIEGO\PROJECTS\CITY OF SAN DIEGO\00482 08 LA JOLLA CHILDRENS POOL\MAPDOC\FIG2-1 REGLOC.MXD AS (12-05-08)

SOURCE: ESRI Streetmap USA (2006)

ICF Jones & Stokes
an ICF International Company

Figure 1
Regional Map - La Jolla Children's Pool Project



Soucre: Landiscor, Flight Date: January 2008

ICF Jones & Stokes
an ICF International Company

Figure 2
Expanded Project Area Map - La Jolla Children's Pool Project

Appendix K
(Walter’s Memo)
Geology And Hydrology (Erosion) Study, Children's Pool Sand Excavation EIR, La Jolla, California, b
TerraCosta Consulting Group, February 23, 2009

TerraCosta Consulting Group

Geotechnical Engineering
Coastal Engineering
Maritime Engineering

Project No. 2602
February 23, 2009

Mr. Bob Stark
ICF JONES & STOKES
9775 Businesspark Avenue, Suite 200
San Diego, California 92131

EIR GEOLOGY SECTION REVIEW
LA JOLLA CHILDREN'S POOL PROJECT EIR
LA JOLLA, CALIFORNIA

Dear Mr. Stark:

We have reviewed the Geology section of the EIR (Section 3.3) and are in agreement with the information presented.

We appreciate the opportunity to work with you on this interesting study. If you have any questions or require additional information, please give us a call.

Very truly yours,
TERRACOSTA CONSULTING GROUP, INC.

Walter F. Crampton, Principal Engineer
R.C.E. 23792, R.G.E. 245

Gregory A. Spaulding, Project Geologist
P.G. 5892, C.E.G. 1863

WFC/GAS/jg

TerraCosta Consulting Group

Geotechnical Engineering
Coastal Engineering
Maritime Engineering

Project No. 2602
October 16, 2008
Revised: March 12, 2009

Mr. Bob Stark
ICF JONES & STOKES
9775 Businesspark Avenue, Suite 200
San Diego, California 92131

GEOLOGY AND HYDROLOGY (EROSION) STUDY
LA JOLLA CHILDREN'S POOL PROJECT EIR
LA JOLLA, CALIFORNIA

Dear Mr. Stark:

TerraCosta Consulting Group, Inc. (TCG) has completed a limited geology and hydrology study aimed at understanding the erosion at the La Jolla Children's Pool. This work is in support of the La Jolla Children's Pool Environmental Impact Report (EIR) for a project proposing to return the Children's Pool to its 1941 configuration (Photo 1) by excavating approximately 3,000 cubic yards of sand from Casa Beach and the Children's Pool. The excavated sand would be placed on the pocket beaches immediately southwest of the Children's Pool seawall at South Casa Beach (Photo 2).

TCG previously investigated the site for RBF Consulting as described in our December 12, 2002 report, "Coastal Bluff Stability Study, Coast Boulevard between Prospect Street and South Casa Beach (including La Jolla Cove and Children's Pool Beach), La Jolla, California." In 2003, TCG completed an updated inventory of coastal erosion along the City of San Diego's 13-mile-long coastline extending from Sunset Cliffs Park, just north of the Navy facility in Point Loma, to the Torrey Pines State Park, just north of La Jolla. This coastal erosion assessment updated the 1993 Coastal Erosion Inventory prepared by Apex Geotechnology/Group Delta Consultants and Leighton & Associates. The 2003 assessment contained considerable detail about the Children's Pool lifeguard station and nearby improvements, including the mapping of sea caves, preparation of topographic maps, and local assessment of coastal bluff stability.

More recently, TCG conducted a study for RJC Architects, as described in TCG's April 11, 2008 report, "Limited Geotechnical Investigation report for the Children's Pool Lifeguard Station Rehabilitation." In this most recent study, special consideration was given to the composition of the exposed portions of the coastal bluff adjacent to and beneath the existing lifeguard station. We addressed both coastal erosion and the geotechnical considerations for siting a new lifeguard station in this area.

We also note that the original idea to return the beach at Children's Pool to its 1941 configuration and initial plan for the beach excavation was put forward in a study by Coastal Environments (Elwany, et al., 1998) for the City of San Diego Parks and Recreation Department, as shown in Photo 1. The Elwany, et al., report is attached."

As part of our work for this study, we have reviewed available maps, records, plans, recent and historical photographs, and visited the site to make an engineering geologic assessment of the current site conditions. Using this information, including our observations at the site, we have prepared a generalized geologic map and cross sections to help depict our best estimate of the geologic site conditions (Figures 1 through 3).

GEOLOGY

Geologic Setting

Point La Jolla is a significant promontory formed by northerly movement of the land mass on the west side of the Rose Canyon fault. The Rose Canyon fault is part of the San Andreas fault system, which roughly defines the intersection of the Pacific Plate and the North American Plate. The Pacific Plate is moving northerly at a rate of about 2.2 inches per year relative to the North American Plate. This movement has been ongoing for about the last 5.5 million years and is responsible for the opening and spreading of the Gulf of California. It is also the driving force behind most California earthquakes.

The Rose Canyon fault itself is but one of a series of right lateral strike-slip faults associated with the San Andreas system. It has been estimated that some of the earliest movement on the Rose Canyon fault may have started more than 2 million years ago (Abbott, 1999), with an average slip rate along the Rose Canyon fault zone on the order

of 6-8 inches per 100 years. Thus, in the last 2 million years, northward movement on the Rose Canyon fault may have caused upwards of 2.5 miles of northerly movement of Point La Jolla and its associated land mass relative to the rest of San Diego County east of Interstate 5 and Ardath Road. A map of San Diego west of the Rose Canyon fault zone from Point Loma to La Jolla Bay (Abbott, 1999) is shown on Figure 4. This figure also shows the extent of the highly erosion-resistant Cretaceous outcrops that comprise both La Jolla and Point Loma, which is in part responsible for the presence of both of these headlands.

As shown in Figure 4, the Rose Canyon fault is sinuous and not straight, and makes a left step just north of Mission Bay. Combined with the right lateral movement of the fault, this step causes the compressive forces within the plates to build. These forces cause bending of the Pacific Plate (locally) and force the rise of Mount Soledad through tectonic uplift.

These tectonic forces have also caused the progressively higher contact elevations between the Point Loma and Bay Point formations in a northerly direction. More importantly, the uplift has juxtaposed the more erodible Eocene cliff-forming sediments on the north side of the fault, resulting in a more rapidly eroding land mass to the north, and in part responsible for the presence of La Jolla Bay.

The La Jolla coastal bluffs are bordered by a narrow wave-cut Quaternary-age terrace or bench, with elevations ranging from 30 to 80 feet MSL along the top of the bluffs. Wave impact erosion has etched out the less resistant rock along faults and fractures in the coastal bluff resulting in the shallow coves and sea caves, which punctuate the La Jolla coastline. The more resistant rocks of the Point Loma Formation form the lower cliffed section of the coastal bluff and shore platform, which extend seaward and are seen in Photos 1 through 3. The relatively flat surface of the modern-day abrasion platform is interrupted by isolated erosion-resistant rock, which forms sea stacks and topographic highs. Farther seaward, the abrasion platform becomes progressively steeper, and is locally incised by surge channels that have formed along the trends of major joint sets or faults, which affect the erosion resistance of the rock. Figure 5 depicts the Point Loma and Bay Point Formation as they currently outcrop locally.

Subsurface Conditions

Two geologic formations, the Point Loma and Bay Point Formations, are present in the coastal area of Point La Jolla (Figure 5). The Point Loma Formation is a member of the 70 to 80 million year old Cretaceous-age Rosario Group, which runs from La Jolla to northern Baja. The Quaternary-age Bay Point Formation generally consists of a widespread compilation of older moderately to well consolidated alluvial floodplain and paralic deposits covering most of coastal San Diego County. Locally, these soils form the upper coastal bluff terrace deposits, and consists mainly of marine and non-marine, poorly consolidated, fine- and medium-grained, red to pale brown, fossiliferous sandstone. The terrace deposits are typically capped by a thin veneer of younger surficial soils that include alluvium and colluvium. The following paragraphs describe these units from oldest to youngest.

Point Loma Formation (Kp): The Cretaceous-age Point Loma Formation is an approximately 900-foot-thick sedimentary rock layer that discontinuously crops out in coastal areas of northern Baja and as far north as Carlsbad (Kennedy, 1975). It is depicted in blue and identified as Kp on the geologic map shown in Figure 5, and appears as a narrow strip along the coastline. In La Jolla, it forms the lower, more resistant parts of the sea cliff with elevations at the site on the order of 20 feet, MSL, dipping to the south at about 5 degrees. The Point Loma Formation extends seaward comprising the shore platform adjacent to the cliff. The Point Loma Formation consists of well-indurated marine sediments deposited as an offshore, deep-water submarine fan. Offshore deposits are represented by the thin-bedded siltstone and fine sandstone exposed in the sea cliff. Deep water deposits are represented by the erosion-resistant, thick-bedded mudstone and sandstone exposed at the base of the cliffs.

Bay Point Formation (Qbp): The Pleistocene-age Bay Point Formation, deposited on the coastal terrace(s) on which Coast Boulevard is built, ranges up to approximately 40 feet in thickness, and forms the upper part of the bluff in the site vicinity above elevation 20± feet, MSL. It is designated in orange and identified as Qbp in Figure 5. In general, covering most of San Diego County's coastline, the Bay Point Formation consists of a compilation of early to late Pleistocene-age marine terraces, covered by a veneer of paralic deposits that represent various sea

level high stands. Locally, the Bay Point Formation consists of marine and non-marine, silty to clayey sandstones, conglomerates, and hard, sandy clays, which form moderate slopes on the coastal terrace(s) and are exposed in the bluffs of the project area. The Bay Point Formation is comparatively restricted in age to between 80,000 and 120,000 years (plus or minus several thousand years). It was deposited on the 120,000 year old Nester Terrace, an ancient wave-cut platform formed on the Point Loma Formation during the last interglacial period when worldwide sea level was approximately 20 feet higher. The approximate areal extent of the abrasion platform on which the Bay Point Formation was deposited is shown in Figure 5. Geologic evidence indicates that, since deposition of the Bay Point Formation, Point La Jolla has locally been uplifted 23 feet or more (near Goldfish Point) at the rate of about 0.2 inch per 100 years.

Alluvial and Colluvial (Qcol/Qal): Geologically-recent alluvial and colluvial soils and the topsoils developed on them are present over most of the terrace in the area and on the slopes above and to the east. Typically less than 2 feet in thickness, these soils consist of porous, loose to medium dense, silty to clayey sands with occasional gravel.

Artificial Fill: Artificial fill soils, consisting predominantly of silty to clayey sands with gravel, exist locally as a result of the numerous bluff-top improvements. These moderately to poorly compacted fills are locally derived and are anticipated to be less than a few feet in thickness. Additionally, several relatively extensive debris fills in the vicinity of the Children's Pool beach have been placed along the coastal bluff to arrest marine erosion that appears to have primarily advanced along faults and/or joints in the cliff-forming Point Loma Formation.

Variable-thickness fills, including debris, were also locally noted under the western edge of the concrete access ramp to the Children's Pool seawall (Photos 4, 5, and 6) and along the north-facing sea cliff at the back of Children's Cove, immediately beneath the lower existing walkway near elevation 20 feet (Photo 7).

Recent Beach Deposits: Recent beach deposits, predominantly derived from erosion of the local bluffs, cover approximately 80 percent of the Children's Pool area. The deposits range from zero (0) to an estimated 11 feet in thickness.

Geologic Structure

San Diego County's coastline has been affected by regional tectonic forces associated with movement along the Rose Canyon fault zone, and by tectonic regimes that pre-date the Rose Canyon fault (Fischer and Mills, 1991; Greene and Kennedy, 1981). Warping of the coastal bedrock, associated with the current tectonic regime, has gently tilted the bedding and shore platform (locally) approximately 5 to 25 degrees to the south. Long-continued tectonic stresses and associated episodes of faulting have resulted in literally thousands of visible joints, fractures, and shear zones having both micro- and large-scale variations in erosion potential.

Locally, these structural features, primarily confined to the Point Loma Formation, are exposed in the lower bluffs. Bedding in the Point Loma Formation dips approximately 5 degrees to the southeast in the vicinity of the Children's Pool and numerous near-vertical, northeast to southwest-trending faults and joint sets can be observed within the Point Loma Formation. These faults and other strain features are related to local strain and movement along the Rose Canyon fault zone located approximately 2 miles north and east of the study area (Figure 5). Sea caves and surge channels typically form along these weakened areas within the Point Loma Formation where they intersect the bluff. Where the joints and faults are sub-parallel to the bluff, blockfalls may occur and a more linear coastline typically forms.

Groundwater

A contributor to the erosion of coastal bluffs is the flow of perched groundwater along the contact between the relatively pervious, moderately-consolidated coastal terrace deposits, and the well-consolidated, cemented, less pervious Cretaceous-age formations that form the lower sea cliffs. Although not noted in the vicinity of the Children's Pool, localized seepage was observed adjacent to the study area in both fractures and sea caves. Groundwater typically migrates through the permeable terrace deposits where it eventually encounters and enters the joints and fractures within the Point Loma

Formation. As the water migrates through these joints and fractures the cementing agents within the rock are partially dissolved, further weakening the rock along the joint or fracture locally increasing the rock's susceptibility to erosion, and aiding in the formation of sea caves.

The likely sources of this groundwater are natural migration from highland areas to the east of the terrace, and infiltration of the terrace surface by rainfall and irrigation water. Typically, the volume of groundwater exiting the bluff faces in the Children's Cove area varies from location to location and between seasons, even during drought years.

Groundwater seepage exiting the bluff face on top of the Cretaceous-age sediments also tends to cause spring sapping locally within the terrace deposits, causing the formation of solution cavities along bedding planes, and may locally add to accelerating marine erosion in these areas. Although a significant concern affecting San Diego's North County Eocene-age coastal sediments, groundwater typically does not play a significant role in destabilizing the Cretaceous-age coastal bluffs . However, it is prudent to eliminate or control this potential source of increased coastal erosion whenever possible.

COASTAL PROCESSES

Analysis of the potential for coastal erosion requires an understanding of potential wave exposure for a particular area. Estimation of design wave height is aided through review of wave climate and short- and long-term changes in sea level.

Wave Climate

Since wave attack is the predominant process in coastal erosion, a review of the historic local wave climate may allow estimates of future erosion trends. Records indicate that waves along the San Diego County shoreline generally range in height from 2 to 5 feet; however, large waves ranging from 6 to 10 feet in height are not uncommon. These large waves can arrive at almost any time during the year and may continue for 3 to 4 days. These high-wave episodes frequently occur without notable changes in wind conditions. Breakers with estimated heights of 15 to 20 feet have been observed off the coastline

within the study area (U.S. Army Corps of Engineers [USCOE], 1960; National Marine Consultants, Inc., 1960).

Seymour, et al., (1984) have produced storm wave hindcast estimates for the period 1900-1984 with a hindcast location near 35° N, north of Point Conception and the Channel Islands. Only waves with deep-water-approach directions between southwest and west-northwest were considered because waves approaching more obliquely would be considerably diminished by refraction as they approached the shoreline. Further, the waves were ranked by their power (energy multiplied by period). This resulted in a list of 59 storms in which the resulting offshore significant-wave-height exceeded 10 feet (3 m), all having periods equal to or exceeding 12 seconds. The tropical cyclone of September 1939, a major wave event in southern California, was added for a total of 60 storms. These are listed in Table 1.

As noted on Table 1, extreme deep-water wave episodes exceeding 20 feet (6 m) were only reported on eight occasions during the period 1900 to 1979, while the period from February 1980 through February 1984 experienced a total of ten storm events with deep-water waves exceeding 20 feet. Further, the storm of January 17-18, 1988, produced the highest measured deep-water waves approaching the southern California coast. The significant wave height was 33 feet (10 m), higher than any reported in the 1900-1984 database (Seymour, 1989). This storm was likely on the order of a 200-year event, and was reported by Seymour to be ". . . remarkably similar to Richard Henry Dana's observations in *Two Years before the Mast* of the dangerous Southeasters [significant storm arriving from the south] off this same coast during the 1830's."

Continued coastal erosion can be expected along La Jolla. More energetic wave activity in the past 20 years, compared with the previous 40 or 50 years (Bromirski, et al., 2005), has subjected the La Jolla coastline to progressively more severe wave energy and accelerated erosion.

SHORELINE CHANGES

The study area exists within the Mission Bay Littoral Cell, which comprises the 13.5-mile-long segment of the San Diego County coastline between Point Loma and Point La

Jolla. The La Jolla subcell (including Children's Pool, Casa Beach, and South Casa Beach) is about 3.5-miles long, bounded on the south by False Point and on the north by Point La Jolla. Like the Point Loma Headland, the shoreline along this northern-most part of the cell contains a few small pocket beaches, but is mostly rocky and backed by sea cliffs (USACE, 1988). Dr. Inman (USACE, 1988) notes the sand on the La Jolla beaches is of local origin and sediment transport into and out of these pockets is essentially zero. Headland areas are not fronted by beaches and the La Jolla subcell is somewhat isolated from the upcoast and downcoast littoral cells by the rocky headlands of Point La Jolla and False Point, along with the La Jolla Submarine Canyon, which forms the sink for virtually all of the southerly moving littoral sediments within the Oceanside Littoral Cell. There is no recognized seasonal longshore sediment transport within the La Jolla subcell, as all littoral sediments are confined within the more popular pocket beaches, i.e., Windansea Beach, Marine Street Beach, Casa Beach, and Boomer Beach to mention a few. Seasonal onshore/offshore sand movement has also been reported to be quite dramatic, removing as much as 7 to 8 feet of sand beach during severe storm events (SANDAG, 1993), with much if not most of the sand within the small pocket beaches stripped from the shore face and deposited as an offshore bar during severe winter storms.

