

OPINION



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TIME TO END BATTLES OVER SEALS, CHILDREN'S POOL

JAN GOLDSMITH

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and humans should share the beach.

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When I took office in 2008, the city was under a court order to remove the seals from Children's Pool and reconfigure the beach to its 1931 appearance. The order was final

the state of California was for a "bathing pool for children," not a marine mammal park. The state, as owner of the beach, can change the trust. In 2009, I proposed to the City Council that we sponsor legislation to do just that. The council agreed.

Sen. Christine Kehoe and Assemblyman Nathan Fletcher carried Senate Bill 428, which changed the trust to allow for the seals and a marine mam-

mans to peacefully co-exist, something that is rare in nature and fascinating to watch. Unfortunately, the key stakeholders – the children and the seals – have had virtually no say in the matter. The issue has been driven by small groups of adult, human activists opposed to shared use. They have harassed each other and the seals, filing frivolous lawsuits and otherwise exceeding the bounds of

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This long, notorious saga began in 1930 when Ellen Browning Scripps requested permission from the city of San Diego to construct (at her expense) a concrete breakwater in the Pacific Ocean adjacent to La Jolla to create a bathing pool. The City Council agreed and by February 1931, the 300-foot concrete breakwater was completed.

Scripps' generous gift was the concrete breakwater, not the beach. She never owned the La Jolla beach. The state of California does. In June 1931, the governor signed legislation that granted the beach in trust to the city for a "bathing pool for children."

For over 60 years, the Children's Pool was a popular destination for kids and families. By the early 1990s, seals began coming in large numbers to the Children's Pool. A brewing conflict between humans and seals came to a head in 2003 when individuals petitioned the city to remove the seals and restore the beach to human-only use. The city refused, saying that seals

and humans should share the beach.

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When I took office in 2008, the city was under a court order to remove the seals from Children's Pool and reconfigure the beach to its 1931 appearance. The order was final. The city had already lost at trial and appeal. It was also ordered to pay \$1 million to the plaintiff's lawyer.

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All that was left to do was figure out how to remove the seals. Proposed methods were quite involved and a huge cost to taxpayers. Expert opinions differed, ranging from constant loud noise or dogs barking to fencing to water sprays. Adding insult to the court losses was the national ridicule of San Diego over visions of a standoff between seals and stereo speakers.

But we didn't do any of that. Instead, we figured a way out of the legal mess. The solution was simple: The city lost at every court level because the 1931 trust granted by

the state of California was for a "bathing pool for children," not a marine mammal park. The state, as owner of the beach, can change the trust. In 2009, I proposed to the City Council that we sponsor legislation to do just that. The council agreed.

Sen. Christine Kehoe and Assemblyman Nathan Fletcher carried Senate Bill 428, which changed the trust to allow for the seals and a marine mammal park. The legislation was enacted and signed by the governor, we returned to court and the judge vacated the order

and dismissed the case.

Although lawsuits subsided for a few years, the lawyers came back earlier this year with a new one challenging the legislation and, again, seeking to remove the seals. On Nov. 13, Judge Pressman refused to order removal of the seals and firmly upheld the legislation, saying: "Senate Bill 428 amended the terms of the trust to give the council the discretion to create a marine mammal park at the Children's Pool for the enjoyment and benefit of children."

For a decade the city has wanted seals and hu-

mans to peacefully co-exist, something that is rare in nature and fascinating to watch. Unfortunately, the key stakeholders – the children and the seals – have had virtually no say in the matter. The issue has been driven by small groups of adult, human activists opposed to shared use. They have harassed each other and the seals, filing frivolous lawsuits and otherwise exceeding the bounds of civility.

All of this needs to stop. Instead of more wasteful lawsuits, I invite all parties to begin

a new chapter in this saga by accepting Judge Pressman's decision and working with the city to implement shared use in a reasonable and respectful manner.

As its name suggests, the "Children's Pool" has always been intended for the enjoyment and benefit of children. They come from around the world to visit the seals and respect nature.

This unique sharing of space will hopefully last for many generations of humans and seals.

Goldsmith is San Diego city attorney.