

City Ordered To Abide By Children's Pool Ruling Prohibiting Rope Barrier

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The city of San Diego must abide by a 2005 court ruling prohibiting it from putting up a permanent rope barrier to keep the public away from harbor seals at Children's Pool in La Jolla, a judge ruled Friday.

Superior Court Judge Yuri Hoffman denied the city's request to clarify the 2005 ruling by Judge William Pate, which ordered the city to restore the area to its "pre-seal" condition within six months by removing sand buildup and cleaning up the water.

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

In his ruling, Pate said the city was violating a 1931 trust agreement by Ellen Browning Scripps to keep the area as a place where children could swim.

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

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

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

Paul Kennerson, representing ocean swimmer Valerie O'Sullivan, told Hoffman Friday that "there should be no rope" and urged the judge to make the city comply with Pate's original order.

But Deputy City Attorney George Schaefer told Hoffman that the 2005 ruling ordered the city to abide by federal law, which requires that the seals be protected from humans.

Schaefer said a federal lawsuit scheduled to be heard Jan. 25 seeks to protect the seals by putting up a rope barrier around Children's Pool.

By seeking clarification of Pate's ruling, Schaefer told Hoffman the city wanted to "make sure we're not doing something illegal by putting up a rope" if ordered to by a federal court.

Pate told Schaefer he wanted a progress report in two weeks on what's being done at Children's Pool as it relates to the court order.

Outside court, Schaefer denied an accusation that city officials have been dragging their feet in complying with Pate's original order. Schaefer said the city is still trying to secure necessary permits.

Source: <http://www.10news.com/news/city-ordered-to-abide-by-children-s-pool-ruling>