Shoreline Erosion

Erosion of the Point La Jolla coastal bluffs has produced a typical bluff profile. The lower 20± feet of the bluff in the vicinity of the Children's Pool are typically highly resistant to erosion, forming a vertical or near-vertical cliffed section. The upper portion of the bluff has relatively low erosion resistance and typically forms more gently inclined slopes.

Sea Cliff Erosion

The erosion of the Point Loma Formation along the lower cliffed section of the coastal bluff is due predominantly to marine erosion. Direct wave impact acting on joints and fissures tends to wedge and cleave sections of rock out of the lower sea cliff. Where fractures and joints are more prevalent or where shear zones have significantly weakened the rock, surge channels and caves have developed.

Upper-Bluff Erosion

The upper bluffs, comprised of the less resistant Bay Point Formation sands, are subject to both marine and subaerial processes, including:

- Wave spray and wave splash during high seas or storm events;
- Undermining of the underlying cliff-forming Point Loma Formation, and carving of the resultant oversteepened slopes;
- Wind, rain, irrigation, and uncontrolled surface runoff, as well as animal burrowing; and
- Human-induced erosion, including cave digging, climbing on the bluffs, and channelized pedestrian traffic across the coastal terrace.

Human activity has affected erosion on the upper bluff, most notably in the vicinity and south of South Casa Beach. Hikers along the top of the bluff have created footpaths down to the top of the Point Loma shelf rock just south of South Casa Beach, with less human activity on the slopes backing South Casa Beach adjacent the Children's Pool lifeguard tower. Photos 8 and 9 illustrate the coastal bluffs backing South Casa Beach and to the south, while Photo 2 provides an excellent aerial perspective of the many footpaths traversing the coastal bluffs in this area.

Anticipated Shoreline Erosion Rates

Although an evaluation of erosion rates is beyond the scope of this study, both marine and subaerial erosion of the La Jolla shoreline has been addressed in some detail in the TerraCosta 2002 Coastal Bluff Stability Study report for Coast Boulevard between Prospect Street and South Casa Beach. In summary, marine erosion rates are on the order of 3/4 inch to 1 inch per year along the study area, possibly approaching 2 inches locally along some of the more developed joint sets within the Point Loma Formation. Corresponding bluff-top erosion rates should be similar, except in those areas where the public continues to traverse the face of the coastal bluff, with bluff-top erosion rates

depending upon the level of traffic approaching two to three times the marine erosion rates, i.e., 2 to 3 inches per year.

CHILDREN'S POOL BREAKWATER

When Ellen Browning Scripps commissioned the construction of the Children's Pool breakwater in 1931, the project took advantage of the small headland from which the breakwater extended and the north-facing sheltered beach, which after the breakwater's construction provided a swimming area sheltered from the typical westerly and northwesterly swells (Photo 3). The current breakwater provides protection from most storm conditions, with northerly winds having less than a 10-mile fetch to generate wind-driven waves. Under these conditions, 40 mile per hour winds from the north would generate 5-foot-high waves with a period of about 4½ seconds and sufficient to cause erosion of the sea cliffs backing the pocket beach and scour at least some of the sand out of the small cove. Additionally, due to the relatively low height of the breakwater, much larger storm surf from the west, northwest, and southwest will overtop the wall, generating enough outwash to remove sand from the beach. On balance, however, the Children's Pool breakwater does an excellent job of providing a sheltered swimming area throughout virtually every year.

The infrequent storm surf, including the even less frequent waves breaking over the breakwater, continues to cause only a small amount of marine erosion of either the near-vertical sea cliffs of the Point Loma Formation or the overlying sloping terrace deposits. However, it is this erosion that is now undermining the foundations of the existing Children's Pool lifeguard tower, which is in the early stages of a restoration project. Similarly, the coastal bluffs backing South Casa Beach and the adjacent coastal bluffs to the south continue to experience more accelerated marine erosion due to the direct exposure to the storms from the west, northwest, and southwest. Moreover, the presence of South Casa Beach provides at least limited protection from westerly and southwesterly storms eroding the sea cliffs at the back of South Casa Beach, which support both Coast Boulevard and the southern bluff-top access to the Children's Pool lifeguard tower, the breakwater, and the pocket beach.

There is no question that ongoing marine erosion affecting the coastal bluffs backing South Casa Beach will be reduced by the importation of even the relatively small volume of sand proposed to be excavated from Casa Beach and the Children's Pool. From a geotechnical and erosion perspective, the placement of all 3,000 yards at South Casa Beach, whether at one time or in 300-yard increments, reduces the ongoing marine erosion currently affecting this area more so than if placed adjacent to the sluice gates (see Photo 2), which at one time was considered as an alternative disposal site.

The sluice gates are located near the base of the Children's Pool breakwater and, as indicated in Photo 2, are at least partially protected by the elevated reef structure located approximately 70 feet from the base of the breakwater. This relatively confined area between the base of the seawall and the elevated reef structure was at one time considered as an alternative location for sand disposal. However, the presence of more surf and less protection, particularly from the northwest, will tend to sweep sand out of this location more quickly than from South Casa Beach. Even though sand would remain within the littoral zone, it would move farther south to then accumulate in the more southern pocket beaches, with only a portion swept into South Casa Beach.

It should be noted that the reef structure adjacent to the sluice gates also currently provides at least limited wave protection to the landward 30 to 40 percent of the breakwater, with only limited additional protection provided by the placement of the 3,000 yards of excavated material from Casa Beach and the Children's Pool. In contrast, the placement of the entire volume of excavated sand at South Casa Beach maximizes the value of this beach fill and protects the bluff-top improvements at the back of South Casa Beach, including the southern access to the Children's Pool.

CONSTRUCTION EQUIPMENT IMPACTS

We understand consideration is currently being given to the use of limited construction equipment, specifically a Caterpillar 320 excavator and a Caterpillar 950B wheel loader to excavate and transport the 3,000 yards of sand from Casa Beach and the Children's Pool to either the South Casa Beach or sluice gates disposal areas. We also understand that a service truck would be used by the contractor for this work. But it is anticipated that the service truck would remain within the bluff-top parking area. Photos 10 and 11,

reproduced from TCG's City of San Diego Coastal Erosion Inventory, show the graded access road as it existed in 1993 and a decade later, in 2003, after erosion gullies were filled with a clayey sand subgrade likely to control erosion. The photos also show the construction access road that equipment would use to excavate the 3,000 yards of sand from Casa Beach and the Children's Pool for delivery to the South Casa Beach disposal area.

Excluding past surface erosion within the unimproved Casa Beach and Children's Pool access and the recompacted subgrade soils, the underlying materials supporting this access roadway are comprised of the highly competent Point Loma Formation bedrock. In addition to providing excellent subgrade support, the formation should not in any way be affected by the proposed construction activities for this project. Moreover, the relatively thin clayey sand subgrade fill, although in part comprised of clayey fines that may cause concern over construction-period water quality, the clayey matrix of those materials are also resistant to surface erosion, whether by runoff from rainfall or the proposed construction activities.

Regardless of whether the Casa Beach and Children's Pool sand is deposited adjacent to the sluice gates, or at South Casa Beach, there would be no traffic across any bluff tops or along any local streets. As shown in Photo 2, sand removal from Casa Beach and the Children's Pool can most efficiently be accomplished with a front end loader. The loader would deposit the material at either the southwest corner of the cove, or drive it up the ramp to a staging area adjacent to the head of South Casa Beach. The ramp, shown in Photos 10 and 11 would have to be reconstructed for this purpose. From the deposition site, an excavator would pick up the material and move it over to the South Casa Beach. Alternatively, the sand could be moved to South Casa Beach from the staging area with a temporary shoot feed by the front end loader directly. In either case, the removal of the sand from Children's Pool beach and the ultimate disposal at South Casa Beach will have no geologic impacts or in any way contribute to additional coastal erosion.

REOPENING OF SLUICE GATES

We understand that one of the earlier alternatives was to consider reopening the original sluice gates within the Children's Pool breakwater. While these sluice gates were originally designed to improve circulation and sand flushing from the cove, it was found that the sluice gates have simply plugged with sand, rendering them all but ineffective unless they were actively maintained to keep sediment out. They were later capped with concrete. Reopening the sluice gates, if desired, would have required some construction-period effort. As a practical matter, the presence of the breakwater within the active littoral zone, by its very nature, causes suspended sand to drop out of suspension within the quiescent area behind the breakwater. Constant maintenance to keep the sluice gates open would be required, and they would likely not function as intended. We further recognize that no indication of poor water quality within the Children's Pool was ever demonstrated before the permanent presence of the seal colony. Therefore, functioning sluice gates are likely to be unnecessary if the seal population leaves the cove. Alternatively, if the seals stay, the sluices would probably not be effective enough in flushing the pool, since sand clogging and accumulation would likely recur, as it has before.

FURTHER CONSIDERATIONS

The current proposed project agrees in all major respects except one with the original Elwany, et al. (1998) plan. Even the current "design profile" is the same, or nearly so, as that recommended in that report. The one major difference is that the original plan concluded that disposal of the 3,000 cubic yards of sand from the Children's Pool should occur at La Jolla Shores beach. There were several reasons for this recommendation.

Chief among those reasons was the concern that hard-bottom substrate would be buried or otherwise negatively impacted if sand disposal occurred on one of the adjacent pocket beaches. Secondly, there was unease that sand would more quickly return to the pool if it was deposited too close by, especially to the north. Finally, La Jolla Shores was eroded at the time as a result of the severe 1997-98 El Niño winter, and even a few thousand cubic yards of sand would have been helpful there. The erosion issues at La Jolla Shores are not currently a concern.

Although not clear from the documents reviewed, we assume that the contractor should be made aware of the presence of the hard bottom substrate, the approximate extent of which is depicted on Figures 1, 2, and 3, and provisions made to limit any disturbance to this important resource. Photo 3 is also particularly useful in illustrating the approximate extent of the hard bottom substrate.

It should be noted that the San Diego Municipal Code (143.0143) indicates proposed grading shall minimize the alteration of natural landforms and graded areas shall topographically resemble natural landforms of the surrounding area. Therefore, we would anticipate that the final construction documents would specifically prohibit the alteration of any natural landforms, specifically the hard bottom substrate, recognizing that one of the primary purposes of the project is to move 3,000± yards of beach sand and not disturb the formational siltstones and sandstones of the Point Loma Formation. These prudent construction-related constraints would also eliminate any potential concerns regarding the proposed grading's potential adverse impact on global stability of the existing bluff face, the existing stairway, or the existing seawall.

Concern was also raised regarding the effectiveness of the proposed sand berm and its susceptibility to erosion. While we share these concerns, as we understand, the berm is only intended to limit the seal's access to the Children's Pool during construction and although we anticipate that the berm will experience erosion, it may still be effective in temporarily dissuading the seals from hauling out on Casa Beach during construction activities.

Some time after the original sand disposal plan was put forward, Dr. Douglas Inman of Scripps Institution of Oceanography opined that sand from one littoral cell should not be transported to another cell, especially when the donor area was as sand-starved as the Point La Jolla pocket beaches. It is well known that littoral sand from the Oceanside cell, which ends at La Jolla Shores, does not travel past the La Jolla Submarine Canyon system, which terminates at the La Jolla Beach and Tennis Club. The limited amount of sand on the pocket beaches of Point La Jolla between the Marine Room and at least as far south as Bird Rock is locally derived from cliff and terrace erosion. Professor Inman suggested that the sand from the Children's Pool excavation should remain nearby, and this position was adopted in the revised disposal plan. In addition, there may be concerns

over both additional transportation cost and excess truck traffic through La Jolla and La Jolla Shores, if sand disposal were to occur there.

We appreciate the opportunity to be of service and trust this information meets your needs. If you have any questions, please give us a call.

Very truly yours,

TERRACOSTA CONSULTING GROUP, INC.

Walter F. Crampton, Principal Engineer
R.C.E. 23792, R.G.E. 245

Reinhard E. Flick, Ph.D.
Principal Oceanographer

Gregory A. Spaulding, Project Geologist
P.G. 5892, C.E.G. 1863

WFC/REF/GAS/jg
Attachments

REFERENCES

Abbott, P.L., 1999, The Rise and Fall of San Diego, 150 Million Years of History Recorded in Sedimentary Rocks: Sunbelt Publications, Inc., San Diego, CA.

Apex Geotechnology/Group Delta Consultants, April 15, 1993, Volume I, Coastal Erosion Inventory from Sunset Cliffs Park to Cortez Place, City Of San Diego, California, City of San Diego Document No. C-04529. Project No. 1487.

Bromirski, P.D., D.R. Cayan, and R.E. Flick, 2005, "Wave spectral energy variability in the northeast Pacific," *J. Geophys. Res*., 110, C03005, 15 pp.

Elwany, H., R. Flick, J. Nichols, and A. Lindquist, August 27, 1998, La Jolla Children's Pool Beach Management and Water Quality Improvement Project. Scripps Institution of Oceanography Technical Report. http://repositories.cdlib.org/sio/techreport/20

Fischer, P.J., and G.I. Mills, 1991, "The Offshore Newport-Inglewood - Rose Canyon Fault Zone, California: Structure, Segmentation and Tectonics," in P.L. Abbott and W.J. Elliott (eds.), *Environmental Perils - San Diego Region*, published by San Diego Association of Geologists, pp. 17-36.

Greene, H.G., and M.P. Kennedy, 1981, Review of Offshore Seismic Reflection Profiles in the Vicinity of the Christianitos Fault, San Onofre, California, unpublished U.S. Geological Survey Document prepared for the Nuclear Regulatory Commission.

Hollins, Jeremy, 2005, Until Kingdom Come – The Design and Construction of La Jolla's Children's Pool, in Journal of San Diego History, V 51-3.

Kennedy, M.P., 1975, Geology of the San Diego Metropolitan Area, California: Section A - Western San Diego Metropolitan Area (Del Mar, La Jolla, Point Loma 72 minute quadrangles); and Section B - Eastern San Diego Metropolitan Area (La Mesa, Poway, and SW 3 Escondido 72 minute quadrangles), California Department of Conservation, Division of Mines and Geology, Bulletin 200.

Leighton & Associates, Inc., April 2, 1993, Volume II, Coastal Erosion Inventory from Palomar Avenue to Torrey Pines State Park. Project No. 4930053-01.

National Marine Consultants, Inc., 1960, Wave Statistics for Seven Deep Water Stations along the California Coast. Prepared for the U.S. Army Corps of Engineers, Los Angeles District.

REFERENCES
(continued)

San Diego Association of Governments, July 1993, Shoreline Preservation Strategy for the San Diego Region.

Seymour, R.J., Strange, R.R. III, Cayan, D.R., and Nathan, R.A., 1984, Influence of El Niños on California's Wave Climate. Proc. 19th Coastal Eng. Conf., Amer. Soc. Civil Eng., p. 577-592.

Seymour, R.J., 1989, Wave Observations in the Storm of 17-18 January 1988. Jour. of Amer. Shore and Beach Preservation Assn., v. 57, n. 4, p. 10-14.

TerraCosta Consulting Group, Inc., April 11, 2008, Limited Geotechnical Investigation, Children's Pool Lifeguard Station, La Jolla, California. Project No. 2574.

TerraCosta Consulting Group, Inc., in association with Testing Engineers San Diego, Inc., April 16, 2003, Coastal Erosion Assessment Update from Sunset Cliffs Park to Torrey Pines State Beach, City of San Diego, California, City of San Diego Document No.: C-11542. Project No. 2162.

TerraCosta Consulting Group, Inc., December 12, 2002, Coastal Bluff Stability Study, Coast Boulevard Between Prospect Street and South Casa Beach (including La Jolla Cove and Children's Pool Beach), La Jolla, California. Project No. 2086.

U.S. Army Corps of Engineers, December 1988, Sediment Budget Report, Mission Bay Littoral Cell, Coast of California Storm and Tidal Waves Study, CCSTWS 88-7, prepared by Moffatt & Nichol, Engineers.

U.S. Army Corps of Engineers, 1960, Beach Erosion Control Report on Cooperative Study of San Diego County, California: ed. C.T. Newton, contract no. W 04 193-ENG.-5196, appendix IV, phase 2, 60 p., 8 plates, 8 appendices.

