

# Seals must go, says state high court

*Children's Pool ruling is upheld*

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**November 30, 2007**

The state Supreme Court has decided to let stand a lower court's ruling requiring the city to dredge Children's Pool beach in La Jolla to disperse a resident colony of harbor seals and make the cove sanitary for humans.

The decision, issued Wednesday, leaves in place a unanimous ruling by the state Court of Appeal in September, which held that the city had failed to comply with the terms of a 1931 trust transferring ownership of the cove from the state. The agreement requires the city, as the property's landlord, to maintain the cove as a swimming beach for children.

Paul Kennerson, a former president of the La Jolla Town Council, had sued, contending the city violated the trust by allowing sand to fill in the cove and permitting seals to monopolize the beach at the expense of children.

In August 2005, Superior Court Judge William C. Pate, now retired, ruled in Kennerson's favor. Pate ordered the city to restore the beach to what it would have looked like in 1941, when the beach was narrower and seals fewer.

“I think it's important to maintain the heritage of the community,” Kennerson said, adding that he pursued the case to restore the public's full use of the beach for swimming and diving.

The city now must pay Kennerson more than \$468,000 in attorney's fees.

Bryan W. Pease, an attorney for the San Diego-based Animal Protection and Rescue League, said the decision may derail efforts to reinstall a rope barrier to protect seals during their birthing and pupping season, which begins in December.

“This court decision creates more questions than answers,” said Pease, who added that the legal battle is certain to continue.

Pam Hardy, spokeswoman for City Council President Scott Peters, who represents La Jolla, said the city now has no choice but to “find a safe and humane way to comply with the court's order.”

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