TABLE 1
HINDCAST (1900-84) WAVES EXCEEDING 3 M HEIGHT NEAR 35ºN
(SEYMOUR, ET. AL., 1984)

EXTREME WAVE EPISODES EXCEEDING 3 M. (BASIC SERIES)
1900 - 1984

DATE	SIG. HT. (m)	MAX. PERIOD	DIRECTION
13 MAR 05	8.8	15	247
17 NOV 05	3.3	17	286
31 DEC 07	5.3	16	282
12 MAR 12	3.2	12	220
26 JAN 14	5.8	13	223
03 FEB 15	7.5	14	235
01 JAN 18	3.7	16	280
12 FEB 19	5.3	12	299
20 DEC 20	4.7	13	301
15 OCT 23	3.7	16	296
01 FEB 26	6.9	15	257
03 JAN 27	5.8	20	287
06 NOV 28	4.0	17	294
01 JAN 31	3.9	16	276
28 DEC 31	7.4	18	288
19 DEC 35	4.7	16	267
13 DEC 37	4.5	16	272
06 JAN 39	7.9	19	285
25 SEP 39	4.5	15	205
24 JAN 40	4.3	16	267
25 DEC 40	5.7	16	270
20 OCT 41	3.3	17	294
30 DEC 45	3.9	19	285
13 FEB 47	3.9	16	265
04 NOV 48	4.7	18	300
15 NOV 53	5.7	17	269
15 JAN 58	3.1	22	280
26 JAN 58	6.8	14	259
05 APR 58	7.7	18	289
16 FEB 59	5.1	14	244
09 FEB 60	8.1	19	295
22 DEC 60	3.4	17	276
31 JAN 63	4.2	16	260
10 FEB 63	5.9	15	256
19 NOV 65	4.0	15	277
07 DEC 67	4.0	15	298
06 FEB 69	4.7	13	222
04 DEC 69	3.6	17	278
06 DEC 69	4.9	22	274
14 DEC 69	5.7	17	290
19 DEC 69	4.7	18	281
26 DEC 72	4.1	15	289
21 FEB 77	5.2	18	280
29 OCT 77	5.5	20	299
16 JAN 78	6.0	13	240
01 JAN 80	4.7	20	272
17 FEB 80	6.1	18	249
22 JAN 81	4.3	20	258
28 JAN 81	7.0	17	262
13 NOV 81	4.9	18	284
01 DEC 82	6.4	14	295
18 DEC 82	6.4	20	288
25 JAN 83	6.1	17	278
27 JAN 83	7.3	22	279
10 FEB 83	6.7	25	281
13 FEB 83	4.9	17	268
01 MAR 83	8.2	20	258
14 NOV 83	5.0	17	290
03 DEC 83	7.0	17	285
25 FEB 84	6.4	17	300



CHILDREN'S POOL - 1941 **PHOTO 1**



CHILDREN'S POOL BEACH **PHOTO 2**

May 1992, City of San Diego Aerial Flight Series



NEWLY CONSTRUCTED CHILDREN'S POOL **PHOTO 3**
Circa 1931
Note Surge Channels in Bedrock and Small Sand Beach Area



PHOTO 4 Photo Date: 3/26/08

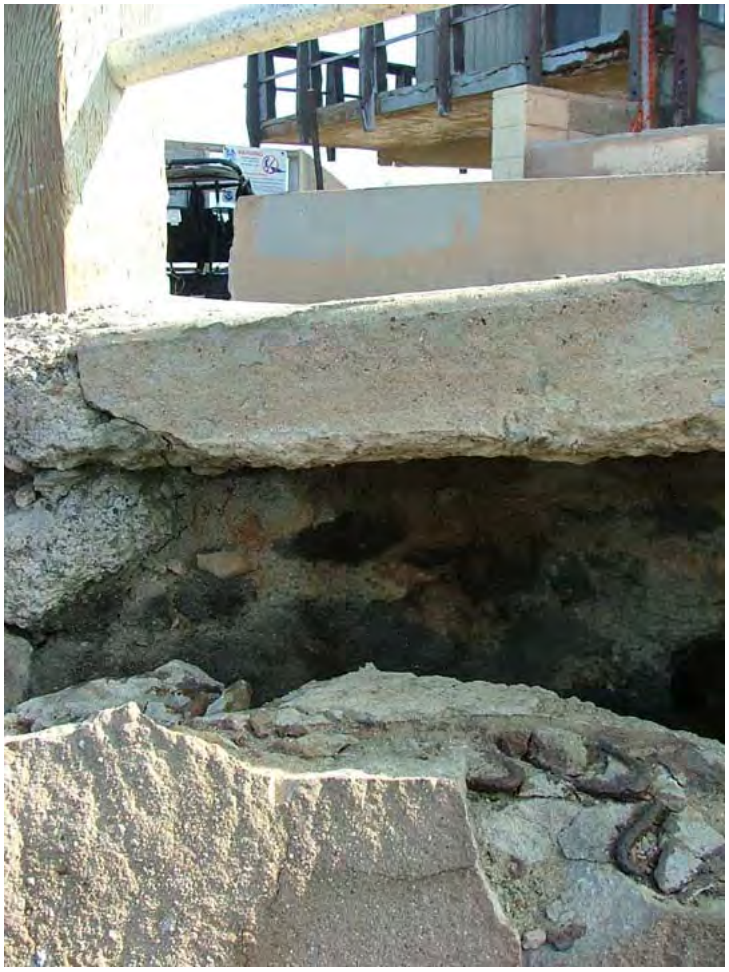


PHOTO 5 Photo Date: 3/26/08



PHOTO 6 Photo Date: 3/26/08



PHOTO 7 Photo Date: 3/26/08



PHOTO 8

AREAS 55D & 55F



PHOTO 9

AREA 55D



Photograph No. 56-A6 - Undermining of gunite slope protection.

PHOTO 10 Photo Date: 1993



PHOTO 11 Photo Date: 2003

2003: Little change has occurred in this area over the past decade, although in 1993, the transient sand beach was up to the bottom of the shotcrete slope protection. The rills observed in 1993 have since been regraded, eliminating these erosion features.

NOTE:

THE ESTIMATED BEDROCK DEPICTED ON THIS PLAN AND THE CROSS SECTIONS WAS INTERPRETED FROM RECENT FIELD OBSERVATIONS; EXTRAPOLATION FROM TOPOGRAPHIC SURVEY DATA OBTAINED IN 2002 AS PART OF OUR REPORT TITLED "COASTAL BLUFF STABILITY STUDY, COAST BLVD BETWEEN PROSPECT ST AND SOUTH CASA BEACH (INCLUDING LA JOLLA COVE AND CHILDREN'S POOL BEACH), LA JOLLA, CALIFORNIA"; DRAWINGS PREPARED BY OTHERS; AND FROM COMPARISONS OF HISTORICAL PHOTOGRAPHS.

LEGEND

Kp	POINT LOMA FORMATION
Qb	BEACH DEPOSITS
Qaf	FILL

SCALE: 1"=20'

0 10 20 40

FEET

CONC. SEAWALL/WALKWAY

CONC. SEAWALL/WALKWAY

PARTIALLY BURIED FORMATION

PARTIALLY BURIED FORMATION

PARTIALLY BURIED FORMATION

ESTIMATED LOCATION OF 1941 MEAN HIGH TIDE 2.06' MSL

EXISTING LIFEGUARD TOWER

EXISTING STAIRS

2 / FIG 3

1 / FIG 2

10

5

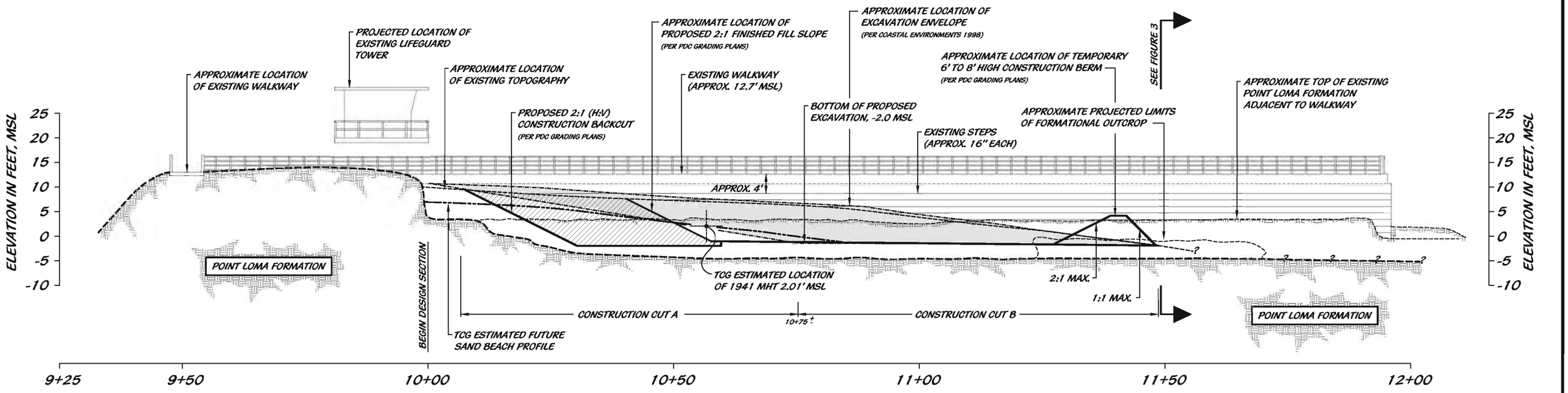
0

Kp

Qb

Qaf

TERRACOSTA CONSULTING GROUP ENGINEERS AND GEOLOGISTS 4455 MURPHY CANYON ROAD, SUITE 100 SAN DIEGO, CA 92123 (858) 573-8900		FIGURE NUMBER 1
PROJECT NAME CHILDREN'S POOL LA JOLLA, CALIFORNIA		PROJECT NUMBER 2602
SITE PLAN		



GENERALIZED CROSS SECTION

SCALE: 1"=20' (H:V)

NOTE:

THE ESTIMATED BEDROCK DEPICTED ON THE CROSS SECTION ABOVE WAS INTERPRETED FROM RECENT FIELD OBSERVATIONS; EXTRAPOLATION FROM TOPOGRAPHIC SURVEY DATA OBTAINED IN 2002 AS PART OF OUR REPORT TITLED "COASTAL BLUFF STABILITY STUDY, COAST BLVD BETWEEN PROSPECT ST AND SOUTH CASA BEACH (INCLUDING LA JOLLA COVE AND CHILDREN'S POOL BEACH), LA JOLLA, CALIFORNIA"; DRAWINGS PREPARED BY OTHERS; AND FROM COMPARISONS OF HISTORICAL PHOTOGRAPHS.

TerraCosta Consulting Group

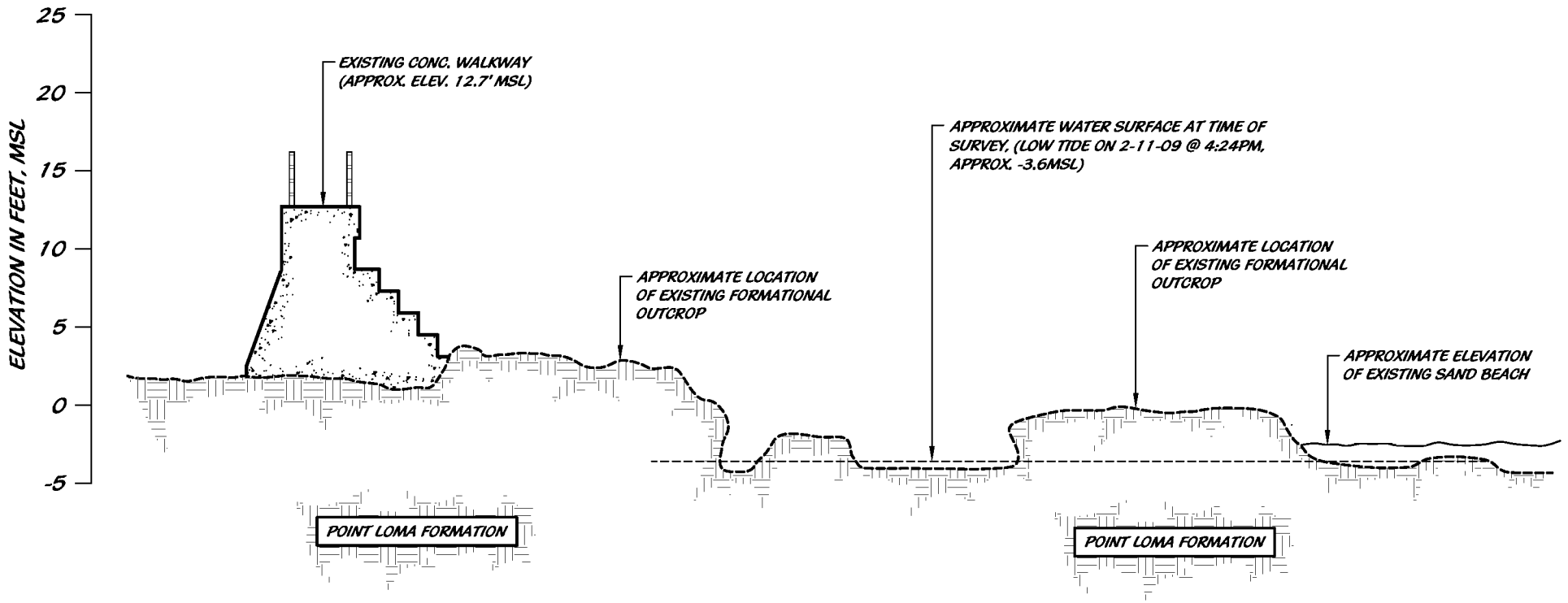
TERRACOSTA CONSULTING GROUP
ENGINEERS AND GEOLOGISTS
4455 MURPHY CANYON ROAD, SUITE 100
SAN DIEGO, CA 92123 (858) 573-6900

FIGURE NUMBER 2

PROJECT NAME
CHILDREN'S POOL
LA JOLLA, CALIFORNIA

PROJECT NUMBER 2602

GENERALIZED GEOLOGIC CROSS SECTION



GENERALIZED CROSS SECTION

SCALE: 1'=10' (H:V)

NOTE:

THE ESTIMATED BEDROCK DEPICTED ON THE CROSS SECTION ABOVE WAS INTERPRETED FROM RECENT FIELD OBSERVATIONS; EXTRAPOLATION FROM TOPOGRAPHIC SURVEY DATA OBTAINED IN 2002 AS PART OF OUR REPORT TITLED "COASTAL BLUFF STABILITY STUDY, COAST BLVD BETWEEN PROSPECT ST AND SOUTH CASA BEACH (INCLUDING LA JOLLA COVE AND CHILDREN'S POOL BEACH), LA JOLLA, CALIFORNIA"; DRAWINGS PREPARED BY OTHERS; AND FROM COMPARISONS OF HISTORICAL PHOTOGRAPHS.

TerraCosta Consulting Group

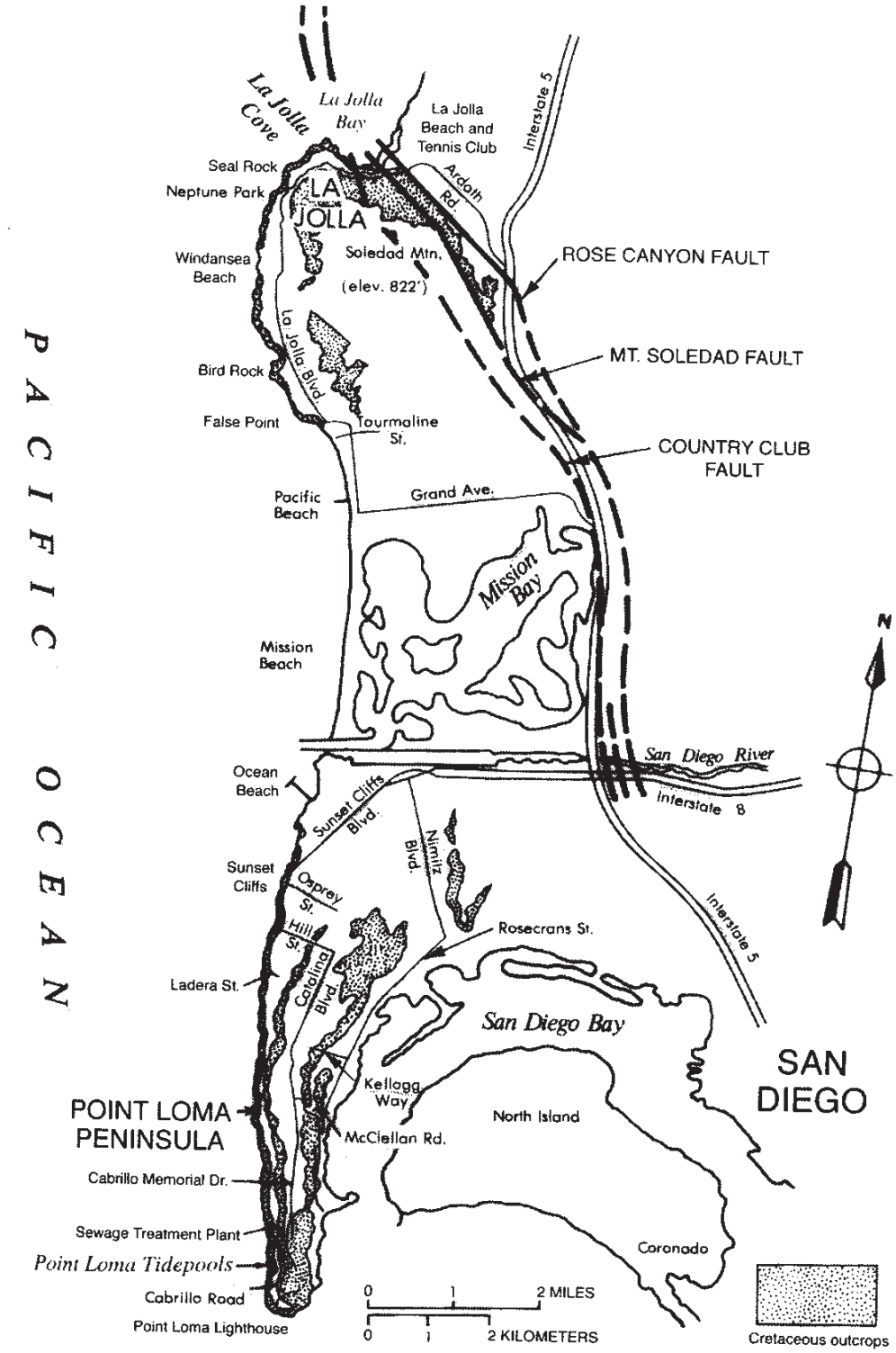
TERRACOSTA CONSULTING GROUP
ENGINEERS AND GEOLOGISTS
4455 MURPHY CANYON ROAD, SUITE 100
SAN DIEGO, CA 92123 (858) 573-6900

FIGURE NUMBER
3

PROJECT NAME
CHILDREN'S POOL
LA JOLLA, CALIFORNIA

PROJECT NUMBER
2602

GENERALIZED GEOLOGIC CROSS SECTION



Map of San Diego west of the Rose Canyon Fault zone, from Point Loma to La Jolla Bay. Note the locations of marine Cretaceous sedimentary rocks.

Source: Abbott, 1999

TerraCosta Consulting Group

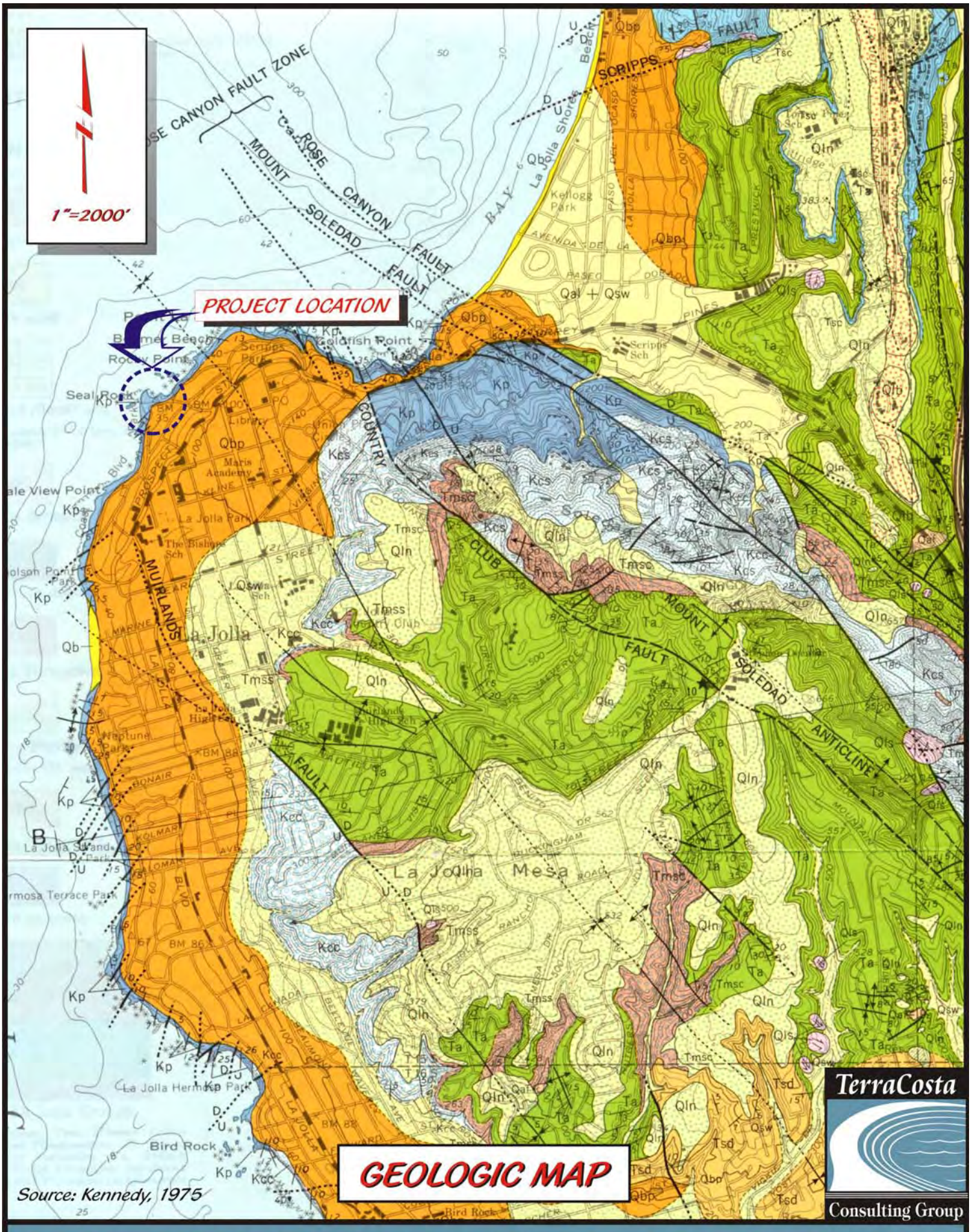
TERRACOSTA CONSULTING GROUP
ENGINEERS AND GEOLOGISTS
4455 MURPHY CANYON ROAD, SUITE 100
SAN DIEGO, CA 92123 (858) 573-6900

FIGURE NUMBER
4

PROJECT NAME
CHILDREN'S POOL
SAND EXCAVATION EIR

PROJECT NUMBER
2602

MAP OF SAN DIEGO



Project Name: CHILDREN'S POOL SAND EXCAVATION EIR - Project No.: 2602 - Figure No.: 5

LA JOLLA CHILDREN'S POOL

BEACH MANAGEMENT AND WATER QUALITY IMPROVEMENT PROJECT



by

Hany Elwany, Ph.D.
Reinhard Flick, Ph.D.
Jean Nichols, Ph.D.
Anne-Lise Lindquist

for

City of San Diego
Parks and Recreation Department
2581 Quivira Court
San Diego, CA 92109

Coastal Environments
2166 Avenida de la Playa, Suite E
La Jolla, CA 92037

1 August 1998

Revised: 27 August 1998

CE Ref No. 98-9

TABLE OF CONTENTS

Page

TABLE OF CONTENTS i

TABLE OF FIGURES ii

EXECUTIVE SUMMARY 1

1. INTRODUCTION 2

2. PHOTOGRAPHIC HISTORY OF CHILDREN'S POOL BEACH 7

3. BASELINE SURVEY 8

4. PROJECT DESCRIPTION 12

4.1. Sand Characteristics 12

4.1.1. Grain Size Analysis 12

4.1.2. Bacterial Counts 12

4.2. Sand Excavation and Transportation 17

4.3. Sand Disposal Options and Methods 17

4.4. Beach Profile at North La Jolla Shores Disposal Site 19

4.5. Sluice Reopening 19

4.6. Project Schedule 19

5. REFERENCES 21

APPENDIX A - EXTRACTS FROM NEWSPAPERS 22

APPENDIX B - PHOTOGRAPHIC HISTORY OF THE CHILDREN'S POOL 24

APPENDIX C - BIOLOGICAL SURVEY AT LA JOLLA CHILDREN'S POOL AND AT NORTH LA JOLLA SHORES 33

TABLE OF FIGURES

Figure 1. View of the Children's Pool in 1931 during construction of the seawall 3

Figure 2. Photograph of the La Jolla Children's Pool on 4 February 1998.....4

Figure 3. Water quality samples collected for the period September 1997 to July 1998. 6

Figure 4. The survey plan, including profile locations, relative to the California Coordinates. 9

Figure 5. Elevations of the wetted line and the cross-sections C2, C3, and C4. 10

Figure 6. Elevation along the ranges R1, R2, and R3.....11

Figure 7. Children's Pool Excavation Plan.....13

Figure 8. Beach profile configuration before and after dredging. 14

Figure 9. Cumulative grain-size distribution for sand samples from the Children's Pool and North La Jolla Shores.....15

Figure 10. Location map of sediment samples collected from the Children's Pool on 19 May 98 and 23 Jun 98 (values represent MPN for fecal coliform). 16

Figure 11. Truck route from La Jolla Children's Pool to La Jolla Shores Beach.....18

Figure 12. Beach profiles of north La Jolla Shores disposal site. 20

Figure 13. Photograph of north La Jolla Shores at the disposal site.....20

Figure B-1. View of La Jolla in 1924, prior to the Children's Pool seawall construction.....25

Figure B-2. View of the Children's Pool in 1931 during construction of the seawall 26

Figure B-3. Miss Scripps Bathing Pool for Children at La Jolla, June 15, 1931 27

Figure B-4. View of the Casa de Mañana and the Children's Pool on January 26, 1935 28

Figure B-5. View of the La Jolla Children's Pool on July 14, 1941 29

Figure B-6. View of the Casa de Mañana and the Children's Pool on May 21, 1948 30

Figure B-7. View of the La Jolla Children's Pool on July 12, 1953 31

Figure B-8. La Jolla Children's Pool in 1989. 32

EXECUTIVE SUMMARY

This report describes the proposed La Jolla Children's Pool Beach Management and Water Quality Improvement Project. The La Jolla Children's Pool breakwater was constructed in 1931 to provide a sheltered swimming area for children near the Casa de Mañana (Figure 1). During the past 67 years, a broad range of users have come to rely on the pool for recreation and water access. Skin and SCUBA divers depend on the pool for access to the ocean.

Over the years, the beach behind the breakwater has gradually widened as sand has accumulated in the sheltered cove. By 1989, the beach had advanced to near the end of the breakwater, leaving little or no protected swimming area. This has caused an increased safety hazard for bathers due to the proximity to the rip tide at the end of the breakwater. In addition, water quality in the pool has been poor in recent years due to the seal population using the beach area.

A plan to restore La Jolla Children's Pool to its original design condition is presented herein. Approximately 3,000 cubic yards (yd^3) of sand will be removed from the Children's Pool beach. Removing the sand decreases the beach width and restores the sheltered water pool area to its 1940s configuration. Reducing the width of the beach will make the pool safer for swimming by isolating swimmers from open-ocean wave activity. It should also improve water circulation and quality.

The sand excavated from the Children's Pool will be transported and deposited on the beach at north La Jolla Shores. This sand will provide some additional coastal protection for the area and it will improve access to the beach.

1. INTRODUCTION

The La Jolla Children's Pool Beach Management and Water Quality Improvement Project proposes to restore the swimming area and water quality of the pool by reducing the beach width. Up to 3,000 cubic yards (yd^3) of sand will be excavated and removed to narrow the beach. A period of monitoring will follow to assess the effectiveness of the sand removal. The objectives of the proposed project are to: 1) reduce the beach width in the Children's Pool to historical values to improve water safety, and 2) improve the water quality by increasing water flushing and circulation.

The La Jolla Children's Pool breakwater was constructed to provide a sheltered swimming area for children near the Casa de Mañana. The project was funded by Ellen Browning Scripps and presented to the City of San Diego on 31 May 1931. This area was and remains a popular part of the La Jolla shoreline. Figure 1 shows the breakwater during construction. At the ceremony held for its opening day, Dr. Jacob C. Harper represented Miss Scripps, and said, "Ellen always had an interest in children, and children have a primary claim to the pool, to enjoy with out danger, the ocean," (La Jolla Journal, Thursday, 4 June 1931). Other historical extracts about the Children's Pool from local newspapers are presented in Appendix A.

Over the following years, a broad range of users have come to rely on the pool for beach recreation and water access. Skin and SCUBA divers depend on the pool to safely enter and exit the water. The underwater areas off Point La Jolla offer magnificent diving, but the shore is inaccessible and treacherous except at a few places, including the Children's Pool.

The breakwater featured sluices designed to be opened when necessary (La Jolla Journal, Thursday, 26 June 1930) to flush out sand that would accumulate as a beach in the sheltered area behind the breakwater. The sluices consist of four openings in the breakwater, each about 4 ft wide and 6 ft high, located near the landward end of the structure. Soon after the breakwater was completed, the sluices were permanently closed by partly filling them with concrete (Testing Engineers - San Diego, 1998).

Since 1931, the beach behind the breakwater has gradually widened as sand has accumulated in the sheltered pool. By 1998, the shoreline had advanced to near the end of the breakwater, at the mouth of the pool, leaving little or no pool area (Figure 2). The lack of protected swimming area has caused water safety concerns (Lifeguard Lt. C. H. Wright, personal communication, 1998). The original purpose for creating the Children's Pool has, therefore, been defeated by the amount of sand accretion.



Figure 1. View of the Children's Pool in 1931 during construction of the seawall (Source: La Jolla Historical Society Photograph #90:18138-441-1).



Figure 2. Photograph of the La Jolla Children's Pool on 4 February 1998.

The Children's Pool's intended use has been further compromised over the past 5 years by over 100 harbor seals that have regularly used the beach at the Children's Pool as a haul-out area. Seal feces from this large and concentrated seal population have caused fecal coliform counts in the water that greatly exceed State water-quality standards (City of San Diego, Coastal Parks Division) (Figure 3). The pool as been closed to human contact since September 4, 1997. Since the water has been deemed unsafe for human contact there are no longer human bathers in the pool. However, the seals do attract a large number of curious non-bathing observers to the beach. This has, in turn, raised two additional interrelated concerns: safety of the onlookers and possible seal-harassment in violation of the Federal Marine Mammal Protection Act (16 USC 1361, *et seq.*).

For several years water samples have been collected for analysis of water quality in the Children's Pool. Results for the period from August 1997 through July 1998 are presented in Figure 3. Water quality has been poor due to elevated total and fecal coliform bacteria most probable number (MPN) counts. The seals and sea lions are using the beach as a haul-out area, and defecating on the way to shore, and on the beach.

No evidence of prior extensive use of the Children's Pool beach by seals, sea lions, or any other marine mammals could be found or documented in the historical research undertaken for this report. The harbor seals seem to have recently decided that the pool's beach was a desirable place to haul out (La Jolla Light, May 15, 1997).

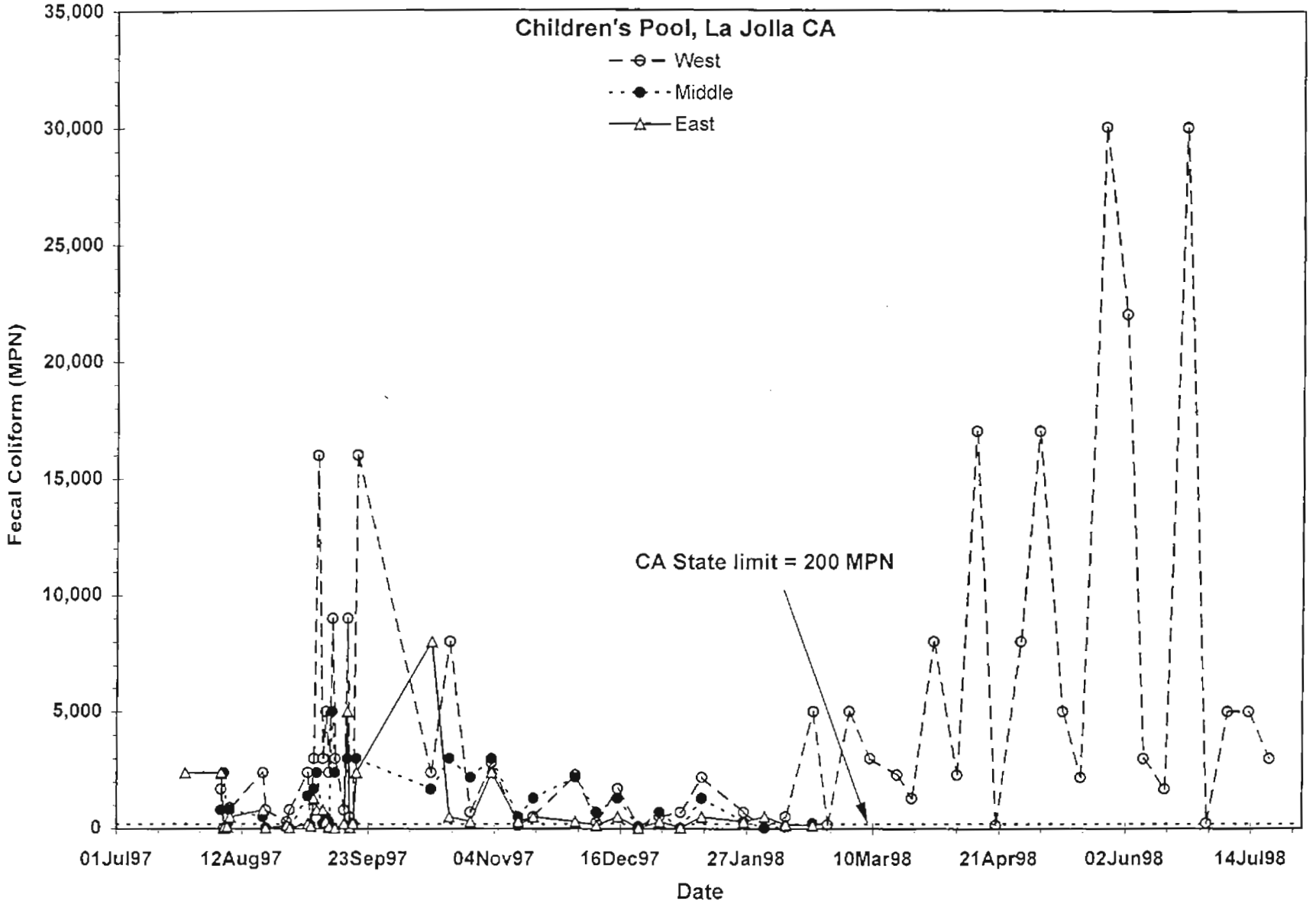


Figure 3. Water quality samples collected for the period September 1997 to July 1998.

2. PHOTOGRAPHIC HISTORY OF CHILDREN'S POOL BEACH

Aerial photographs of the Children's Pool are available dating back to the 1920's (San Diego Historical Society). The photos are presented in Appendix B. Two photograph in Figure B-1 was taken in 1924 (#7647) and shows the Casa Cove, and the pocket beach that existed at the time, prior to construction of the Children's Pool breakwater.

The amount of sand on the pocket beaches in the area was somewhat reduced by the time the breakwater was built in early 1931, as shown in an aerial photo taken during construction (Figure B-2; #90:18138-441-1). The sand volume in Casa Cove cannot be seen in this picture. However, Figure B-3 is a ground photo (La Jolla Historical Society) taken on 15 June 1931 and shows a narrow beach inside the breakwater, and a large, calm-water swimming area. The photo was apparently taken near the mean sea level tide stage, judging from the number of steps (or benches) exposed between the top of the breakwater and the water surface in the picture (Savage, 1930). The dry-sand beach width extended seaward about 30% of the length of the breakwater at this time. This was estimated by counting the number of railing posts between the root of the breakwater and the shoreline (about 12), and dividing by the total number of posts (about 40).

The June 1931 photograph also indicates that about seven steps were exposed above the mean-sea-level (MSL) shoreline. The top of the sluices is located between steps 6 and 7, suggesting that the sluice openings on the inside of the breakwater are located at the approximate position of the MSL shoreline at the time of construction. Therefore, the sluices likely were initially partly open, and partly covered by sand. The sluices were built at a convenient gap in the bedrock reef structure. The top of the openings is at approximately elevation +0.5 ft (NGVD) and the bottom at -5.5 ft (NGVD). We surmise from this evidence that the sluices may have been built where they were to preserve the beach width at more or less this position, that is, at a location about 1/3 of the way along the length of the breakwater. These photos also show that the beach elevation at the sluices was about 7.5 ft lower than it is at the present time (Testing Engineers - San Diego, 1998).

By January 1935, the shoreline had advanced to approximately 40% (17 posts) of the breakwater length, as shown in Figure B-4 (#79:741-5). There are about six steps exposed in this photo, which gives a clear view of the location of the sluices. The sandy beach extends nearly to the bedrock outcrop, and the sluice openings are not visible. This means that either the sluices had been sealed by this time, were simply not effective, or the beach had widened enough to cover the openings.

By 1941 (Figure B-5; #79:741-712), the beach reached about half way (20 posts) along the breakwater, and well past the inshore edge of the bedrock outcrop. At this point, the beach was

twice as wide as the distance from the breakwater root to the sluices. In May 1948 (Figure B-6), and July 1953 (Figure B-7; #UT 8248-15), the beach reached approximately 60% (24 posts) of the breakwater length. A new railing was constructed along the seawall after the old railing was severely damaged by the 1982/83 cluster storms. By about 1989 (Cameron and Morgan, 1990), the beach width was about 75% (50 posts out of about 67 at this time) of the breakwater length (Figure B-8). Finally, by early 1998, the shoreline extended to about 80% (55 posts) of the length of the breakwater (Figure 2).

The history of the beach width at the Children's Pool suggests that the sluices were ineffective in keeping the beach at the initial 1931 width, or that the openings were closed for some reason within a few years after the breakwater was completed. Either way, the beach gradually accreted. Therefore, it is not known how effective the open sluices would be in maintaining a narrow beach. For this reason, future maintenance activity should include a plan to physically remove sand from the Children's Pool as necessary to preserve the desired beach width. Based on the beach-width history, and the approximately 3,000 yd^3 of sand accretion over the 67-year span since the breakwater was built, less than about 45 yd^3 of material would have to be removed each year to maintain an equilibrium width. This amounts to removing only six dump truck loads per year, and could likely be carried out on a three to five-year schedule.

3. BASELINE SURVEY

A baseline beach survey was conducted on 15 April 1998 to establish the Children's Pool beach configuration and the approximate volume of sand in the cove. An electronic total station was used to measure beach-profile elevations, and to demarcate the locations of the breakwater and other features relative to known benchmarks. A plan for the Children's Pool, including profile locations, the breakwater, and the four sluice locations is shown in Figure 4 relative to California Coordinates (State Plan, Zone 6, NAD 27). Figure 5 shows the elevations of the wetted line on the beach face and the elevations of cross-sections C2, C3, and C4. Figure 6 shows the elevation along the ranges R1, R2, and R3.

The wetted-bound line on the beach is often used as a rough indication of the mean high tide line (Ewing, 1993). The wetted bound line is simply the approximate location of the boundary between wet and dry sand on the beach face, and probably indicates the extent of the last higher high tide. The elevation of the wetted bound varied from 2.55 to 4.0 ft (NGVD), while the true elevation of the mean higher high water (MHHW) datum is about 2.8 ft above NGVD.

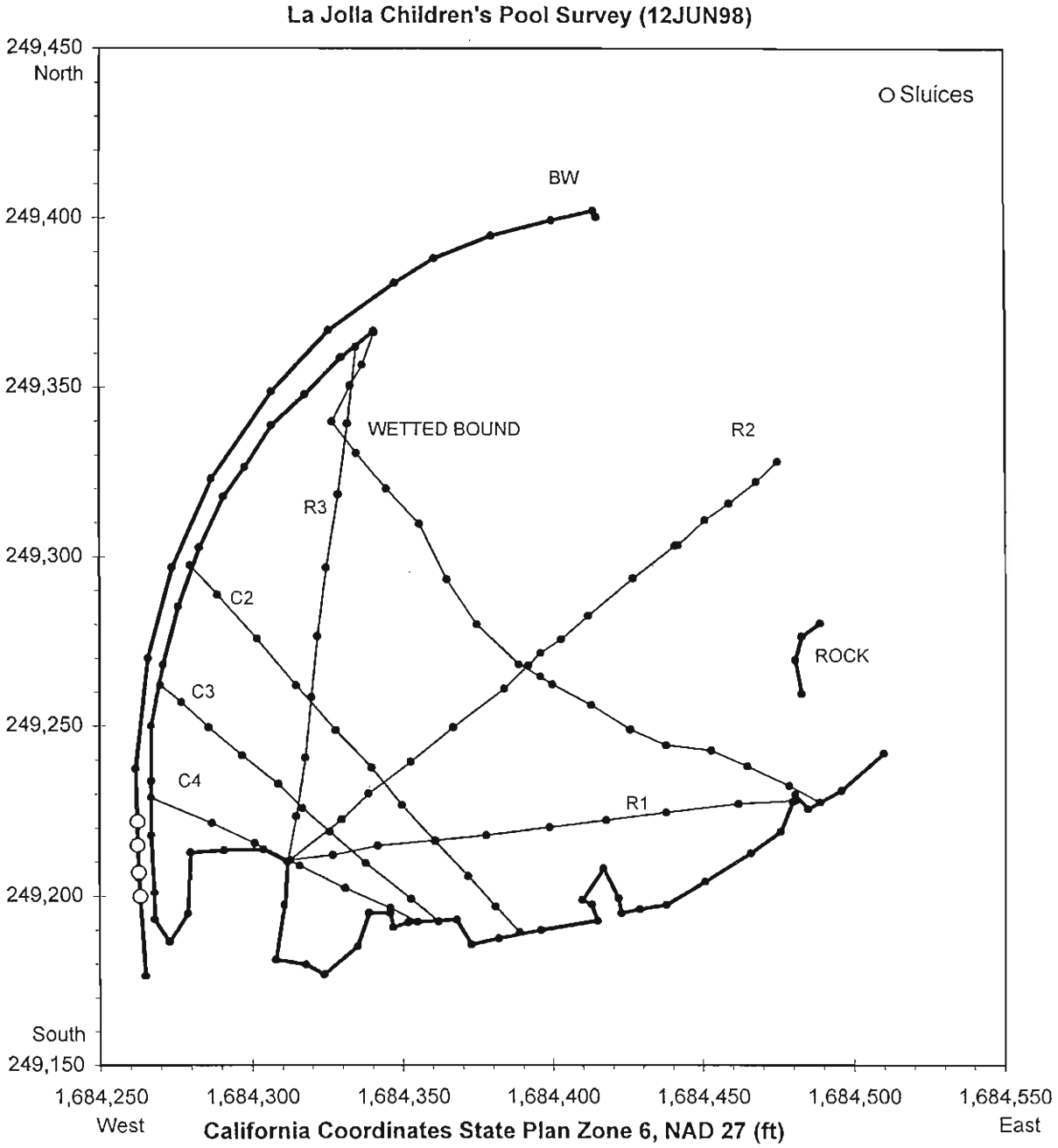


Figure 4. The survey plan, including profile locations, relative to the California Coordinates.

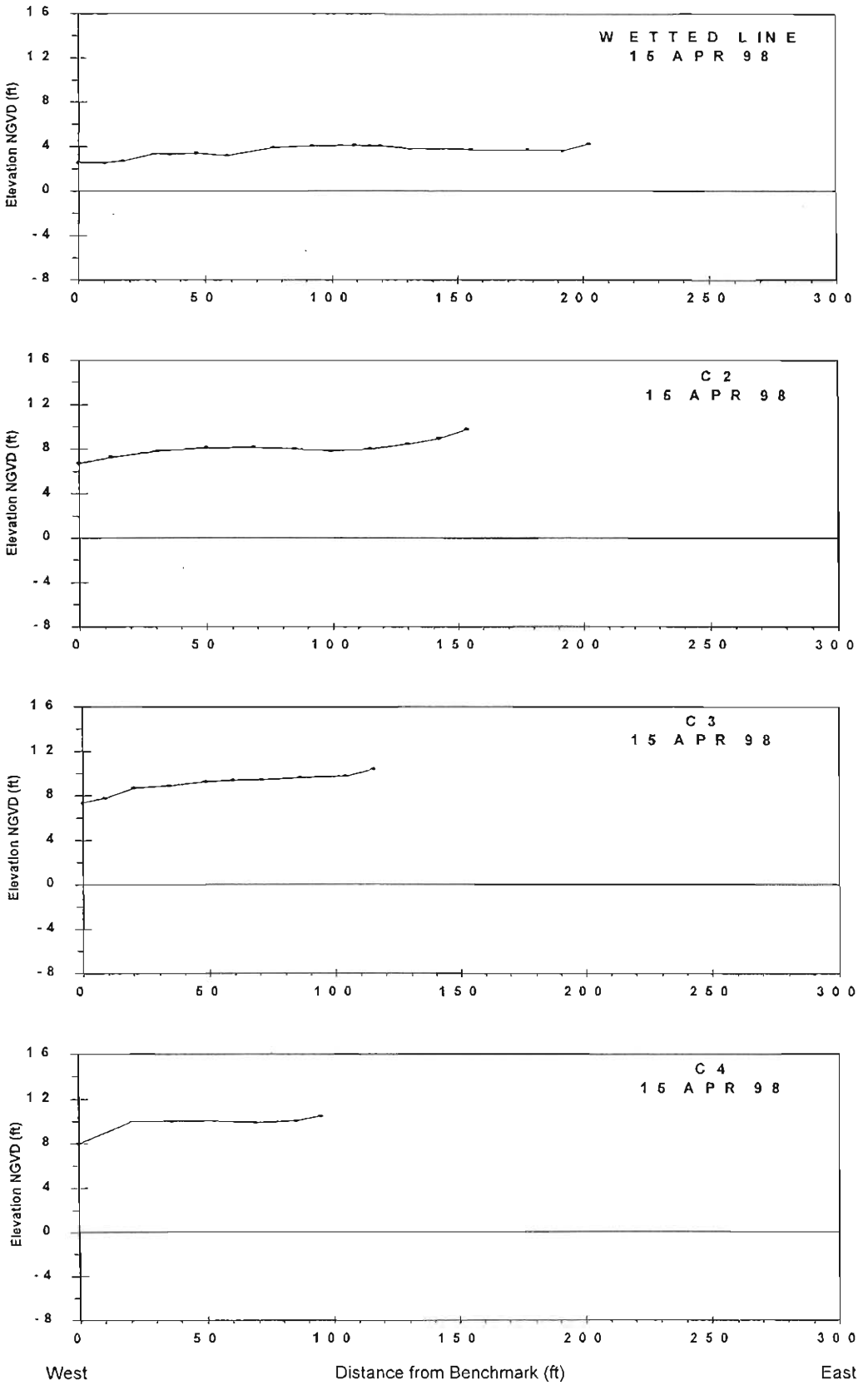


Figure 5. Elevations of the wetted line and the cross-sections C2, C3, and C4.

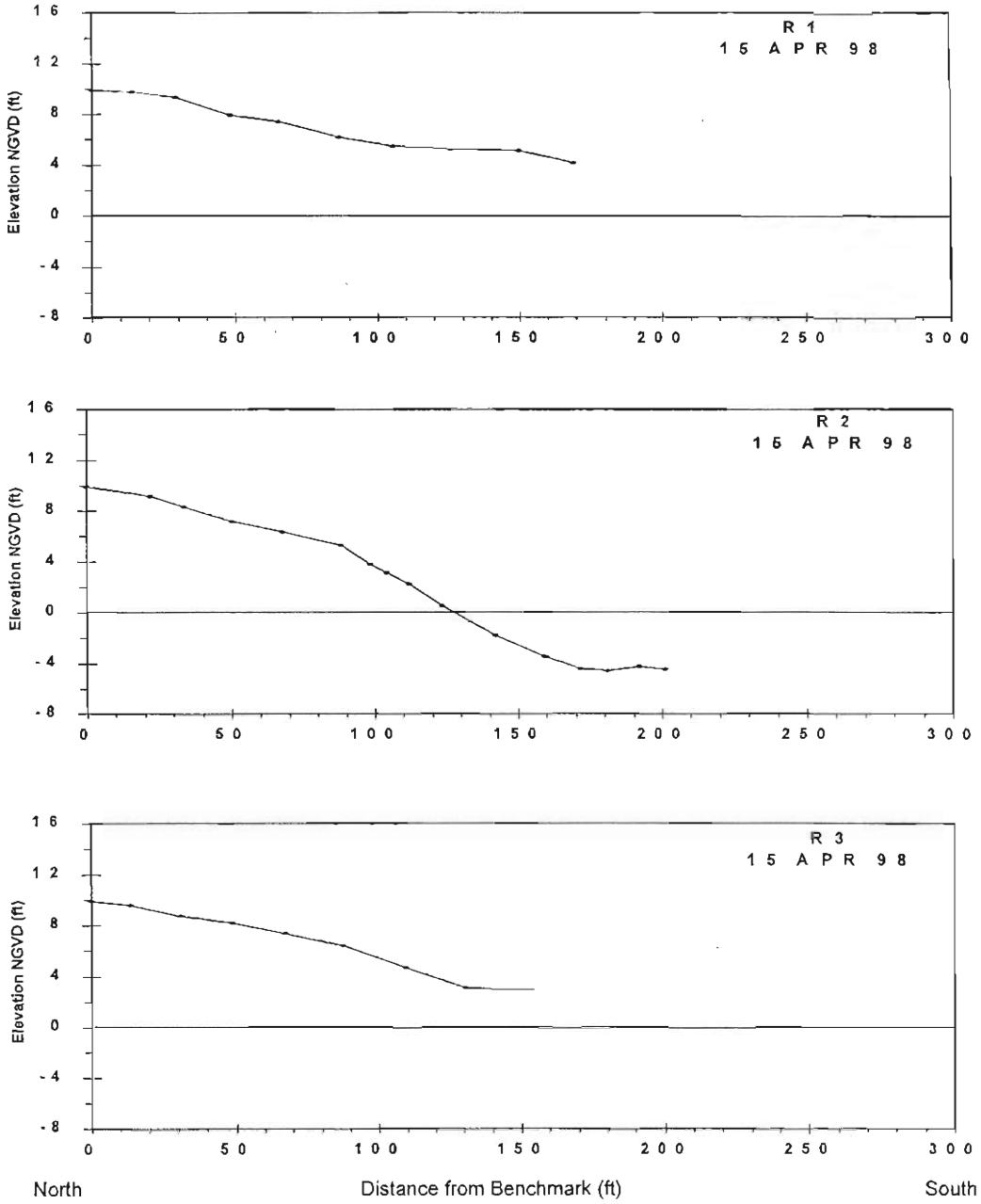


Figure 6. Elevation along the ranges R1, R2, and R3.

4. PROJECT DESCRIPTION

The sand to be excavated is between the run-up line and the back of the pool as shown in Figure 7. The run-up line determines the limits of water washed to the beach by waves. Since waves are usually small at the Children's Pool the run-up line is approximately the wetted line. During excavation, a berm (acting as a dam) will be left at the seaward edge to enable the equipment to operate smoothly. After sand removal, the sand berm will be evenly re-distributed landward of the berm on the beach face and sea bottom.

The proposed project will consist of removing up to 3,000 yd^3 of beach sand. Figure 8 shows the existing beach profile and the proposed profile after excavation. About 720 ft^3 of sand will be removed per foot of beach. After completing the excavation, the beach profile will be slowly adjusted such that it will be deeper at the outer side and narrower at the landward side, providing children with space to swim. The project will be conducted in the off-season, between October 1st and Memorial Day weekend. A monitoring period will follow these steps to assess the effectiveness of the sand removal in fulfilling the objectives of the project. The sand characteristics in the pool are described below, followed by a discussion of proposed excavation, transport, and disposal options and methods.

4.1. Sand Characteristics

4.1.1. Grain Size Analysis

The sand in the Children's Pool has a median grain size of greater than 0.660 mm. This is somewhat coarser than the sand found on La Jolla Shores Beach, which has a median grain size of about 0.230 mm. The cumulative grain-size distribution for four samples collected in August 1998 from La Jolla Children's Pool and from north La Jolla Shores are shown in Figure 9.

4.1.2. Bacterial Counts

On 19 May 98 and 23 Jun 98, 6-in core sand samples were collected from the Children's Pool beach and analyzed for bacterial coliform, both total and fecal. Figures 10(a) and 10(b) show the location of the samples collected within the area to be excavated and the value of the coliform in MPN (fecal and total values were identical). None of the samples collected exceeded the State limit of 1,000 MPN for total coliform. However, one sample collected in May 1998 slightly exceeded the State limit of 200 MPN for fecal coliform. Before any excavation will commence, sand samples will be collected and analyzed to ensure that the sand excavated and transported to north La Jolla Shores beach complies with the State standards.

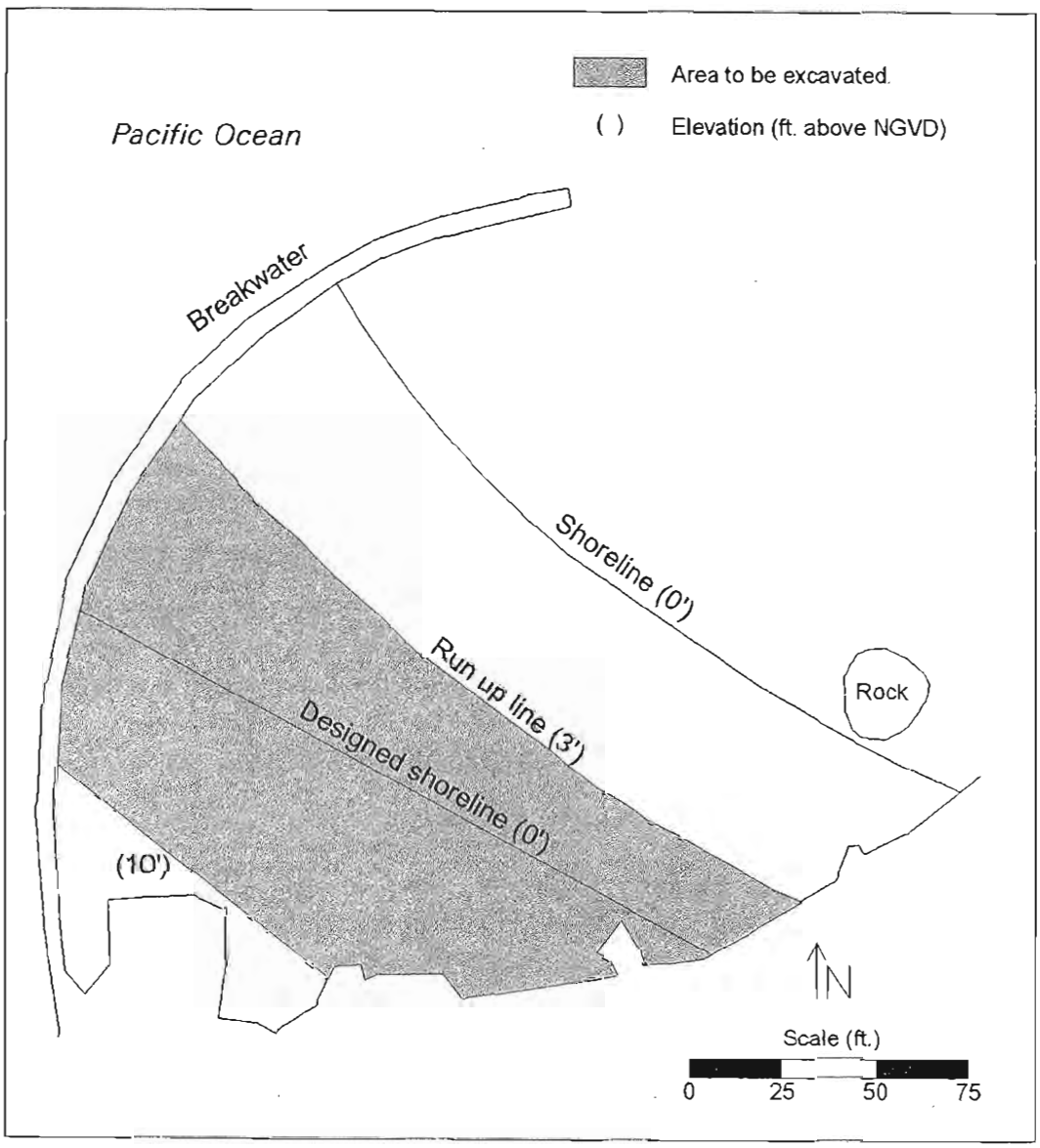


Figure 7. Children's Pool Excavation Plan.

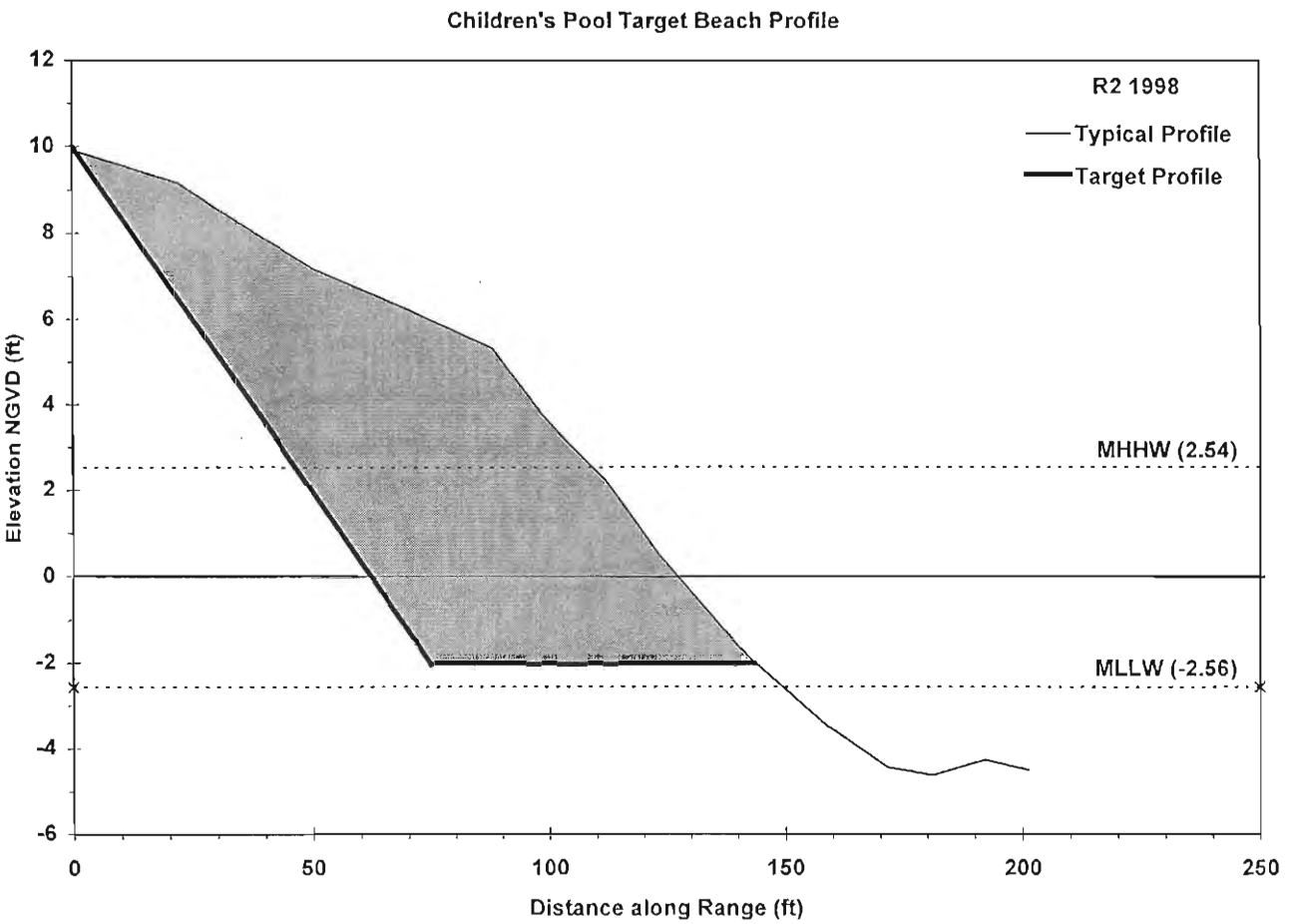


Figure 8. Beach profile configuration before and after dredging.

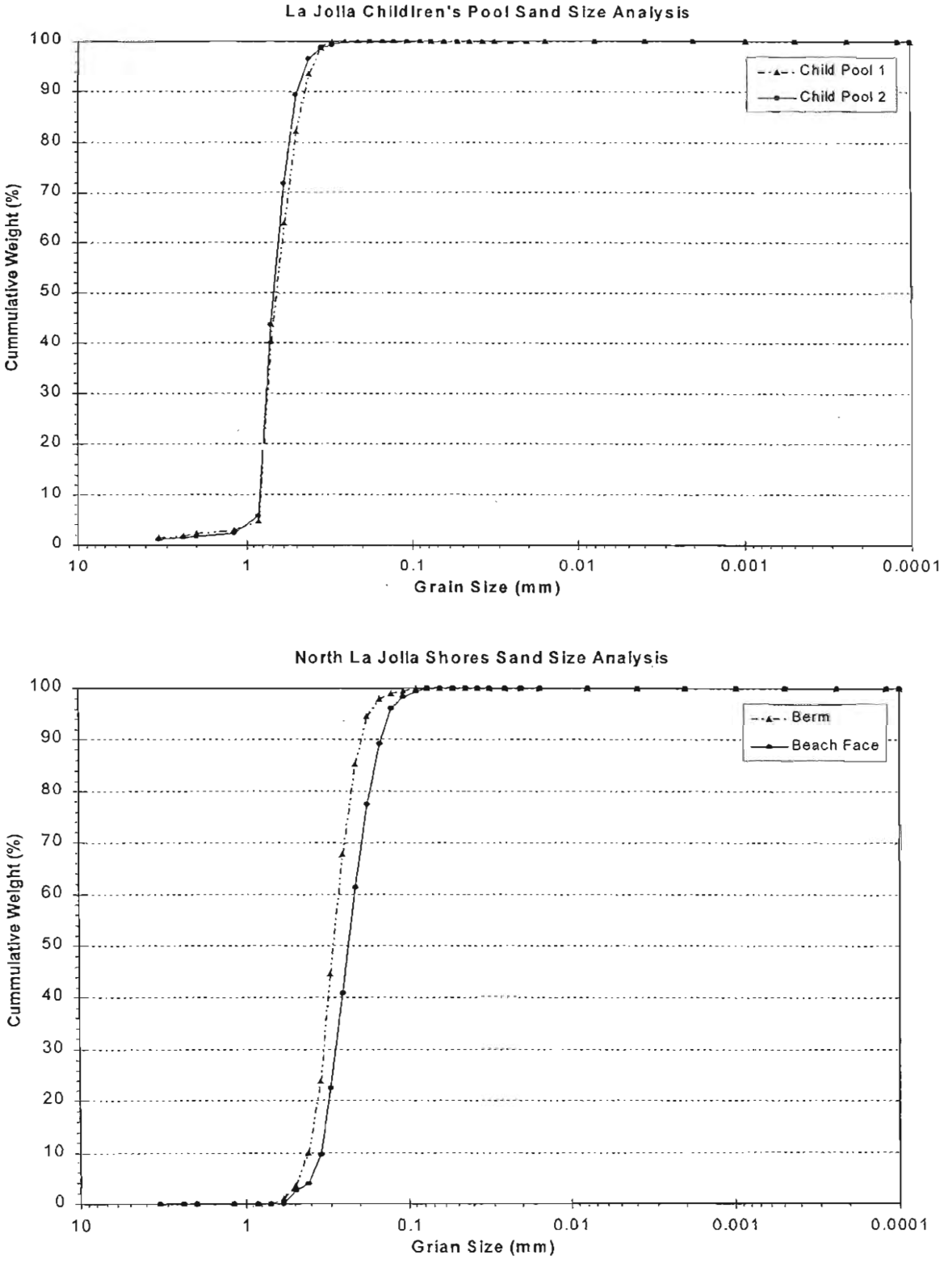


Figure 9. Cumulative grain-size distribution for sand samples from the Children's Pool and North La Jolla Shores.

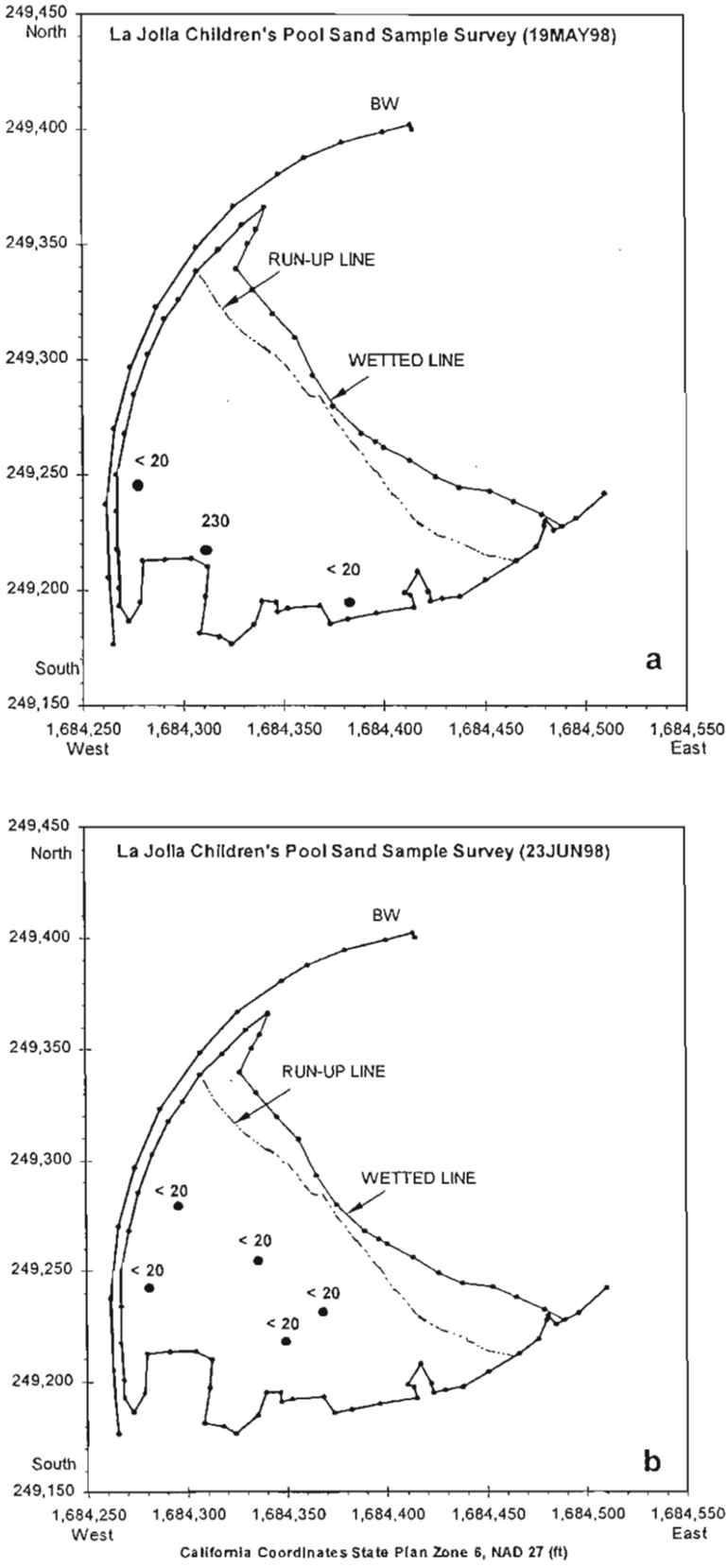


Figure 10. Location map of sediment samples collected from the Children's Pool on 19 May 98 and 23 Jun 98 (values represent MPN for fecal coliform).

4.2. Sand Excavation and Transportation

Sand will be removed from the Children's Pool beach by a front-end loader and carried via the ramp to the street where it will be deposited in dump trucks. Prior to excavation, six sand samples will be taken and analyzed for total coliform and fecal coliform to ensure that the sand transferred to north La Jolla Shores is within the permitted limits (State of California limits are 1,000 MPN total coliform and 200 MPN for fecal coliform). The six samples will be collected from the east, middle, and west beach along the run-up line and a line between the run-up line and the ramp.

The loader capacity is about 5 yd^3, while the City of San Diego-owned trucks can carry up to 8 yd^3. The ramp is too steep for the dump trucks to drive down onto the beach. The ramp may have to be temporarily improved to support the loader traffic. The loaded trucks will proceed to La Jolla Shores Beach along the route shown in Figure 11. Twenty truckloads, each carrying 5 yd^3 per trip or about 100 yd^3 of sand per day, will be removed from the La Jolla Children's Pool and taken to La Jolla Shores.

Therefore, it is anticipated that about 30 working days will be required to complete the excavation of up to 3,000 yd^3 of material. In order to complete the project more quickly, larger trucks would need to be used or more trips would need to be made per day (trucks with a capacity of 16 yd^3, moving 30 truckloads per day, can complete the project in 6 days). The final plan should be decided by the City of San Diego after discussions with the contractors.

4.3. Sand Disposal Options and Methods

The beaches in north La Jolla Shores have been severely damaged by the 1997-98 El Niño driven storms. During high tide, the water at north La Jolla Shores beach reaches the seawalls. While the proposed amount of sand for beach nourishment on La Jolla Shores is relatively small, the sand will be spread over 900 ft (about 300 yd) covering 10 yd^3/yd of beach, which will provide some additional flooding protection for the area. Also, it will improve pedestrian access to the beach.

Two sites were considered for placement of the excavated material. These are La Jolla Shores and a pocket beach adjacent to the Children's Pool, either to the north or south. La Jolla Shores is the preferred alternative, since it is already a wide, sandy beach. In contrast, the pocket beach areas around the Children's Pool are all fronted by hard-bottom substrate that would be covered if the Children's Pool sand were deposited on them. According to a biological survey conducted by Doug Gibson, Marine Biologist, no significant biological impacts would occur at the Children's Pool from excavation of sand or at north La Jolla Shores from sand placement (Appendix C).

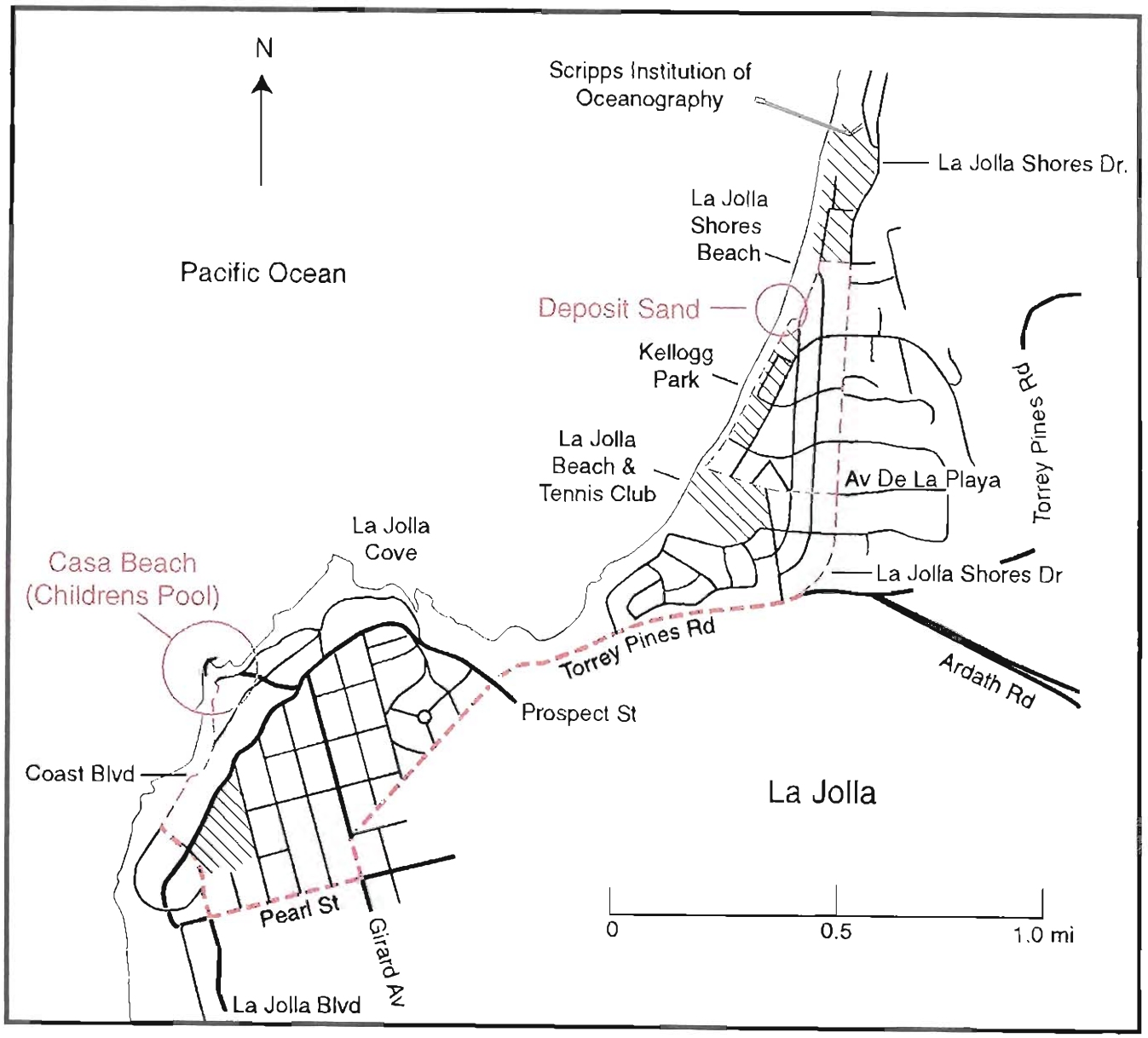


Figure 11. Truck route from La Jolla Children's Pool to La Jolla Shores Beach.

4.4. Beach Profile at North La Jolla Shores Disposal Site

A beach-profile survey was made at north La Jolla Shores on 23 August 1998 at two locations within the disposal area. Figure 12 shows the beach profile at R1 and R2 and Figure 13 is a photograph taken on August 17, 1998 of the disposal site. This photograph shows the lack of beach access at this stretch of beach during high tides.

4.5. Sluice Reopening

Figure 4 shows the location of the sluices with respect to the breakwater. Reopening of the sluices, creation of new sluice ways, or other measures may be considered at a later date to improve water quality in the Children's Pool. At that time, a full analysis can be made as a part of the permit process.

4.6. Project Schedule

The City of San Diego intends to begin sand excavation and removal to La Jolla Shores as soon as possible after 1 October 1998. This schedule would allow the work to begin at the end of the summer tourist and bathing season, after the seasonal departure of the Least Tern from California, and after the end of the seasonal grunion runs.

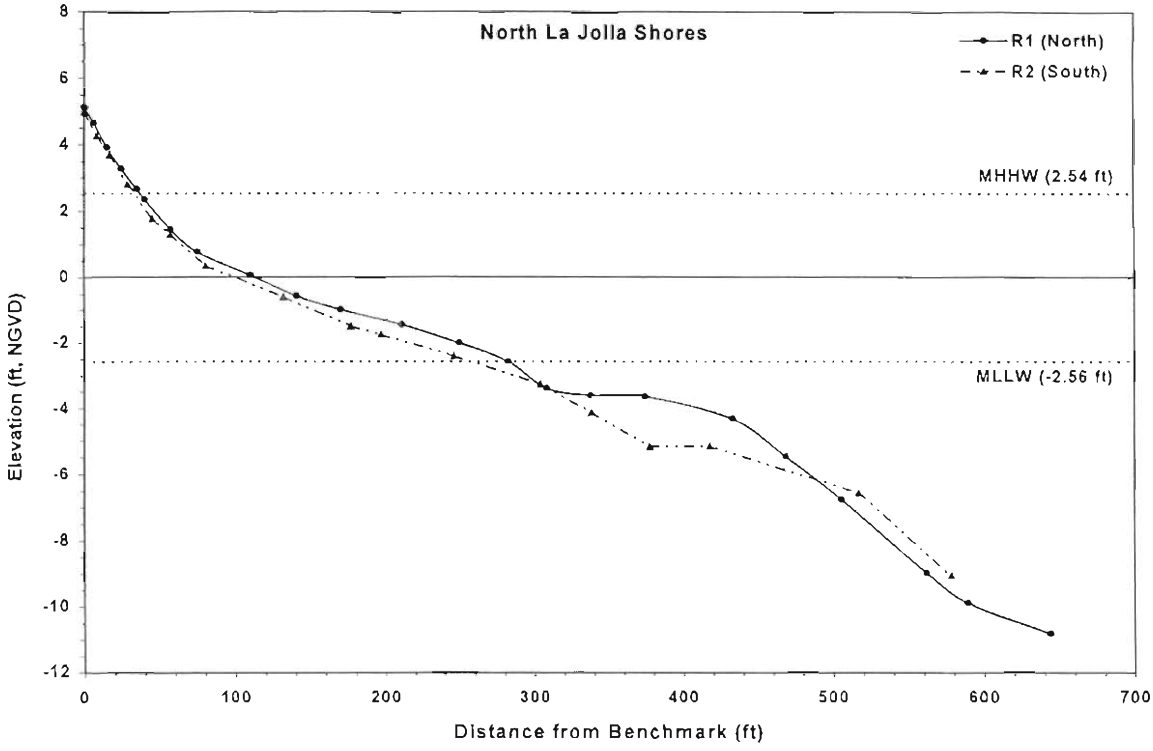


Figure 12. Beach profiles of north La Jolla Shores disposal site.

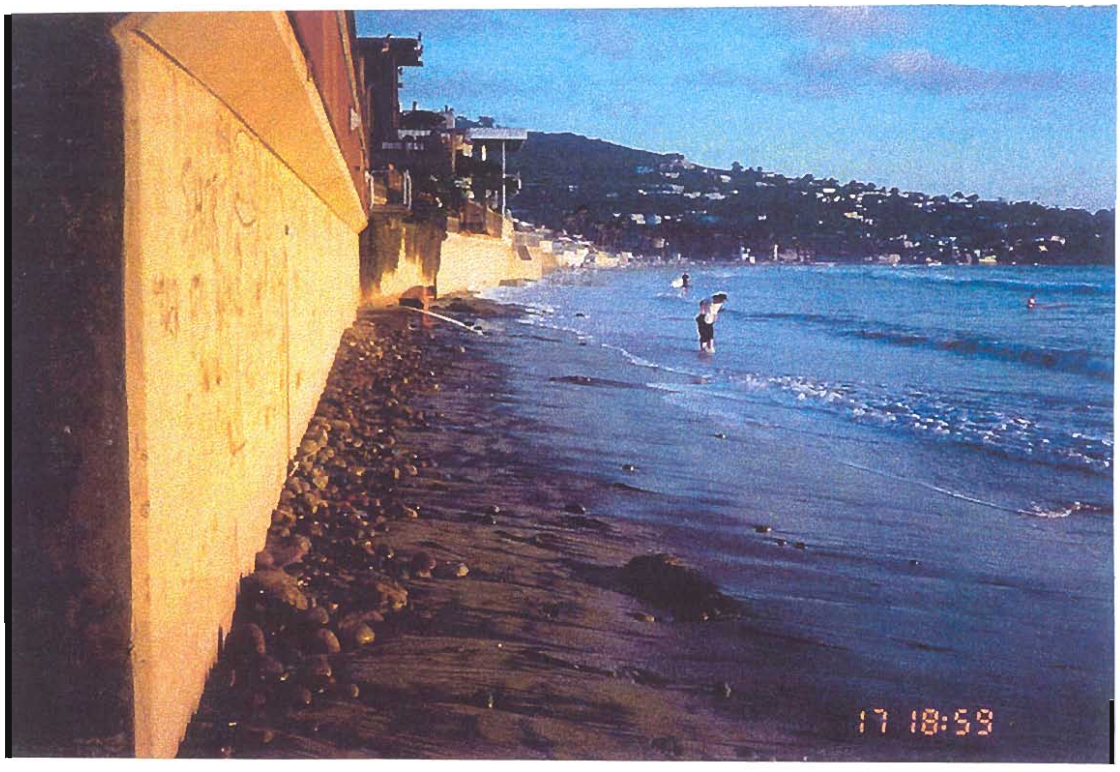


Figure 13. Photograph of north La Jolla Shores at the disposal site taken on 17 Aug 98.

5. REFERENCES

Cameron and N. Morgan, 1990. "Above San Diego." Cameron and Company, San Francisco, CA, 160 pp.

Ewing, L., 1993. "The Wetted Bound: The Missing Link between Surveying and Planning?" *Proc. Coastal Zone '93,* American Society of Civil Engineering, p. 2974-2985.

May, K., 1989. "Chronology of Severe Storm and Extreme Sea Level Events for the San Diego Region," in Historic Wave and Sea Level Data Report, San Diego Region, US Army Corps of Engineers, Los Angeles District, CCSTWS 88-6.

Savage, H.N., 1930. "Ellen B. Scripps, La Jolla - California, Bathing Zone Breakwater, Sections," Engineering Drawings, Sheet 2 of 6.

Testing Engineers - San Diego, 1998. Investigation of the Children's Pool. Prepared for the Dept. of Parks and Recreation, City of San Diego, San Diego, CA, TESD project No. 64541, Submitted on August 29, 1998, 4 pp., 1 figure, and photographs.

U.S. Code 16 § 1361 *et seq.*, 1972. Marine Mammal Protection Act of 1972, amended through 1994.

APPENDIX A - EXTRACTS FROM NEWSPAPERS

La Jolla Journal, Thursday June 4 1931

Ellen Scripps started the Children's pool project in 1921. In spring 1931 it was constructed and on May 31 a ceremony was held for its opening day. Ellen always had an interest in children. Dr. Harper once said, "children have a primary claim, enjoy with out danger, the ocean."

The day of the ceremony everyone rushed into the pool in their suits laughing with joy a demonstration of what the pool and its new settings will mean in the future.

La Jolla Journal, "La Jolla to have Pool for Children," Thursday June 26, 1930 #26

Sluiceways will be a part of the plan and can be opened when required. The rocky ledges in the foreground that have suffered the effects of the weather will have clear and practical "dental work" done on them, to preserve their picturesque outlines, and prevent further erosion. Another suggested improvement may be bathing stalls or lodges and perhaps observation seating, with a protective awning. In all the work, an unpleasantly artificial aspect will be avoided. The pool will be useable, safer for its devotees,

Lots of gratitude and thanks go to Ellen for her generous plan that will give safety and beauty to a favorite part of La Jolla's shoreline.

La Jolla Year by Year, "Children's Pool," by Howard S.F. Rundolph La Jolla 1946

Gift from Miss Ellen Scripps to the village. Desired to make a pool for the children where they could play in the ocean and yet be quite safe. She built a breakwater in the little cove near Casa, utilizing some rocks that reared up near the shore for that purpose. As so often happened, this gift from Miss Scripps increased in cost as the work progressed, so the outlay was much more than originally anticipated.

Built in spring 1931 and on May 31 there were elaborate ceremonies in which Mr. Jacob C. Harper representing Miss Scripps, presented the pool to the city in her name.

La Jolla Story of a Community 1887-1987, by P. A. Schaelchlin, Pub. Friends of La Jolla Library.

-1920 Near drowning prompted the warning that the sea is dangerous

-1921 Ellen Scripps consulted with H.N. Savage (City Engineer)

The sides will be terraced up to have the look of a miniature stadium, and to give access to the top, which may be used as a promenade, except in rough weather. The breakwater will remove the menace of the current that has swept through at high tide and occasionally imperiled unwary bathers.

J.T. Kean, "Most valuable of Ellen Scripps benefits to La Jolla, Measured in terms of good to the greatest number were those investments in human happiness designed for the little ones.

The day of the ceremony everyone rushed into the pool in their suits laughing with joy, a demonstration of what the pool and its new settings will mean in the future.

San Diego Union, "Swimming Cove Extension Urged," Friday Morning, September 28, 1934

Extension of the swimming cove in La Jolla was urged by civic interests. Project includes digging back into the adjacent hill and terracing the slopes. The excavated material would be dumped on the ocean side near Alligator head, while keeping the present sandy beach in its excellent condition.

Point Newsweekly, "Miss Ellen Scripps of Prospect Street," December 9, 1954

Ellen Scripps had great interests in research and educational institutions; she was greatly concerned for children, their character, and development.

In La Jolla, the many parks she gave the city, as well as the Community Center and Playgrounds were symbolic of her concern for the welfare of Children. At a cost of over $50,000, she financed the building of the stone breakwater at the Casa de Mañana Cove, for the protection of children of riptides. This followed the drowning of two children who were sucked out to sea by currents.

San Diego Union, "City Rededicates Pool In Ellen Scripps Honor, " Friday October 13, 1967

City Councilman Helen Cobb said, the pool was constructed because of the death of two children in the surf near the area. Miss Scripps gave funds to provide a safe swimming area, Mrs. Cobb said.

Mayor Curran said, Miss Scripps established "great and enduring philanthropies not only for the benefit of her adopted city of San Diego, but for the entire nation." He also said the Ellen Browning Scripps Foundation "continues her philanthropies for the enduring benefit of citizens of the far future.

La Jolla Light, "Seals' presence irks beachgoers," by Kimberly Epler, May 15, 1997

Over the past five years they've [beach goers] seen the population grow from a few seals on local rocks to days when 150 animals are sunning themselves on the beach.

APPENDIX B
PHOTOGRAPHIC HISTORY OF THE CHILDREN'S POOL

This appendix contains historical photographs of the La Jolla Children's Pool area, which were obtained from the San Diego Historical Society.



Figure B-1. View of La Jolla in 1924, prior to the Children's Pool seawall construction (Source: La Jolla Historical Society Photograph #7647).



Figure B-2. View of the Children's Pool in 1931 during construction of the seawall (Source: La Jolla Historical Society Photograph #90:18138-441-1).



Figure B-3. Miss Scripps Bathing Pool for Children at La Jolla, June 15, 1931
(Source: La Jolla Historical Society).

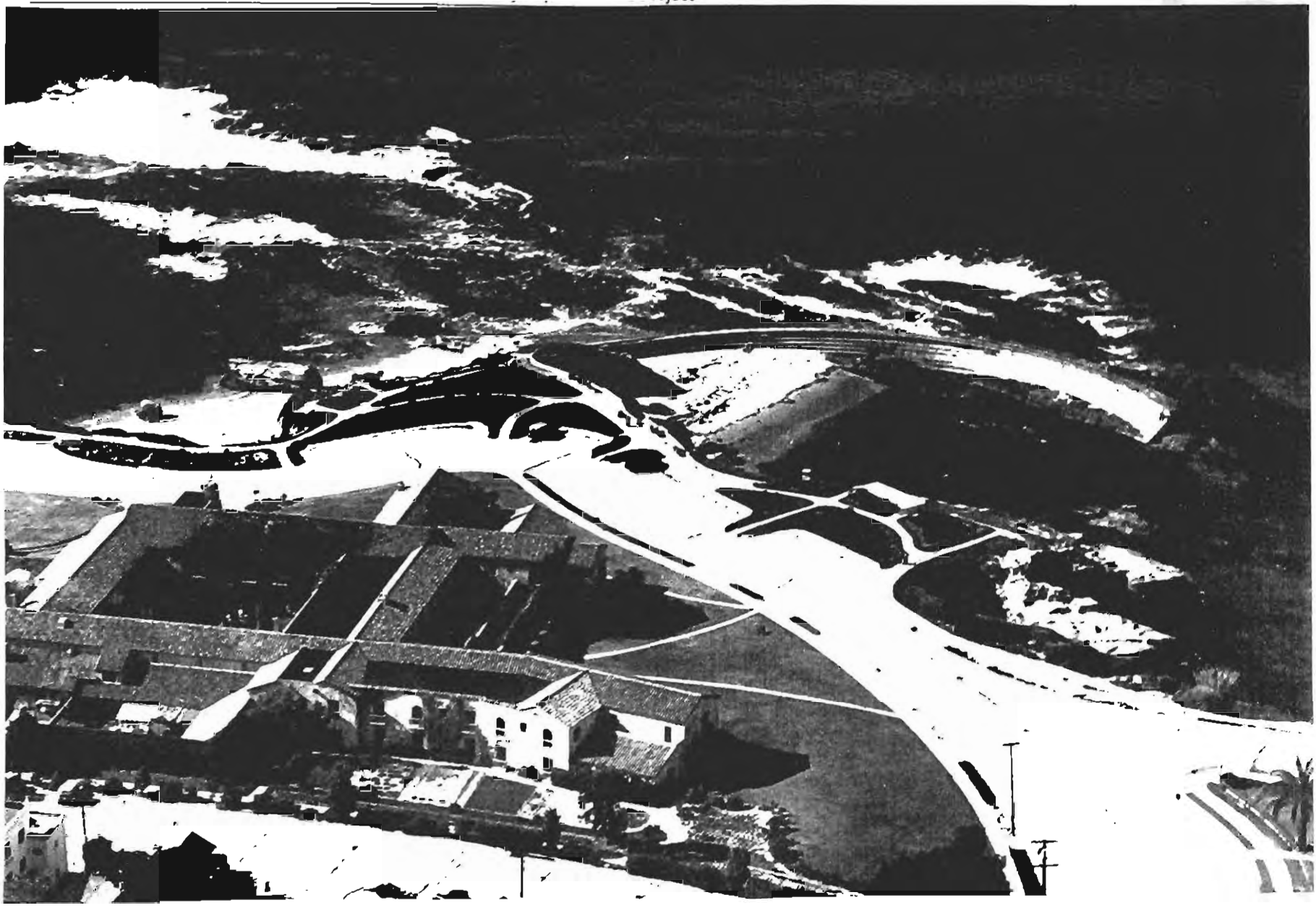


Figure B-4. View of the Casa de Mañana and the Children's Pool on January 26, 1935 (Source: La Jolla Historical Society Photograph #79:741-5).



Figure B-5. View of the La Jolla Children's Pool on July 14, 1941
(Source: La Jolla Historical Society Photograph #79:741-712).



Figure B-6. View of the Casa de Mañana and the Children's Pool on May 21, 1948 (Source: La Jolla Historical Society).



Figure B-7. View of the La Jolla Children's Pool on July 12, 1953
(Source: La Jolla Historical Society Photograph #UT 8248-15).



Figure B-8. La Jolla Children's Pool in 1989 (Source Cameron and Morgan, 1990).

APPENDIX C
BIOLOGICAL SURVEY AT LA JOLLA CHILDREN'S POOL AND AT NORTH LA JOLLA SHORES

DOUG GIBSON
P.O. BOX 230634
ENCINITAS, CA. 92023
760-436-3944

August 19, 1998

Mr. Hany Elwany
Coastal Environments
2166 Avenida de la Playa, Suite E
La Jolla, CA. 92037

RE: Beach Profile and Biological Survey at La Jolla Children's Pool

Dear Mr. Elwany,

On April 15, 1998 I performed a beach profile and biological survey at the La Jolla Children's pool for your firm. The purpose of the survey was to gather data on current sand amounts within the enclosed area and to take note of any biological features (i.e. substrate, kelp beds) that may be impacted by removing the sand. On June 10, 1998 I also performed a biological survey at north La Jolla Shores beach. This survey was intended to identify impacts that may occur due to the placement of sand along the beach. The following are my results and suggestions.

During both surveys I noted no impacts that would arise by either removing or placing sand at the appropriate beaches. The reef located at the children's pool would not be impacted by removing the estimated 3000 cubic yards of material. The project area surveyed consisted only of sand and no reef was present. Conversely, the north La Jolla Shore beach has no reef associated with it and no kelp beds are present within the nearshore area. The addition of 3000 cubic yards in roughly 900 sq. feet at mean sea water level and above will add about ½ to 1 foot of additional material to the beach. The addition of this material will not have an impact to the existing beach and benthos at north La Jolla Shores.

The only existing impacts that may occur are to the California Grunion and the California Least Tern. This project will not impact the grunion or the tern, because the project would be completed between the dates of October 1 – April 1. Additionally, there is no record of Least Terns using either beach for nesting in recent times. Because this project will occur during the non-breeding seasons for both species, no impacts will be expected.

If you have any further questions please don't hesitate to call.

Sincerely,

Doug Gibson
Marine Biologist

Appendix L
Traffic Memorandum by Linscott, Law and Greenspan, December 3, 2008

MEMORANDUM

To:	Mr. Bob Stark ICF Jones & Stokes	Date:	December 3, 2008
From:	John Keating, P. E., Principal & Narasimha Prasad, Senior Transportation Engineer LLG, Engineers	LLG Ref:	3-08-1839
Subject:	Children's Pool, La Jolla		

LINSCOTT LAW & GREENSPAN
engineers

Engineers & Planners
Traffic
Transportation
Parking

Linscott, Law & Greenspan, Engineers
4542 Ruffner Street
Suite 100
San Diego, CA 92111
858.300.8800 T
858.300.8810 F
www.llgengineers.com

Pasadena
Costa Mesa
San Diego
Las Vegas

The proposed Children's Pool project is located in the community of La Jolla, within the jurisdictional boundaries of the City of San Diego, California. The Children's Pool is located between Casa Beach and La Jolla Cove. This area is on the seaward side of Coast Boulevard, across from Casa de Mañana.

Figure A depicts the project location, while ***Figure B*** is an aerial of the project site.

PROJECT DESCRIPTION

The project proposes the excavation of approximately 3,000 cubic yards of beach sand from Casa Beach and the Children's Pool. Currently, patrons to the Children's pool are exposed to unsafe ocean conditions and poor water quality. Although the Children's Pool breakwall has fulfilled its intended purpose of protecting the area behind it from hazardous ocean waves, it has also had the unintended consequence of sediment capture. This has resulted in sand accumulation on Casa Beach which has reduced the size of the Children's Pool. Because a rip current consistently forms at the mouth of the pool, its reduced size has increased public exposure to this hazard. In addition, the pool water quality has reached levels considered unsafe for human contact. The San Diego County Department of Environmental Health (DEH) first closed the Children's Pool to water contact in September of 1997 because of high coliform counts. Since that time, DEH water sampling has consistently demonstrated unsafe levels of fecal coliform in the pool. As a result, the area is under constant health advisory status and related signs are posted. Due to these hazards, public use of Casa Beach and the Children's Pool has reduced substantially over the last 10 years.

The proposed project proposes excavation of accumulated sand to increase the size of the pool and the decontamination of sand likely to contain unsafe levels of fecal coliform, thus returning the pool to its 1941 condition. There are three primary components to the project: 1) *Upper sand excavation, transfer, and placement, 2) Lower sand decontamination and Children's Pool reconfiguration, and, 3) ongoing maintenance of restored condition.*

CONSTRUCTION ACTIVITIES

1. UPPER SAND EXCAVATION, TRANSFER, AND PLACEMENT

The project construction activities are proposed to be staged on the beach, which is will be closed to the public for the duration of construction. It is proposed to excavate 3,000 cubic yards (cy) of sand from the upper, landward side of Casa Beach. Sand would be transferred by a front-end loader from upper Casa Beach, up the beach access ramp, south along the bluff top paved walkway, to a conveyor system above the southern portion of South Casa Beach. This conveyor system would function similar to a slide whereby sand would be placed by the front end loader at the top of the slide above the coastal bluffs, then be conveyed down to the bottom of the slide onto the upper, landward, southern portion of South Casa Beach.

2. LOWER SAND DECONTAMINATION AND CHILDREN'S POOL RECONFIGURATION

Sand from the lower, seaward side of the Casa Beach (above the berm) would be excavated and transferred to the large depression on the upper beach created during the previous construction component. Sand would be spread in the upper beach depression in one to two foot thick layers. The next step would consist of excavation from within the Children's Pool to increase the pool depth and increase its size. This would be accomplished by an excavator working from the landward side of the berm, reaching into the pool, excavating wet sand, and transferring it to the upper beach. Sand would be transferred to the upper beach by the excavator, or by the excavator dumping the sand into a front-loader (also located on the dry, landward side of the berm) that would then transfer the sand to the upper beach.

This initial work is estimated to be conducted over a period ranging from eight to ten weeks.

3. ONGOING MAINTENANCE OF RESTORED CONDITION

It is anticipated that the Children's Pool breakwall will continue to serve as a sediment trap. As a result, sand buildup on Casa Beach and in the Children's Pool will likely occur after project construction. Therefore, the proposed project would maintain the restored condition of the beach and pool by implementing ongoing maintenance. This maintenance would consist of sand excavation and transfer every two to five years. The volume of sand to be excavated would be approximately 200-300 cy. This volume of sand is a tenth of the initial proposed 3,000 cy excavation. Also, this sand is unlikely to be contaminated. Therefore, maintenance would be on a relatively small scale and likely require a week or less for excavation, transfer, placement, and contouring.

All construction activities will be confined to the beach and not in the parking spaces on the street adjacent to the Children's Pool.

LINSCOTT LAW & GREENSPAN engineers

EXISTING CONDITIONS

1. ROADWAY NETWORK

The project site is located on Coast Boulevard. Prospect Street, Torrey Pines Road and La Jolla Boulevard provide regional access to and from the north and south respectively. Jenner Street to the east of the site, provides access between Prospect Street and Coast Boulevard and Cuvier Street to the south of the site provides access between La Jolla Boulevard and Coast Boulevard. Girard Avenue, Ocean Lane, Eads Avenue and Cuvier Street also provide access between Coast Boulevard and Prospect Avenue.

All the above streets are generally two-lane roads with parking on both curbs except Ocean Lane which is a fire lane and on-street parking is prohibited. The capacities of these streets are observed to be generally adequate.

2. ON-STREET PARKING

The available on-street parking supply in the project vicinity was recorded in the field and is summarized in ***Table 1***. The streets and the total on-street parking supply are as follows:

- **Girard Avenue / Coast Boulevard**, Prospect Street to the end of the street – 86 spaces
- **Coast Boulevard**, Girard Avenue and Coast Boulevard South – 201 spaces
- **Coast Boulevard South**, Girard Avenue to Coast Boulevard – 128 spaces
- **Cuvier Street**, Coast Boulevard to Prospect Street – 19 spaces
- **Eads Avenue,** Coast Boulevard to Prospect Street – 11 spaces
- **Ocean Lane,** Coast Boulevard to Prospect Street – Fire lane, no parking

The total available on-street parking supply is 445 spaces. Of these spaces, the number of spaces with unrestricted parking is 165 and the remaining 280 spaces are restricted as described below:

i. Handicapped parking (8),

ii. Lifeguard parking only (3),

iii. Emergency Vehicle (3),

iv. 3-Minute passenger loading (4),

v. 15-Minute (1),

vi. 20-Minute Commercial loading (7),

vii. 30-Minute (3),

viii. 2-Hour (5),

ix. 2-Hour 8 AM to 6 PM, Saturday and Sunday except Holidays (64),

x. 3-Hour (30),

xi. 3-Hour 8 AM to 6 PM, Saturday and Sunday except Holidays (147),

xii. No Parking 7 AM to 5 PM Monday –Friday (5).

TRAFFIC ISSUES

ISSUE 1: WOULD THE PROPOSED PROJECT RESULT IN AN INCREASED DEMAND FOR OFF- SITE PARKING?

Yes, if the demand remains constant, since the parking supply will be reduced temporarily by up to 5 spaces.

As seen in *Figure B*, 25 parking spaces are currently provided on the street adjacent to the Children's Pool. The construction related traffic is expected to utilize no more than 5 spaces during work hours. These spaces will be available during non-work hours for public parking. The remaining 20 spaces will be available throughout the day during construction.

The project construction activities are proposed to be staged on the beach, which will be closed during construction. Therefore, the demand for the Children's Pool parking is expected to be lower than usual. If the beach closure results in reduced parking demand, no increase in demand for off-site parking is anticipated.

As seen in *Figure B*, other on-street parking is available nearby.

ISSUE 2: WOULD THE PROPOSED PROJECT RESULT IN EFFECTS ON EXISTING PARKING?

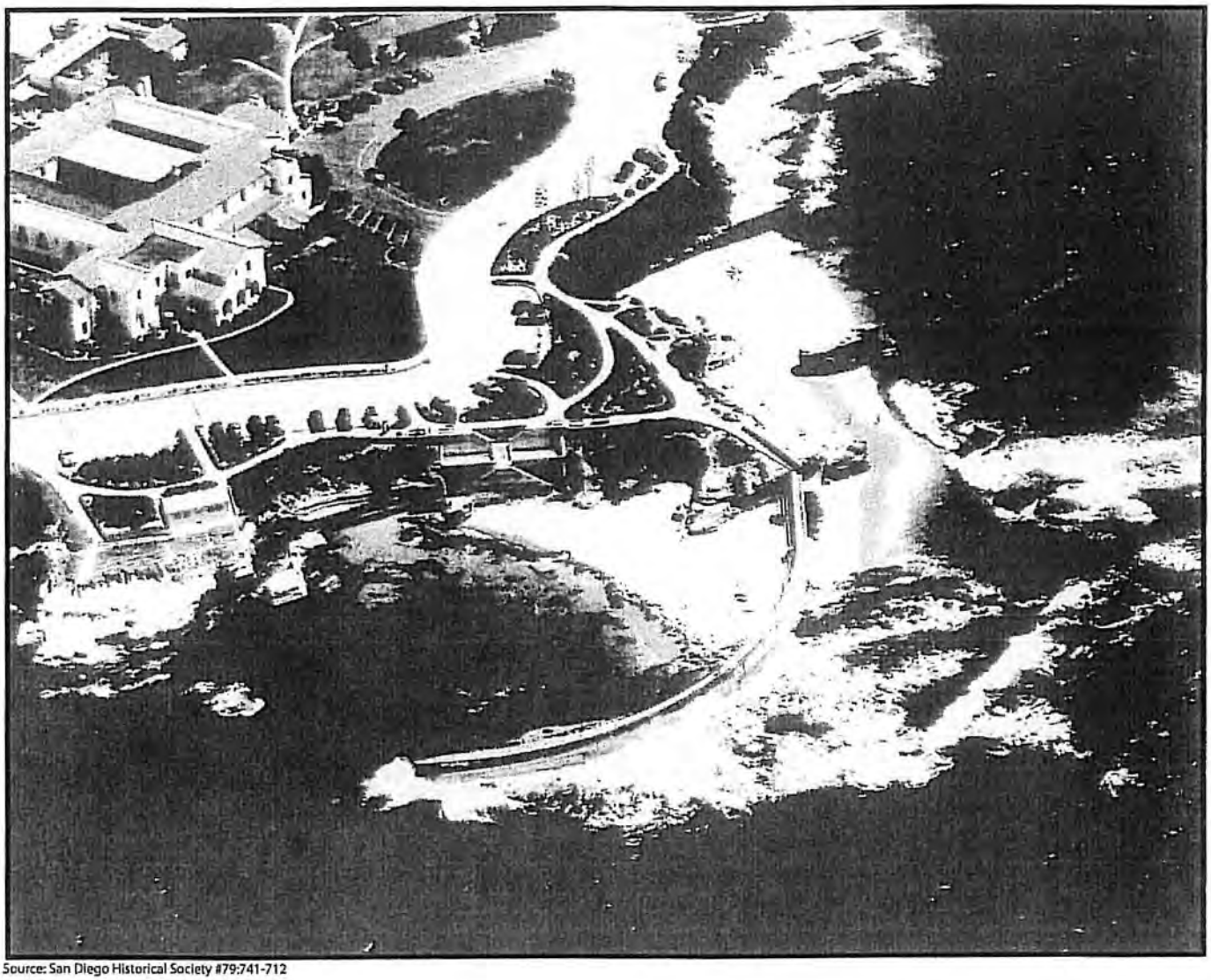
As described above, the project staff is expected to utilize no more than 5 parking spaces during work hours. The remaining 20 spaces will be available all day during construction. This reduction in the parking supply is deemed to be not significant, primarily due to its short duration.

ISSUE 3: WOULD THE PROPOSED PROJECT RESULT IN ALTERATIONS TO PRESENT CIRCULATION MOVEMENTS INCLUDING EFFECTS ON EXISTING PUBLIC ACCESS TO BEACHES, PARKS, OR OTHER OPEN SPACE AREAS?

All construction activities will be off-street and hence, no changes to the circulation movements or access to public access to beaches, parks, or other open spaces are anticipated.

Three pieces of construction equipment consisting of a Caterpillar 320 tracked excavator, a caterpillar 950B wheel loader and a service truck will be utilized for the construction. This construction equipment will be brought to the site at the beginning of construction and will remain on the construction site (beach) for the duration of construction. The excavated sand will be placed on the beach, south of the breakwall, as shown in *Figure B.*

cc: File



Source: San Diego Historical Society #79:741-712

Figure 2-4
1941 Configuration-La Jolla Children's Pool Project